



Appeal Decision

Site visit made on 8 April 2021

by R Jones BA(Hons)DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2021

Appeal Ref: APP/B5480/W/20/3257492

2 Nelmes Road, Hornchurch RM11 3JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Breden against the decision of the Council of London Borough of Havering.
 - The application Ref P1556.19, dated 9 October 2019, was refused by notice dated 7 August 2020.
 - The development proposed is demolition of existing dwelling and replacement with new two storey 5 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and replacement with new two storey 5 bedroom dwelling at 2 Nelmes Road, Hornchurch RM11 3JA in accordance with the terms of the application, Ref P1556.19, dated 9 October 2019, and the plans submitted with it, subject to the conditions set out in the schedule below.

Preliminary Matter

2. The description of development provided in Part 5 of the planning application form refers to the construction of a swimming pool and outbuilding which are not shown on any of the drawings that the Council made its decision upon. I have therefore taken the amended description of development in the banner heading above from the Council's decision notice as this more accurately describes the proposal before me.

Main Issue

3. The main issue is the effect of the proposed development on the privacy, light and outlook of the neighbouring Nelmes United Reformed Church.

Reasons

4. The appeal site lies on the western side of Nelmes Road and formerly comprised a detached dwelling house (No.2 Nelmes Road), now demolished. The northern boundary of the site extends the length of the side boundary of the Nelmes United Reformed Church (the Church) and the rear boundary of No.24 Burntwood Avenue. The proposed two-storey house would be set well behind the front building line of the Church but would extend beyond the rear elevation with a total depth of around 22.5m. At first-floor, there are three windows on the flank elevation of the Church that directly face the proposed

- new house. The internal arrangement of the house has been designed so that first-floor windows on the flank elevation facing the Church would be to en-suite bathrooms with obscured glazing. I am therefore satisfied that there would be no loss of the privacy to the users of the first-floor rooms of the Church.
5. There would inevitably be a change in outlook from the first-floor windows of the Church which has been largely unobstructed since the original dwelling house was demolished. Whilst the proposed house would be around 8.4m to its ridge, it has been designed with a hipped roof which would minimise the overall mass of the building. This design, combined with a reasonable separation distance between the flank elevations, means there would be no substantive harm to outlook from the Church. Further, because of the separation distance and profile of the proposed roof, a 45-degree angle would be retained from all three first-floor windows and consequently, I am satisfied there would be no loss of light.
 6. At ground floor, there is a window to a flat roofed single storey element of the Church which is sited within 1m of the common boundary with the appeal site. I do not have full details of the internal layout of the Church. However, I understand from representations from the Church Secretary and Elders that the rooms facing the appeal site are well used including for worship. The proposed house is offset from the boundary by a minimum of around 2m and would have ground floor windows to a utility area and a door on the side elevation facing the Church. It is not an uncommon arrangement for secondary windows or windows to non-habitable rooms to be located on facing flank elevations of buildings at a similar separation distance. There is also an existing close boarded fence along the common boundary which would ensure no loss of privacy.
 7. It is acknowledged that the proposed house would be sited slightly closer to the common boundary (by around 0.4m) than the original dwelling house and would be significantly greater in depth. Although both are already affected to a degree by the existing boundary fence, the proximity and scale of the proposed house would result in some loss of light and outlook from the ground floor windows of the Church. I am not, however, persuaded from the evidence before me that this would have a such a significant impact on the overall enjoyment or use of the Church building that it would justify dismissing the appeal.
 8. I also saw from my site visit that there are further windows at ground-floor under an undercroft formed by a flat roofed element at the rear of the Church. These windows already have restricted light and outlook by reason of the arrangement of the Church buildings themselves and the unduly large flank façade to the rear on the common boundary. The proposed house would have no material impact on this existing situation.
 9. In conclusion, I find the proposals would not cause harm to privacy, outlook or light such that it would prejudice the ability of occupants to use or enjoy the Church. There would therefore be no conflict with Policy DC61 of the Havering Core Strategy and Development Control Development Plan Document (2008) because the proposed house would not result in unacceptable overshadowing, loss of sunlight/daylight, overlooking or loss of privacy.

Other Matters

10. Concern has been raised that the proposed house would be built on the party wall with the Church and would need a Party Wall Agreement. These are matters for the appellant to resolve with third parties where necessary and outside the scope of my consideration of this appeal.
11. I also note the concern that the proposed house would increase the width of built form over and above the original dwelling house. However, it meets guidance in the Emerson Park Policy Area Supplementary Planning Document (2009) that new houses should be a minimum 1m from an adjoining common party boundary at ground floor and 2m at first floor. I also saw on my site visit that the area is characterised by large, detached houses with reasonably wide frontages and I do not find the proposed house would cause harm to the character and appearance of the street scene in this regard. The matters raised in representations, do not therefore alter my conclusions on the main issue.

Conditions

12. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord. It is also necessary, in the interests of the character and appearance of the area, to control the external materials used.
13. Given the proposal is for a single dwelling house I do not consider that a condition controlling landscaping of the site is necessary. However, in the interests of the character and appearance of the area and to protect the conditions of adjacent occupiers, a condition requiring the submission of details of boundary treatment is necessary.
14. The Council suggested two conditions removing various permitted development rights. The *Planning Practice Guidance* (PPG) indicates that such conditions should only be used in exceptional circumstances. Given the size of the plot, I do not consider it necessary to prevent future extensions or additions. In the interests of protecting the privacy of neighbours, I do however consider it necessary to prevent further windows or openings being formed in the flank walls.
15. The PPG also indicates that conditions requiring compliance with other regulatory regimes will not pass the test of necessity. Given this, I consider it is not necessary to impose the conditions suggested by the Council requiring compliance with various parts of the Building Regulations.

Conclusion

16. For the reasons set out above, I conclude that the appeal should be allowed.

R. Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1938-1B; 1938-2B; 1938-6; 1938-8B; and 3D Plans [streetscene image].
- 3) No above ground works shall take place in relation to any of the development hereby approved until samples of all materials to be used in the external construction of the building are submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed with the approved materials.
- 4) Prior to the first occupation of the development hereby approved, details of all proposed walls, fences and boundary treatment shall be submitted to, and approved in writing by, the Local Planning Authority. The boundary development shall then be carried out in accordance with the approved details prior to first occupation and retained permanently thereafter to the satisfaction of the Local Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, no window or other opening (other than those shown on the submitted and approved plans) shall be formed in the flank walls of the building hereby permitted, unless specific permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.