



---

## Appeal Decision

Site visit made on 18 May 2021

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: Tuesday, 15 June 2021**

---

**Appeal Ref: APP/W1950/W/20/3265422**

**91 Bury Green Road, Cheshunt EN7 5AG**

- 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 R. Berisha against the decision of Broxbourne Borough Council.
  - The application Ref: 07/20/0727/F, dated 21 August 2020, was refused by notice dated 19 October 2020.
  - The development proposed is the demolition of garage and single-storey side extension to existing property and erection two-storey detached dwelling with associated landscaping and provision of off-street parking.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the development upon the living conditions of the occupiers of neighbouring properties, with reference to outlook and privacy; and
  - the effect of the development upon the character and appearance of the surrounding area.

### Reasons

#### *Living conditions*

3. The appeal site is located at the end of a two-storey terrace. The rear garden of the property is an irregular shape. The proposed dwelling is also of two storeys and located to the side of the existing dwelling and close to the boundaries of the two-storey properties at the nearby 1a-1c Hargreaves Road.
4. The pattern of the existing development means that the proposed dwelling would be close to the rear gardens of the neighbouring dwellings. On account of the height and positioning of the proposed development, the new dwelling would have a significant enclosing effect upon the neighbouring gardens.
5. This is a concern given that the rear gardens of the properties at Nos. 1a-1c represent the only areas where residents of the neighbouring dwellings might undertake private recreation. In result, the enclosing and overbearing effect of the development, and resultant loss of outlook, would result in an erosion of the living conditions of the occupiers of the neighbouring properties.

6. In addition, the building at Nos. 1b-1c features a single-storey ground floor projection. This projection features some windows that would face the site of the proposed dwelling. By reason of the greater height of the proposed development, the outlook from these windows would also be substantially reduced. These effects would occur irrespective of boundary treatments.
7. Due to the height of the proposed development, there would be windows located on the first floor of the rear elevation. This would allow for views to be made from the windows of the proposed development into the rear elevation windows of the neighbouring properties at Nos. 1a-1c and their associated gardens. This means that the development would erode the level of privacy experienced by occupiers of the neighbouring dwellings. The proposed development would also be sited closer to existing dwellings than the minimum distances specified in the Council's Borough-Wide Supplementary Planning Guidance (2004, updated 2013) (the SPG)
8. Whilst some of these views would be at an oblique angle, the proximity of the appeal proposal to the neighbouring properties, combined with the absence of physical features or significant landscaping in the proposed dwelling's garden, that might diffuse such views and owing to the height of the boundary treatments, there would be a demonstrable loss of privacy for the occupiers of the neighbouring properties. Such views would also occur on a frequent basis as residents go about their everyday activities. These effects would occur irrespective of whether a condition could be imposed that would remove permitted development rights for the installation of new windows.
9. I acknowledge that one of the proposed first-floor windows would serve a bathroom and might therefore be fitted with obscure glazing. However, despite this, movement would still be perceptible and when the window is open noise could still be audible. Therefore, from the neighbouring properties, the perception of being overlooked would remain.
10. Furthermore, the evidence before me is indicative that the other rear window would be fitted with clear glazing as it would serve a bedroom. Therefore, the type of glazing would not overcome my previous concerns.
11. Whilst the development would be in an urban area, where land could be used more efficiently and the development would not affect light levels, the adverse effects on living conditions as identified would create significant harm.
12. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of the neighbouring properties. The development, in this regard, would conflict with Policies EQ1 and NEB4 of the Adopted Local Plan 2018-2033 (2020) (the Local Plan) and the SPG. Amongst other matters, these seek to ensure that new developments must avoid detrimental impacts upon the living conditions of the occupiers of neighbouring properties; and that new landscaping must take into consideration the outlook of existing residents.

#### *Character and appearance*

13. The proposed development would have a different ridge and eaves height when compared to the existing dwelling at 91 Bury Green Road and the rest of the terrace in which the existing dwelling is sited.

14. Whilst the proposed development would have a different form to the existing dwelling, it would be viewed in the context of a variety of dwellings in Bury Green Road and in the wider area. This variety includes several different terraced, detached and semi-detached dwellings that are constructed to contrasting designs.
15. Furthermore, the surrounding area features a combination of both single-storey and two-storey dwellings. Therefore, the environs of the appeal site can be characterised as featuring dwellings constructed to several different heights.
16. Therefore, within this varied context the proposed development would not appear incongruous. In addition, the development would be screened, to a significant degree, by the existing dwellings within the terrace at 85-91 Bury Green Road as well as nearby mature trees. Therefore, the proposed development would not be readily visible from the surrounding area. In result, the proposed development would not be overly prominent, which further reduces its effects.
17. In addition, had I been minded to allow this appeal, I could have imposed a planning condition that would have controlled the materials from which the proposed dwelling would be constructed. This would further reduce the overall effects of the development.
18. By reason of this varied context, there are several differently sized gaps between buildings. In result, whilst the proposed development would reduce the amount of space between the existing dwelling and No. 1a, this would not appear unduly incongruous.
19. In addition, the alterations to the existing building would maintain the general character of the dwelling and would not appear to be overly strident or incongruous.
20. I therefore conclude that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would comply with Policies DCS1 and DCS2 of the Local Plan, and the SPG. Amongst other matters, these seek to ensure that new developments where possible enhance local distinctiveness and respect the character and design of the existing building.

### **Other Matters**

21. The proposal would add to the local housing supply, and residents of the development would support local businesses. However, the overall benefits of this would be reduced by reason of the overall scale of the proposal.
22. My attention has been drawn to Policy TM6 of the Local Plan. This pertains to vehicular accesses. I have no reason to believe that the proposal would result in an adverse effect on highway safety, which reduces the weight that I can attribute to this policy. However, these points do not outweigh the adverse effects as previously identified.

### **Planning Balance and Conclusion**

23. Whilst I have identified that the proposed development would not have an adverse effect upon the character and appearance of the surrounding area, this

does not outweigh the adverse effects arising from the proposed development upon the living conditions of the occupiers of neighbouring properties.

24. The proposal would harm the living conditions of the occupiers of neighbouring properties. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Benjamin Clarke*

INSPECTOR