



Appeal Decision

Site visit made on 29 November 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/W1905/W/21/3281085

17 Cranleigh Close, Cheshunt EN7 6HH

- 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 Mustaf Pnishi against the decision of Broxbourne Borough Council.
 - The application Ref 07/21/0244/F, dated 22 February 2021, was refused by notice dated 11 May 2021.
 - The development proposed is change of use of part of the existing land into garden, conversion of garage into study, proposed first floor side extension and part first floor rear extension and ground floor side extension including parking for 2 cars.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect upon the character and appearance of the area;
 - The effect upon the living conditions of on-site occupiers, having particular regard to the availability of private garden space; and
 - The effect upon the living conditions of neighbouring occupiers at No 26 Cranleigh Close (No 26), having particular regard to privacy.

Reasons

Character and appearance

3. The appeal site contains a previously extended end-of-terrace property that is served by front and rear garden spaces and that sits alongside a roughly triangular-shaped grassed area of land (the amenity space) that, whilst falling under the appellant's ownership, is not private garden and instead functions as an undesignated amenity space. The site forms part of a wider residential estate typically comprised of terraced blocks intermingled with various planted spaces that include open front gardens and verges. Thus, despite numerous examples of extensions having been added to properties at the estate, a formal, spacious and green residential character and appearance continues to be identifiable.
4. The intended building works at ground floor would be centred upon a small-scale squaring-off of the front living room, a conversion of garage space and the removal of an existing timber shed. However, notwithstanding any

assertions made to the contrary, significant additions would be brought forward at first floor level to the property's rear and side. These would add considerable bulk and mass and would promote that the property appears out of proportion with the short terrace of which it forms part. Furthermore, the flat-roofed elements that are proposed, most pertinently where at near to full ridge height, would appear contrived and discordant within an area typified by pitched roof forms.

5. The intended works would be visible from a range of publicly accessible vantage points. The appellant's monitoring of the Rosedale footpath, which runs the property's frontage, has indicated a not insignificant level of usage, which would reflect the various linkages that this path offers. In this context, the proposed building works would have a noticeable visual impact. Indeed, whilst I do not doubt that large homes exist at the same estate, the property, as proposed to be extended at this particular site, would appear as excessively sized and out of place.
6. The proposal includes the intended change of use of the amenity space to residential garden land. This land makes a valuable contribution to the local area's environmental quality and green and spacious character. Its loss as an undesignated amenity space would have damaging implications the way the estate would be experienceable to local residents.
7. The appellant has indicated his acceptance to a planning condition being imposed (should the appeal be successful) to withdraw permitted development rights with respect to the erection of fences/means of enclosure. Even so, a harmful domestication of the amenity space would be reasonably anticipated to follow any grant of approval for it to be used as residential garden. This is reflected to some degree through the submitted plans, where parking is illustrated to infringe the amenity space. Moreover, should permission be granted, no longer would an expectation apply that the land remains of natural composition and providing of a genuine visual break between surrounding residential developments/land uses.
8. Indications are made in the appellant's evidence that the relevant property deeds allow for the erection of fences of up to 1.8 metres in height, and that these rights could be exercised at any time without planning permission. However, private property rights sit distinct from the planning system. An enclosure of the amenity space would be likely to lead to a change in the character of the land's use, and thus to a material change of use. It has not been clearly substantiated otherwise. I thus attribute limited relevance to the appellant's arguments in this sense.
9. For the above reasons, the proposal would cause harm to the character and appearance of the area. The scheme conflicts with Policies DSC1, DSC2 and ORC3 of the Broxbourne Local Plan (June 2020) (the Local Plan) and the Borough-wide Supplementary Planning Guidance (adopted August 2004, updated 2013) (the SPG) in so far as these policies and guidance require that the scale, design and external appearance of extensions/alterations do not unduly impact upon the parent building and wider setting, and that there will be a presumption against the loss of amenity spaces unless that space no longer provides an amenity to the local area and/or a visual break within the local area.

Living conditions – on-site occupiers

10. The SPG indicates that a minimum garden size of 80 square metres should serve a four bedroomed house, and that, whilst there will be exceptional circumstances when such standards cannot be met, the aim will always be to meet the standards unless physically impossible to do so.
11. In this instance, the aforementioned minimum standard would not be met. Nevertheless, whilst the SPG's standards represent a relevant and useful starting point for assessment, they are not intended to be rigorously applied to all individual circumstances. Upon inspection, I was satisfied that a readily useable and genuinely private rear garden space would be in place post-development. Furthermore, the calculated shortfall in provision would be relatively limited. I have no clear reason to consider that the proposal would likely lead to nearby amenity spaces being used in an inappropriate capacity. Indeed, the close by availability of such resources would promote that acceptable living conditions would avail.
12. For the above reasons, having particular regard to the availability of private garden space, acceptable living conditions would be provided for on-site occupiers. The scheme satisfactorily accords with the SPG in so far as it requires that all new residential development is provided with suitable outside amenity space.

Living conditions – occupiers of No 26

13. The proposal involves the creation of west-facing first-floor window openings intended to serve a bedroom. These would face in the direction of No 26, although a direct back-to-back relationship would be avoided. There is an intervening hedgerow of height that falls under the control of No 26. It is also relevant to note that the site occupies an urban environment where a degree of mutual overlooking between neighbouring properties already exists.
14. When factoring in the separation distance to be achieved, the existing presence of rear-facing first-floor windows at the site and the established nature of the intervening hedgerow, I find that no undue loss of privacy would result for neighbouring occupiers at No 26. The scheme accords with Policy EQ1 of the Local Plan in so far as it requires all proposals within the urban area to avoid detrimental impacts on the amenities enjoyed by the occupiers of neighbouring properties.

Other Matters

15. I have noted objections/concerns raised with respect to matters including flooding, noise, parking and highway safety. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
16. The scheme would provide an enlargement to the local housing stock. Nevertheless, no new unit of housing would be created such that any associated benefits would attract limited weight insufficient to outweigh the significant harm and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

17. Whilst I have found that the proposal would have an acceptable effect upon the living conditions of on-site occupiers (having particular regard to the availability of private garden space) and neighbouring occupiers (having particular regard to privacy), I have identified that significant harm would be caused to the character and appearance of the area. This harm is the overriding consideration in this case.
18. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR