



Appeal Decision

Site visit made on 4 January 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/N1920/W/21/3283828

87 Bushey Grove Road, Bushey, Hertfordshire WD23 2GJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mr Craig Goose against the decision of Hertsmere Borough Council.
- The application Ref 21/1039/FUL, dated 13 May 2021, was approved on 28 July 2021 and planning permission was granted subject to conditions.
- The development permitted is conversion of 2 x flats to a 4-bed dwelling, following construction of a single storey rear extension and conversion of loft to habitable room with rear dormer and 3 x front rooflights.
- The condition in dispute is No 4 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revising, revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwelling hereby permitted under Schedule 2 Part 1 Class A or Class B of that Order.
- The reason given for the condition is: To satisfactorily protect the character and appearance of the area and the residential amenities of nearby occupiers. To comply with Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan (2016), Policy CS22 of the Hertsmere Core Strategy 2013 and the NPPF 2021.

Decision

1. The appeal is allowed and the planning permission Ref 21/1039/FUL for development described as 'conversion of 2 x flats to a 4-bed dwelling, following construction of a single storey rear extension and conversion of loft to habitable room with rear dormer and 3 x front rooflights' at 87 Bushey Grove Road, Bushey, Hertfordshire WD23 2GJ granted on 28 July 2021 by Hertsmere Borough Council is varied by deleting condition 4.

Background and Main Issue

2. The National Planning Policy Framework (the Framework) outlines that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
3. The main issue is whether or not Condition 4 is necessary and reasonable in the interests of the character and appearance of the area and the living conditions of neighbouring occupiers.

Reasons

4. Bushey Grove Road and Vernon Road include a mix of detached, semi-detached and terraced properties which vary in architectural design, form and

appearance. The appeal site is close to the junction of these streets and includes a semi-detached building with a rear outrigger projection.

5. The development permitted under planning application reference 21/1039/FUL ('the permission') includes a single storey rear extension and rear dormer to the appeal building, and its conversion from 2 flats to a single dwelling. Condition 4 of the permission restricts that dwelling's permitted development rights for enlargement or extensions granted under Classes A and B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the GPDO').
6. Class A of the GPDO relates to the enlargement, improvement or other alteration of a dwellinghouse. Extension or enlargement under this class could further increase the built form on the site, but I have found no clear explanation within either the Council's original report on the application or its appeal statement indicating how development under Class A would in this case lead to harm. In my judgement, detriment to the character or appearance of the area would be unlikely given the overall variety in the street scene and the diverse form of buildings that I observed in the vicinity of the site which further include assorted extensions and alterations. I am also satisfied having regard to the scope of development permitted under Class A and the relationship of the appeal building with neighbouring properties that unacceptable harm to the living conditions of neighbours to the site would be unlikely.
7. Class B of the GPDO relates to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. I note that the dormer that was approved under the permission had been amended to remove an originally proposed section that would have extended over the rear outrigger to the building. The Council is concerned that development under Class B of the GPDO could allow enlargement of the approved dormer to extend over the rear outrigger, and that this would result in an unsightly and obtrusive addition.
8. However, there is no compelling evidence before me that future development of this type would adversely affect levels of outlook, light or privacy, or otherwise harm the living conditions currently enjoyed by neighbouring occupiers to the site. Although such development may be visible from surrounding properties, I consider having regard to the relationship of the building with its neighbours that unacceptable harm in this regard would be unlikely.
9. I appreciate that there are public views of the appeal building's roof including from Vernon Road. Even so, there are a mix of roof forms to buildings on Bushey Grove Road and the surrounding streets, and a number of large dormers, including to 85 Bushey Grove Road adjacent to the site. I did not see other nearby examples of dormers extending onto outrigger projections, but against this context, I do not consider that such development would stand out as incongruous, nor that it would be unduly conspicuous so as to cause unacceptable harm to the character and appearance of the area.
10. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. For the reasons above, I do not consider that the development approved by the permission would warrant the restrictions imposed by Condition 4, and I find that there is insufficient justification in this case to restrict permitted

development rights under Classes A or B of the GPDO. The condition would be unnecessary.

11. Moreover, the Council has not disputed the appellant's evidence that a Certificate of Lawfulness has been granted for use of the appeal building as a single dwelling, and I have not been provided with evidence indicating that this dwelling would be subject to limitations on permitted development rights. Irrespective of the Permission, it would therefore seem possible in practice to carry out development on the site under Class B of the GPDO that would ultimately result in extension/enlargement of the building comparable to that which the Council now seeks to prevent. Given this, I am concerned that the restriction on Class B imposed by Condition 4 would further be unreasonable.
12. I therefore conclude that Condition 4 is not necessary in the interests of the living conditions of the occupiers of neighbouring dwellings or the character and appearance of the area, and is unreasonable. Removing the condition would not result in conflict with Policies SADM3 or SADM30 of the Site Allocations and Development Management Policies Plan 2016 or Policy CS22 of the Core Strategy 2013. Together, these Policies broadly seek high quality design, development that respects and complements local character, and to limit impacts of development on the amenity of neighbouring occupiers including with regard to outlook, privacy and light. Nor do I find that the removal of the condition would result in conflict with the Framework which includes requirements for development that is sympathetic to local character and that provides a high standard of amenity for existing occupiers.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed, and the permission should be varied by deleting Condition 4.

J Bowyer

INSPECTOR