



Appeal Decision

Site visit made on 25 October 2022

By C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/W1905/W/22/3291181

262 High Street, Waltham Cross, Hertfordshire EN8 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr D Zafir of 4Z Temple Court Ltd against the decision of Borough of Broxbourne Council.
 - The application Ref 07/21/1235/P4D, dated 8 October 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the erection of two additional storeys above the topmost floor of the property to create flats.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr D Zafir of 4Z Temple Court Ltd against the decision of Borough of Broxbourne Council. This application is the subject of a separate decision.

Preliminary Matters

3. Under Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GDPO), planning permission is granted for new dwellings on detached buildings in commercial or mixed use, subject to limitations and conditions. This includes the need for an application for prior approval as to the matters listed in Class AA.2(1), which includes transport and highways impacts, and impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and loss of light.
4. During the course of the appeal the appellant has provided a new site plan showing the location of cycle parking and a report containing the results of parking surveys. As the main parties have had the opportunity to comment on this information, I am satisfied that there would be no prejudice in my considering the appeal with this additional information.
5. The Council's second reason for refusal refers to the inclusion of windows in the side elevation of the development and states that the development would not meet the relevant criteria for permitted development as a result. The Council in its appeal statement accept that this was an error and that the second reason for refusal should be discarded. I have determined the appeal on this basis

and, consequently, the main parties agree that the proposed development would comply with the provisions of Schedule 2, Part 20, Class AA of the GPDO, such that it would constitute permitted development, subject to the condition that prior approval must be sought.

Main Issues

6. The main issues are the impacts of the development on:

- The amenity of the neighbouring premises, with particular regard to daylight and outlook experienced by the occupants of no.258-260 High Street, and
- Transport and highways.

Reasons

Amenity

7. No.258-260 High Street lies to the south of the appeal site and contains residential accommodation within its upper floors. Its north facing side elevation, which faces the appeal site, is close to the site boundary and includes a number of windows which serve the units on the first and second floors as well as the stairwell.
8. The appellant's case includes a sunlight and daylight report, which considers the impact on the daylight that would be received by two of the existing windows of no.258-260 at second floor level, of which one faces the road. Together these windows serve a living/ dining room area, which is the largest room, and the main living space of a two bedroom flat which sits within the mansard roof.
9. The results of a vertical sky component test show that the side window would experience a 70.2% reduction in daylight and that the average reduction across both windows would be 34%, thereby failing the test overall. The reduction in daylighting resulting from the development would be noticeable and create darker and more oppressive conditions within that room.
10. Furthermore, there are several other windows within the north facing elevation of no.258-260 which have not been tested. While some of these are set back from the boundary due to the staggered building line, their levels of daylight would nonetheless be impacted by the development to some degree. Based on floorplans provided by the Council, the affected windows include a number of habitable room windows at the first floor level. While those rooms are served by other windows in the front, rear or southern side elevations, in the absence of information relating to the impacts of the development upon them, I cannot be satisfied that the effects of the proposed development on the levels of daylight received by those rooms and the units as a whole would be acceptable.
11. The scale of the proposed development and proximity to no.258-260 would also result in a significant change to the outlook experienced from the windows which face it. This is particularly the case as the existing top floor of the existing building on the appeal site is set partially within the roof slopes, which slope away from the boundary and provide some relief in the outlook from those neighbouring windows. This outlook would be replaced by a substantial flank wall which would be visually dominant and have an oppressive effect on

the living conditions of the occupants. Given the number of habitable rooms which face the appeal site from both the first and second floor, based on the evidence, these impacts would be unacceptable and would cause harm to amenity.

12. For the above reasons in combination, the proposed development would not be acceptable in terms of its impacts on the daylight or outlook experienced by occupants of 258- 260 High Street. The development would also conflict with the objectives of the National Planning Policy Framework (the Framework) at paragraph 119 where it requires decisions to, among other things, ensure healthy living conditions.

Transport and Highways

13. The appeal site is located on a busy stretch of road which is a local centre including shops and services at the ground floor level. The road outside the site includes a number of stopping, parking and loading restrictions as well as a combined bus and cycle lane on the southbound side. The site is opposite the junction with Hedworth Avenue and a subsidiary road which runs parallel to High Street and provides parking for 1 hour between the hours of 8:00 and 18:30. As a result of these conditions, opportunities for on-street parking in the immediate vicinity of the appeal site are very limited.
14. The appeal site includes off street parking behind the main building and an associated gated undercroft access. This provides seven off street parking spaces for the existing residential units.
15. No additional parking provision is proposed for the new units and as such the proposal would not comply with the Council's parking standards. Despite this, the site is in a very sustainable location with good accessibility to services and facilities including public transport. A frequent bus service operates from outside the site and the site is a short walk from Waltham Cross town centre to the south and Theobalds Grove station to the north which provides frequent services which link to the wider London public transport network. These attributes would support the use of sustainable transport by future occupiers. The Highways Authority, in their response to the application, comment that a lower level of on-site parking, below the adopted standard, may be acceptable given the proximity to different modes of transport.
16. Although the appellant's statement says there is no opportunity for on-street parking, the more detailed parking survey carried out by transport consultants considers the availability of overnight parking and potential demand for parking nearby. The survey includes results of two surveys of parking in the early hours of the morning, on roads a short distance from the appeal site, and found an average of 81% occupancy on legitimate parking spaces for overnight parking. These findings have not been disputed by the Council. In addition, at the time of my site visit I found that some unrestricted on-street parking was available on streets near the site. While I appreciate that this represents only a snapshot of time, it corroborates the survey findings. For these reasons I am satisfied that, even if an increase in parking pressures were to occur, this would be unlikely to result in conditions prejudicial to highway safety.

17. I note the Inspector's decision of 2008¹ relating to the appeal site, where seven parking spaces for nine units was considered acceptable. However, the decision does not indicate that a lower level of provision would have been unacceptable. In the case of the appeal decision in New Malden², I note that the Inspector found levels of on-street parking nearby to be high and that there was already competition for on-street parking, as demonstrated by a parking survey. As a consequence the Inspector found that additional parking pressure would be likely to cause harm to highway safety. The circumstances in the appeal before me, in terms of the local parking pressures and closer proximity to public transport, are materially different.
18. The appellant has provided a plan to show that cycle parking could be accommodated at the back of the site. This would result in the loss of one of the existing parking spaces and would result in the users of this space needing to park elsewhere outside the site. However, given the reasoning above, any additional pressure for on-street parking as a result is unlikely to have a harmful impact on highway safety.
19. The appellant states that waste storage could be accommodated alongside the existing arrangements and I have no reason to believe this could not be the case with appropriate management. As the proposal would not deliver any additional parking spaces, I do not need to consider matters relating to the delivery of electrical vehicle charging points further.
20. Overall, given the good accessibility of the site to facilities and public transport, in combination with the availability of parking in the surrounding area, the development would be acceptable in terms of its impact on transport and highways. The development would also comply with the objectives of the Framework insofar as it seeks to resist development if there would be an unacceptable impact on highway safety.

Other Matters

21. While there may be other benefits of the proposal, arising from the delivery of new homes, the GPDO is clear that the only considerations should be those which it lists.

Conclusion

22. Although the proposal would be acceptable in terms of its effects on transport and highways, it would be unacceptable in terms of its impacts on the amenity of the neighbouring premises. For the reasons given above, the appeal is dismissed.

C Shearing

INSPECTOR

¹ APP/W1905/A/07/2050051

² APP/Z5630/W/21/3273592