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# Appeal Decision

Site visit made on 17 October 2022

**by S Crossen BA (Hons) PgCert PgDip MA MRTPI**

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

**Decision date: 26 January 2023**

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**Appeal Ref: APP/W3710/W/22/3301438**

**127 Queens Road, Nuneaton CV11 5LD**

- 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 Harjinder Singh against the decision of Nuneaton and Bedworth Borough Council.
  - The application Ref 038503, dated 1 December 2021, was refused by notice dated 24 January 2022.
  - The development proposed is described as “the conversion of an existing out building in to 1 one bedroom flats”.
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## Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing outbuilding in to 1 one-bedroom flat at 127 Queens Road, Nuneaton CV11 5LD in accordance with the terms of the application, Ref 038503, dated 1 December 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## Preliminary Matter

2. The description of development used in the heading above is taken from the planning application form. In allowing the appeal and in the interests of clarity I have removed the space between “out” and “building”, added a hyphen between “one” and “bedroom” and changed the word “flats” to “flat”.

## Main Issue

3. The main issue is whether future occupiers of the proposed flat would have acceptable living conditions having regard to outlook, privacy, and sunlight.

## Reasons

### *Outlook*

4. The appeal building is located to the rear of a row of shops with flats above. These shops are built on lower ground and the appeal building is built between the ground and first floor levels of these buildings to take account of the ground level difference. The appeal building adjoins the rear boundaries of shops, a car park and gardens of a row of terraced houses. Access is from a walkway extending along the rear of the row of shops from a side street. It is proposed that the rear corner of the building would be removed to provide a private amenity space for occupants with a boundary wall enclosing it.
5. The Council’s Sustainable Design and Construction Supplementary Planning Document (SPD) at paragraph 11.7, requires a minimum separation distance of

12 metres between habitable room windows and blank walls of extensions of the same height in the interests of protecting outlook.

6. The outlook from the private amenity space would be that of the boundary wall, beyond the wall the roofs of the adjacent shops slope away from the boundary. Although the shops are two storey buildings, the row which adjoins the amenity space has a roof at first floor level and the appeal building is not at ground floor level relative to the row. This means that the roof plane would slope away from the private amenity space ensuring that there would not be an unacceptable sense of enclosure to future occupiers using it.
7. The French doors from the living space would open onto the private amenity space and would face a wall less than 12 metres away. Whilst I note this distance falls below the distance specified in paragraph 11.7 of the SPD, the window in question is a large French door, the size and angle of which would prevent any unacceptable sense of enclosure or unacceptable effect on living conditions for occupants and would provide an acceptable outlook. Therefore, the particular layout and site circumstances ensure acceptable living conditions would be provided for future occupiers which accords with paragraph 7.4 and chapter 11 of the SPD as a whole.
8. The bedroom window would be adjacent to the access to the rear of the shops and flats, opposite a boundary fence which is slightly higher than the window. Although the SPD sets distance standards between habitable room windows and the blank walls of extensions and not between windows and fences, the fence would have an effect on outlook. However, because the height of the fence is only just above the height of the window and there is some space between the bedroom window and the fence, there wouldn't be an unacceptable enclosing effect and the level of outlook from this window would be acceptable.

#### *Privacy*

9. There are two roof windows above adjacent shops at first floor level which would be seen from the private amenity space, which the appellant states do not serve accommodation. This point is not challenged by the Council. Even if the windows did serve accommodation, the viewing angle from these windows would be acute and due to the windows sloping away from the appeal site boundary and their set back from the eaves of the building, they would not result in direct overlooking. This relationship would ensure future users of the proposed private amenity space would not suffer from any unacceptable overlooking in accordance with paragraph 11.6 of the SPD.
10. No adjacent neighbouring windows would directly face the bedroom window of the proposed flat. The window does face a shared space which provides access to other properties. However, this relationship already exists between the commercial and residential properties here and is like that which exists between the adjacent terraced houses and the highway. In any case the impact on privacy would not be significant due to the transient use of the space which is unlikely to encourage activity for any extended period.

#### *Sunlight*

11. The appeal building is built higher than the ground level of the shops, the roof plane of the shops slope away from the appeal building and its eaves are lower

than the proposed side window of the private amenity space boundary wall. The layout and site circumstances ensure that both the private amenity space and French doors would benefit from sky views and whilst there might be some shading from surrounding buildings this would not be significant, so both the private amenity area and French doors would each receive an acceptable level of sunlight.

### *Conclusion on Living Conditions*

12. I conclude that the proposed flat would provide acceptable living conditions for the future occupiers having regard to outlook, privacy and sunlight. It therefore accords with Policy BE3 of the Nuneaton & Bedworth Borough Council Borough Plan 2011-2031 adopted June 2019, relevant policies in the National Planning Policy Framework and relevant guidance contained within the Council's Sustainable Design and Construction Supplementary Planning Document 2020. These policies and this guidance seek, amongst other things that new development contributes to local distinctiveness and character, and considers the layout of existing buildings, streets and landscape with respect to residential amenity.

### **Other Matters**

13. In reaching my decision I note that some concerns were raised by interested parties in relation to parking, traffic congestion, waste, the condition of the existing fence, existing damage to a wall, noise and disturbance from comings and goings of occupiers of the proposed flat and noise from building work. The Council is satisfied that the proposed parking, traffic generation, and waste arrangements are acceptable and having regard to the details of the proposal, the site layout and to the evidence before me, I can see no reason to disagree with the Council's conclusions in relation to these issues. In relation to the concerns about potential noise and disturbance generated by the comings and goings of future occupiers, in the context of the nearby shops and busy road. I consider it unlikely that any such noise and disturbance would be materially harmful and any noise from building works would be of a temporary nature. In relation to the concerns about existing issues these are matters which do not relate to the proposal.
14. I note the Council's concern in the officer's report regarding the rear access and its relationship to the public realm. The access serves several shops and flats here and benefits from existing activity, so little harm would result from an additional residential unit using it.
15. The Council in its statement of case draws my attention to Paragraphs 7.4, 11.7, 11.9, 11.11 and 11.12 of the SPD. Policies 11.7 and 11.9 seeks to retain existing amenity provision in relation to extensions. Given the nature and scale of the proposal and the concerns raised by the Council these paragraphs do not seem to be directly relevant. In relation to policies 7.4, 11.11 and 11.12 I find the shape of the private amenity space, although not quite rectangular is of suitable shape and size to provide space for passive recreational activities and a drying area. I also noted during my site visit that the appeal site lies very close to a public park, which would be available to meet any other amenity space requirements for future occupants.

### **Conditions**

16. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed a condition to ensure that the height of the boundary walls is reduced as shown on the approved plans prior to the occupation of the flat in the interests of providing sufficient outlook and light for future occupiers. Finally, I have imposed a condition requiring details of noise mitigation measures to be submitted, approved and implemented prior to occupation, to ensure that future occupiers of the flat are not unduly affected by noise.

### **Conclusion**

17. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

*S Crossen*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Survey Drawing No 973-01 Revision A, Scheme Drawing 973-02 Rev F.
- 3) No occupation shall take place until the boundary walls of the private amenity space hereby approved have been fully implemented in accordance with the approved plan 973-02 Rev F.
- 4) No occupation shall take place until details of the noise insulation (including glazing to any window openings on the building) to be provided to the flat and between the flat and any adjoining uses have been submitted to and approved in writing by the Council. The unit shall not be occupied other than in accordance with the approved details.