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## Appeal Decision

Site visit made on 5 September 2016

**by Caroline Mulloy BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26<sup>th</sup> September 2016**

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**Appeal Ref: APP/N5090/W/16/3149696**

**34 Ravenshurst Avenue, Hendon, London NW4 4EG**

- 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 Benjamin Marks against the decision of the Council of the London Borough of Barnet.
  - The application Ref 16/0435/FUL, dated 22 January 2016, was refused by notice dated 3 March 2016.
  - The development proposed is single storey rear extension and conversion into 2 no self-contained flats
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### Decision

1. The appeal is allowed and planning permission is granted for single storey rear extension and conversion into 2 no self-contained flats at 34 Ravenshurst Avenue, Hendon, London NW4 4EG in accordance with the terms of the application, Ref 16/0435/FUL, dated 22 January 2016, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this Decision.

### Procedural Matter

2. The description of the proposal is different on the application form to the decision notice. I have used the description on the decision notice which I consider to be a more accurate description of the proposal.

### Main Issues

- The effect of the proposal on the living conditions of future occupiers of the proposed ground floor flat with specific reference to internal amenity space and light;
- The effect of the proposal on the living conditions of the future occupiers of the first floor flat with specific reference to outdoor amenity space; and
- The effect of the proposal on highway safety with specific reference to parking.

### Reasons

#### *Living conditions of future occupiers of the ground floor flat*

3. The appeal property is a traditional terrace with an original two storey rear projection and single storey extension to the rear and dormer windows in the rear roof slope. It is proposed to convert the property into two self-contained flats.
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4. The ground floor flat (Flat 1) meets the minimum unit size set out in the London Plan of 50m<sup>2</sup> for a 1 bedroom 2 person flat. However, the Council is concerned that the area marked on the plans as 'kitchen/dining/lobby' fails to meet the minimum room size requirement of 23m<sup>2</sup> for a 2 person unit which is set out in the Barnet's Sustainable Design and Construction Supplementary Planning Document (SPD) 2013.
5. It considers that the circulation space allowing access to both the flat and bathroom is not useable, which, therefore, has to be subtracted from the total area of kitchen/dining/lobby. However, it has not provided floor space figures to quantify the extent to which they consider the useable living space would be reduced by. I also note that there is no reference in the standards set out in the SPD to deducting circulation space from the calculation of floor space.
6. Furthermore, Table 2.2 of the SPD specifically refers to the 'combined floor areas for living/kitchen/dining space'. On this basis the floor area of the proposed living room should also be included. Hence the combined floor area of the proposed living/kitchen/dining space would be approximately 32m<sup>2</sup> which exceeds the requirement. Even taking account of the circulation space, I consider that the living/kitchen/dining space would meet the SPD requirement and provide sufficient internal space for future occupiers of Flat 1.
7. Moreover, Government is clear that local planning authorities should not set any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings<sup>1</sup> over and above the Technical Space Standards. I, therefore, conclude on this issue that the proposed ground floor flat would provide sufficient internal space to meet Standard 24 of the Housing Supplementary Planning Guidance (Housing SPG) London Plan 2016 Implementation Framework and Table 2.2 of the SPD.
8. Contrary to the assertion that the proposed living room would not have a window, I noted on my site visit that there is an existing window serving the dining room and it is intended to retain this window in order to serve the proposed living room. A single storey extension would be erected to the rear of this window, on the opposite side of the entrance to the Flat 1 which would be covered by a glazed canopy. I acknowledge that the extension would block some light from the living room. However, taking into account the single storey nature of the extension and that the glazed canopy would enable light to penetrate through, I consider that on balance the proposed living room would receive sufficient light.
9. For the reasons stated above, I consider that the proposal would not have a harmful effect on the living conditions of future occupiers of Flat 1. The proposal would not, therefore, be contrary to Policy CS1 of the Barnet's Local Plan (Core Strategy) (CS) Development Plan Document 2012 which seeks, amongst other things, the highest standards of urban design in order to generate development proposals of landmark quality and create an accessible, safe and attractive environment for people who live in, work in or visit Barnet's areas of housing and economic growth. Furthermore, no conflict arises with Policy CS NPPF which reflects the presumption in favour of development set out in the National Planning Policy Framework (the Framework). In addition, no conflict arises with Policy CS5

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<sup>1</sup> Written ministerial statement; Steps the government are taking to streamline the planning system, protect the environment, support economic growth and assist locally-led decision-making. 25 March 2015. Rt Hon Eric Pickles

of the CS which seeks to ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design.

10. Moreover, the proposal does not conflict with Policy DM02 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (DPD) 2012 which states that where appropriate, development will be expected to demonstrate compliance with national and London wide standards supported by the guidance set out in the Council's suite of supplementary planning documents.
11. Finally, no conflict arises with the SPD or the Residential Design Guidance (RDG) Supplementary Planning Document (2013) which, amongst other things, seeks to safeguard residential amenity.

*Living conditions of the future occupiers of the first floor flat*

12. The existing property has a yard to the rear which is intended to serve the ground floor flat. There is also a small enclosed garden to the front. No outdoor amenity space is proposed to serve the first floor flat. The Council acknowledge that there are circumstances where this may be considered acceptable, for example, the presence of a nearby park, but considers that there are no parks within walking distance of the property.
13. Attention is drawn, however, to two parks within the vicinity. Hendon Park is situated a 10 minute walk to the south and Sunny Hill Park is situated a 6 minute walk to the north. Both parks have a good range of facilities including children's play areas, tennis courts and cafes. I noted on my site visit that in order to reach the closest park, Sunny Hill, the busy A504 had to be crossed. However, I also noted the presence of a pedestrian crossing which could be utilised.
14. Standard 26 of the Housing SPG requires a minimum of 5 sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sqm should be provided for each additional occupant. Paragraph 2.3.31 of states that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement. The first floor flat would exceed the minimum internal space standard by 10m<sup>2</sup>, thereby, compensating to a degree for the lack of external amenity space.
15. I acknowledge that the first floor flat would be a 2 bedroom four person flat and could consequently be occupied by a family. However, I note that the Council has suggested a condition requiring details of the subdivision of the amenity area to be submitted and approved by the local planning authority in the event that the appeal is allowed. Such a condition would enable the upstairs flat to have some private amenity space.
16. I, therefore, conclude that with the suggested condition the occupiers of the upstairs flat would have access to private amenity space and also public amenity space at nearby parks. The proposal would not, therefore, have a harmful effect on the living conditions of future occupiers. The proposal would not, therefore, conflict with Policies CS NPPF, CS1 and CS5 of the CS. Furthermore, no conflict would arise with Policy DM02 of the DPD, the SPD or the RDG.

*Highway Safety*

17. The appeal property is situated on a residential street comprised of terraced housing which has no off-street parking. The street is within a controlled parking

zone with resident parking permits and parking restricted from 10am to 5pm. Parking bays are delineated on both sides of the street.

18. The Council considers that the proposal would generate an increase in on-street parking which would be harmful to highway safety. It has requested that the appellant enter into a legal agreement that would allow a Traffic Management Order to be amended to restrict future occupants from obtaining parking permits. No such agreement has been submitted. The key issue is, therefore, whether the increase in demand for parking arising from the proposal could be safely accommodated without detriment to highway safety.
19. The existing property is a four bedroom house for which the maximum parking requirement would be 2 spaces in accordance with Policy DM17 of the DPD. The proposal is to convert the property into one 1 bedroom flat and a 2 bedroom flat. The combined parking requirement for both flats would be a maximum of 2.5 spaces. Thus the proposal would generate an additional parking requirement of only 0.5 spaces over and above the requirement for the existing property.
20. At the time of my site visit (1500) I noted that approximately 50% of the parking spaces were occupied. However, I also visited the property at 1800 on a Sunday in order to determine the level of on-street parking at a time when residents are likely to be at home. I noted that approximately 80% of the spaces available were occupied. I, therefore, consider that there is sufficient capacity to accommodate the small increase in parking demand arising as a result of the proposal.
21. Whilst the appellant has not submitted a parking survey neither has the Council provided any evidence to support its view that harm would arise. On the basis of my own observations and in the absence of evidence to the contrary I, therefore, consider that the small increase in parking demand arising from the proposal could be accommodated without detriment to highway safety.
22. Whilst in a Public Transport Accessibility Level (PTAL) zone score of 2, I note that there are bus stops situated a short distance from the property on the A504 and furthermore, I have attached a condition requiring the provision of cycle storage and parking provision. Alternative modes of sustainable transport are, therefore, available to future occupiers of the property.
23. Taking into account that the existing property does not have any off-street parking at present and that the proposal would only generate a small increase in parking demand together with the on-street parking capacity available, I consider that the increase in parking demand would not be detrimental to highway safety or the living conditions of adjacent occupiers.
24. In reaching this decision I am mindful of paragraph 32 of the National Planning Policy Framework which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. I am also mindful that the car parking standards set out in the DPD are maximum standards. Consequently I, therefore, consider that the requirement for the appellant to enter into a legal agreement in order to forgo a parking permit is not justified in this instance.
25. I, therefore, conclude that for the reasons stated the proposal would not be harmful to highway safety. The proposal would not, therefore, conflict with Policy DM17 of the DPD.

## Conditions

26. In addition to the standard time limit condition (1) I have imposed a condition (2) specifying the relevant drawings as this provides certainty. I have imposed a condition (3) requiring the materials to be used in the extension to match the existing in the interests of character and appearance.
27. A condition (4) relating to the hours of operation is necessary to protect the living conditions of adjacent properties during the construction phase. A condition (5) requiring provision within the site for vehicles to be properly washed and cleaned is necessary in the interests of highway safety. A further condition (7) is required to ensure the provision of cycle parking and cycle storage facilities in order to ensure that future occupiers have access to sustainable modes of transport.
28. A further condition (6) is required to ensure that 100% of the water supplied to them by the mains water infrastructure provided through a water meter/s and that mains water consumption meets a standard of 105 litres per head per day. This is consistent with the approach set out in Policy CS13 of the CS and Policy 5.15 of the London Plan (2015) which reflects the 'optional requirement' set out in Part G of the Building Regulations. The condition is necessary to encourage the efficient use of water.
29. I have imposed a condition (8) relating to enclosures and screens for the storage of recycling containers and a satisfactory point of collection in order to ensure the satisfactory management of waste arising from the development and to protect the living conditions of existing and future occupiers.
30. The Council have suggested a condition stating that the property shall be used as self-contained units and for no other purpose within Class C3 or C4 of the Use Classes Order<sup>2</sup>. Part 3 Class L of the Town and Country (General Permitted Development) Order 2015 allows for the change of use from a small House in Multiple Occupation (HMO) and vice versa. I have concluded that a small increase in the demand for parking would not have a harmful affect on highway safety. However, the change of use of the flats to groups of people living together as a single household (C3 (c)) or an HMO (C4) could significantly increase the demand for parking. Consequently, I agree that such a condition (9) is both reasonable and necessary to enable the Local Planning Authority to exercise control over the type of use within this category and to assess any potential affects arising from a change of use.
31. The Council have suggested a condition requiring that permitted development rights are withdrawn for the property within Classes A to E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (GPDO) 2015; however, as flats do not benefit from permitted development rights under part 1 of the GPDO this condition is unnecessary.
32. Finally I have attached a condition (10) relating to the sub-division of the amenity area in order to ensure that future occupants have access to private amenity space as discussed above.

## Overall Planning Balance

33. Whilst there would be a small increase in on-street parking demand arising from the proposal I consider that this could be accommodated without detriment to highway safety. Paragraph 8 of the Framework makes it clear that to achieve

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<sup>2</sup> Town and Country Planning (Use Classes) Order 1987 (as amended)

sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The proposal would bring social benefits in terms of making a modest contribution to new housing provision in the Borough. The proposal would also bring modest economic benefits in the short-term during the construction phase and in the longer term through supporting local facilities. The site is in a sustainable location within an existing residential area. I, therefore, consider that the proposal would constitute sustainable development.

### **Conclusion**

34. For the reason stated above and taking all other considerations into account the appeal should be allowed subject to the conditions set out in the attached schedule.

*Caroline Mulloy*

INSPECTOR

## **Schedule**

### **Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
Existing Plans: No 8113-P02 and location plan  
Proposed Plans: No 8113-P04 Rev B, 8113-P03 Rev B
- 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 4) Demolition or construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 5) Provisions shall be made within the site to ensure that all vehicles associated with the construction of the development are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.
- 6) Prior to the first occupation of the new dwellinghouses (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 per head per day or less. The development shall be maintained as such in perpetuity thereafter.
- 7) Prior to first occupation, the development hereby approved shall make provision for cycle parking and cycle storage facilities in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority. Such spaces shall be permanently retained thereafter.
- 8) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.
- 9) The premises shall be used for self-contained units as shown in the hereby approved drawings under Class C3 (a) and for no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 10) Before the development hereby permitted is first occupied, details of the sub-division of the amenity area(s) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.