
Appeal Decision

Site visit made on 31 August 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 3rd October 2016

Appeal Ref: APP/N5090/W/16/3151707

4 Clifton Gardens, Golders Green, London NW11 7EL

- 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 Joey Ben Yoav against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/0566/FUL, dated 28 January 2016, was refused by notice dated 10 May 2016.
 - The development proposed is a two storey rear extension. Rear dormer with 3 no rooflights to front to facilitate hip to gable loft conversion. Conversion of the property into 3 no self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey rear extension. Rear dormer with 3 no rooflights to front to facilitate hip to gable loft conversion. Conversion of the property into 3 no self-contained flats at 4 Clifton Gardens, Golders Green, London NW11 7EL in accordance with the terms of the application, Ref 16/0566/FUL, dated 28 January 2016, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Joey Ben Yoav against the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matter

3. The appeal property already has planning permission for similar physical works to the building, including the change from a hip to gable roof. Construction work was underway at the time of my site visit.
 4. The description of the development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a slightly different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application and I have assessed the proposal in accordance with the details on the submitted plans.
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Main Issues

5. The main issue is the effect of the development on highway safety and the efficient use of the highway network, with particular regard to parking provision.

Reasons

Highway safety

6. Clifton Gardens is a residential street located within a 'Controlled Parking Zone' (CPZ). The street is within the 'TF' and 'TF/TZF' area which requires the display of residents' parking permits between 0930 and 1800 Monday to Friday and 1400 to 1900 on Saturdays. There are no restrictions at other times. There are designated parking areas along each side of the street which provide space for a maximum of approximately 45 vehicles. A number of dwellings have access to off-street parking on forecourts. Parts of the street are also constrained by single and double yellow lines.
7. Clifton Gardens is accessed from Finchley Road, which is a busy shopping street. There are a number of on-street pay parking spaces along this street for shoppers, which are unrestricted in the evenings and on Sundays. Nearby residential streets are also within the CPZ and have similarly marked out parking areas. Some of these, including the adjacent Alyth Gardens, have the same restrictions as Clifton Gardens, while others are subject to different timings. The appeal site is also within an area which has a Public Transport Accessibility Level (PTAL) rating of 2, which is at the lower end of the scale.
8. The parking standards set out in Policy DM17 of the Council's Development Policies¹ (DMP) document suggests the development should provide a *maximum* of four parking spaces. The Council have indicated that, having had regard to the PTAL rating of the site, they would expect at least three spaces to be provided. This would equate to only one or two spaces more than would be required of the existing four bedroom dwelling, which currently provides none. However, DM17 states that residential development may be acceptable with limited or no parking within a CPZ. Where it can be demonstrated that there is insufficient on-street capacity, the policy also requires a legal agreement to be entered into to prevent future occupants from requesting parking permits. There is no legal agreement in this case.
9. The appellant has sought to demonstrate that there is sufficient on-street capacity to accommodate the additional parking demand, thereby also justifying no need for a legal agreement, through the production of a parking study. As required by the 'Lambeth Parking Survey Methodology', two night time surveys were carried out on streets within a 200 metre walk of the appeal site. The results of this were that 66% of spaces on Clifton Gardens and Alyth Gardens were occupied. This equated to a capacity of 17 spaces on each of the two streets. The surveys also indicated that there was overnight capacity on nearby Zone 'H' streets and on Finchley Road, where spaces are not restricted at night. This would suggest there is some level of capacity in the area to accommodate additional demand at what is likely to be the peak demand for residential use.

¹ Barnet's Local Plan (Development Management Policies) – September 2012.

10. The study has been criticised by the Council and nearby residents for the timing and size of the sample and the age of the information. It has also been suggested that the evidence does not reflect the experiences of local residents and that the site's proximity to the town centre and other commercial and community uses may create pressures not addressed by the survey.
11. I have had regard to all of the concerns raised and recognise that parking demand will inevitably fluctuate at different times of the day and week. However, the Council has not provided an alternative quantitative assessment of capacity that would undermine the overall findings of the study or which demonstrates that the information provided is not a reasonable assessment of peak demand in the vicinity of the site. Local residents have provided me with information and photographic evidence which illustrates there are periods of high demand. Whilst I have no doubt there will be times when demand for parking is high, this also provides only a snapshot of the situation on Clifton Gardens and Alyth Gardens and is not a detailed assessment of the wider parking situation or capacity. As such, this information is not sufficient for me to disregard the information provided by the appellant.
12. I visited the appeal site and surroundings at two different times of the day. I recognise that my observations also represent only a snapshot of local conditions and demand for parking is likely to increase into the evenings and at weekends. However, while the majority of parking spaces were taken, there was still a significant amount of capacity available on Clifton Gardens, with no evidence of parking outside the marked bays or on double yellow lines. This pattern was similar on the other nearby residential streets considered in the appellant's survey. Finchley Road was busy and most on-street spaces were taken but again there was no evidence of unsafe parking or significant issues relating to the safe and efficient operation of the highway network. There was also nothing to suggest the town centre uses were putting pressure on parking in nearby residential streets, presumably because the restrictions in 'TF' and 'TF/TFZ' areas have been designed to coincide with peak demand for the retail and commercial uses. Whilst having regard to the potential changes in demand during the day, my observations also suggest that a degree of daytime capacity exists in the immediate vicinity of the site, and wider area, to accommodate an increase in parking demand.
13. I understand that residents are entitled to apply for up to four parking permits per household irrespective of the size of the dwelling. The Council have indicated that 85 parking permits have already been issued to residents on Clifton Gardens and that the potential to issue up to 12 for the development would lead to overspill parking elsewhere. However, the number of permits issued does not necessarily equate to spaces taken, nor does this illustrate the wider picture of capacity in the vicinity of the site. It does not, for example, consider the situation outside the hours which restrictions apply or the take up of parking on streets within a reasonable walking distance of the site. Again, while I have had regard to this situation in my decision, it is not conclusive evidence of a lack of parking capacity in the vicinity of the site.
14. Notwithstanding the parking permit entitlement, the appellant's evidence suggests that, based on Census car ownership data, the development is likely to lead to a demand for only two additional parking spaces. The Council have not disputed this conclusion. Moreover, despite the area's PTAL rating, there is a bus stop immediately adjacent to Clifton Gardens and the site is well related

to shops and services on Finchley Road. As a result, occupiers of the flats may not be completely reliant on cars to meet their daily needs or necessarily be car owners. It is not unreasonable to assume that the high degree of sustainability of the site would help to reduce the demand for car use and parking to an extent. This was alluded to in the Council's committee report, where the 'town centre' location within a CPZ was a factor in favour of a reduced level of parking.

15. The existing dwelling will generate a demand for parking which is already being accommodated in the area. While there is likely to be some increased demand as a result of the development, owing to the scale of the flats that would be created and the nature of the local area, it is unlikely that it would reach the level anticipated by maximum parking permit entitlement. Therefore, notwithstanding the level of capacity and parking potential in the area, even if overspill parking were to occur in other streets it is unlikely to relate to a particularly large number of vehicles.
16. I acknowledge the concern raised by the Council that increased parking demand can give rise to inconsiderate parking and obstructions that may compromise the safe and efficient operation of the highway network. However, even if overspill parking were to occur, I have nothing which indicates that it would inevitably lead to the issues raised by the Council. The Council have not provided me with any evidence to conclude that there is already excessive or dangerous on-street parking in the area that has led to accidents in the vicinity of the site. Moreover, if overspill parking were to occur, the Council have not indicated where they would expect it to take place. It seems most likely that any overspill or displaced parking that were to take place would be to nearby streets which are marked out for parking and under tight controls. Parking in designated areas is unlikely to have any impact on highway or pedestrian safety or the efficiency of the adjacent highway network as they have presumably been designed with safety in mind. In addition, as on-street parking is clearly a feature of the area, local residents and drivers will be aware of the need to give due consideration to parked cars and pedestrians. The increase in demand generated by the development is unlikely to have any material impact in this regard.
17. Whilst I understand that people will always wish to park outside their own home, the nature of the restrictions in place in the area do not guarantee this. In my view, it is not unreasonable within an area of high parking demand and control to sometimes have to park a short distance from your home and, as already concluded, there is a significant level of on-street parking potential in the area. The current situation for local residents is unlikely to change in any materially significant or noticeable way. The increase in parking demand is unlikely to have an unacceptable impact on the convenient use of the highway network for local residents or, as a consequence, their living conditions.
18. In conclusion, while the proposal would not fully comply with the adopted parking standards, the site is in a sustainable location with evidence of sufficient parking capacity in the vicinity of the site to justify providing no off-street parking. As a result, I am satisfied that the development would not create an unacceptable risk to highway or pedestrian safety or have any material adverse effect on the efficient use of the local highway network. Accordingly, there would be no conflict with the accessibility and road safety

requirements of DMP Policy DM17 and Core Strategy² Policy CS9. There would also be no conflict with Core Strategy Policy CS5 or DMP policy DM01 which, amongst other things, seek to ensure that development is safe and accessible.

Other matters

19. The Council has not raised any concerns over the design of the proposal and the only material difference between the scheme before me and that already permitted is to the rear fenestration. These changes would have no unacceptable impact on the character and appearance of the area. Similarly, this development would have no greater impact on light than that already permitted.
20. Comments relating to the loss of a family house and increase in flats are noted. However, the Council have indicated that a number of dwellings on this street have already been converted to flats and the principle has been established. The Council has raised no concerns relating to an additional conversion taking place. The increase in the potential population resulting from the conversion is likely to be relatively small and should not have a significant impact on local infrastructure provision or the character of the street. As such, this does not alter my conclusion that the development would be acceptable.
21. The conversion to flats may lead to an increase in activity in the building but it will remain domestic in nature. This is already a relatively large dwelling and there is no reason why the conversion to flats would give rise to unacceptable levels of noise and disturbance for neighbouring occupants. Again, the Council did not raise any concerns relating to this and I have no evidence to suggest their conclusions are invalid.
22. In terms of bin storage, I noted that there were some bins on the pavement but that others were adequately located within small front gardens. This is, however, something which can be addressed through a planning condition and is not a sufficient reason to withhold planning permission.

Conditions

23. I have considered the Council's suggested conditions in accordance with the guidance contained in the Government's Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty. I have amended the suggested wording to improve the clarity of the condition and remove the reference to the parking survey as this does not contain anything pertaining to the detail or design of the development.
24. While some works have already taken place, the development proposed here does differ from that permitted in part. Thus, a condition requiring materials to match the existing building is necessary in the interests of the character and appearance of the area. For the same reason, and to protect the living conditions of nearby residents, a condition requiring the details of bin storage is necessary. I have amended the suggested wording of this condition in the interests of clarity and brevity.

² Barnet's Local Plan (Core Strategy) – September 2012

25. I do not consider the suggested condition on soundproofing to be necessary as this would be enforced through the Building Regulations. The Council has also not provided any specific justification for the suggested condition on water meters and consumption. While policies are referred to in the accompanying reasons, these have not been provided and thus I cannot be certain that the condition meets the relevant tests in the PPG. Similarly, I have not imposed a condition on carbon dioxide emissions as no specific justification has been provided. While Policy DM01 referred to in the Council's reasons has been provided, the other policies have not. DM01 does not specifically refer to this requirement and the PPG advises that conditions should not relate to generalised planning objectives. Again, I have insufficient evidence to conclude that this condition is necessary or reasonable in the context of the PPG's tests.
26. I have not imposed the proposed condition restricting the change of use of the dwellings within and between Use Classes C3 and C4. Clear justification is required for such a restriction, and the PPG advises that it should only be used in exceptional circumstances. There is no evidence before me in this case to justify such a condition. Finally, I have not imposed a condition requiring details of amenity space to be provided, as these are identified on the approved drawings and there is nothing to suggest that these do not show a satisfactory division or quantity of amenity space. As such, a specific condition requiring further details to be provided is not necessary in this case.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of 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:

RECLIFTONFL/2015/01 REV: 2 (Existing, Approved under HSE and Proposed Elevations and Roof Plans) 1 of 2.

RECLIFTONFL/2015/02 REV: 2 (Existing, Approved under HSE and Proposed Elevations and Roof Plans) 2 of 2.
- 3) The external materials to be used in the development hereby permitted shall match those of the existing building.
- 4) 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 carried out in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.