



Appeal Decision

Site visit made on 24 October 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 2nd November 2016

Appeal Ref: APP/N5090/W/16/3155985
53 Hervey Close, Finchley, London N3 2HG

- 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 Malik against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/1254/FUL, dated 28 November 2015, was refused by notice dated 26 April 2016.
 - The development proposed is conversion of existing house into 2 no flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted an additional plan (drawing no HC/53/08 rev A) with the appeal showing the proposed sub-division of the garden area to serve flat 1 and flat 2 and an amended plan (HC/53/07 rev A) showing the consequential revisions to the side elevation and the additional garden entrance. However, in light of the representations received from neighbouring occupiers to the planning application, I cannot be certain that all of those with an interest in the proposal have had an opportunity to comment on the additional/revised plans. I, therefore, consider that accepting the plans may be prejudicial to the interests of neighbouring occupiers. I am, therefore, unable to take them into account in my Decision.
3. Both the Residential Design Guide Supplementary Planning Document (Design SPD) (2013) and the Sustainable Design and Construction Supplementary Planning Document (SDC SPD) (2013) have been superseded by updated versions of those documents which were adopted on 5 October 2016. However, the overall thrust of both documents are the same as their predecessors and the open space standards have not altered. I, have, therefore taken them into account in my reasoning below.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of future occupiers of the first floor flat with specific reference to outdoor amenity space.

Reasons

5. The appeal site is situated on the southern side of Hervey Close in a pre-dominantly residential area. The property is a two-storey semi-detached single family dwelling house which has previously been extended by way of a single-
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storey side extension and a dormer extension to the roof in order to provide additional accommodation.

6. The proposed ground floor flat would have access to the rear garden through the patio doors on the rear elevation. However, the proposed first floor and loft flat would not be provided with private amenity space. Policy DM01 of the Barnet's Local Plan Development Management Policies (DMP) (2012) seeks to ensure that all development represents high quality design and retain outdoor amenity space, having regard to its character. Policy DM02 of the DMP and also the Design SPD states that standards for outdoor amenity space will be set out in the SDC SPD. The outdoor amenity space requirement set out in table 2.3 of the SDC SPD is 5m² of space per habitable room for flats.
7. The DMP explains at paragraph 3.8 that in town centres and for some higher density schemes it may not be possible to provide individual garden space, provided that the scheme contributes to public open space. The SDC SPD makes a similar point, referring to urban locations where provision may be via access to local parks and spaces which have been provided by developer contributions.
8. Attention is drawn to the presence of the Victoria Park which is situated approximately 0.4 miles or 8 minutes walk away. I note that the park has a number of facilities including playing fields, tennis courts and bowling club and a cafe. However, future occupiers would need to cross the busy Long Lane in order to access it. The appeal site is not within a town centre and no provision is made for the scheme to contribute to open space. Furthermore, the first floor and loft flat would be suitable for a family. Taking these factors in combination I do not consider that the appeal proposal meets the criteria to enable an exception to be made to the requirements of the DMP, the Design SPD or the SDC SPD.
9. The garden is a reasonable size which would be capable of being sub-divided. Adjacent occupiers have objected to the proposal on the basis that the proposed gate to the garden area would need to be accessed by a private alleyway to which the appellant does not have a legal right of access. Whilst this is a private legal matter, it is relevant to this appeal insofar as I cannot be certain that access to the garden could be achieved and maintained for the proposed upstairs flat.
10. The alleyway is not included within the red line boundary of the application and the single storey extension and garden fence immediately abut the alleyway. Hence there is no opportunity to access the garden for the upstairs flat without utilising the alleyway. Consequently, even if I were able to take the additional/revised plans into account there is no evidence before to demonstrate that access to the garden could be achieved and maintained for future occupiers of the upstairs flat.
11. I, therefore, conclude that the absence of amenity space would result in unsatisfactory living conditions for future occupiers. Consequently, the proposal would conflict with Policy CS5 of the Barnet's Local Plan Core Strategy (2012) which seeks to protect and enhance Barnet's character to create high quality places. Conflict also arises with Policies DM01 and DM02 of the DMP and the SDC SPD and Design SPD.
12. Furthermore, conflict arises with Policy 3.5 of the London Plan (LP) (2015) (consolidated with alterations since 2011) which seeks to achieve a high quality and design of housing developments. Moreover, conflict arises with criterion f

Policy 7.6 of the LP which seeks to ensure that buildings and structures provide high quality indoor and outdoor spaces.

Other matters

13. I acknowledge the personal circumstances of the appellant and his wife and their desire to remain in the downstairs flat of the appeal proposal. The house is too large and the upstairs accommodation is inaccessible to the appellant. Whilst I have sympathy with their circumstances I, nevertheless, must also consider the living conditions of future occupiers. Furthermore, there is no evidence before me to suggest that alternative solutions have been explored.

Conclusion

14. The proposal would have some benefit in terms of the contribution it would make, albeit limited, to the provision of housing supply. It may also have benefits for the existing occupier in terms of providing more suitable living accommodation. However, these benefits would be outweighed by the significant harm which I have identified.
15. For the reasons stated above, the appeal should be dismissed.

Caroline Mulloy

Inspector