
Appeal Decision

Site visit made on 23 November 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 16 December 2016

Appeal Ref: APP/N5090/W/3157133

Victor House, Marlborough Gardens, Whetstone, London N20 0SH

- 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 Castlewood Estates against the decision of the Council of the London Borough of Barnet.
 - The application Ref 15/06747/FUL, dated 28 September 2015, was refused by a notice dated 6 April 2016.
 - The development proposed is alterations to the roof to include front and rear dormers windows and roof lights. Staircase extension at rear, to facilitate conversion of roofspace to form 3 no. self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for alterations to the roof to include front and rear dormers windows and roof lights. Staircase extension at rear, to facilitate conversion of roofspace to form 3 no. self-contained flats at Victor House, Marlborough Gardens, Whetstone, London N20 0SH in accordance with the terms of the application, Ref 15/06747/FUL, dated 28 September 2015, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Castlewood Estates against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Procedural Matters

3. The Council's Officer Report refers to the London Plan, 2015. Minor Alterations to the London Plan (MALP) were adopted in March 2016 to bring the London Plan in line with the National Described Space Standards (NDSS)¹ for housing. Furthermore, I am aware from other cases that during the appeal process the Council has also updated its Residential Design Guidance (RDG) and Sustainable Design and Construction Supplementary Planning Document (SPD) (adopted October 2016) to bring the Council's residential space standards in line with the MALP and NDSS. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision. The appellant has made reference to the MALP and the NDSS in their appeal submissions and I am therefore satisfied that neither party would be prejudiced. Accordingly, I have determined the appeal on this basis.

¹ DCLG. Technical housing standards-nationally described space standard. 2015.

Main Issues

4. The main issues in this case are:

- Whether or not the proposal would provide acceptable living conditions for future occupiers, with particular regard to internal living space, external amenity space and refuse disposal facilities;
- The effect on the living conditions of neighbouring residents, with particular regard to noise and disturbance;
- The effect on highway safety and the living conditions of neighbouring residents, with particular regard to parking.

Reasons

Living conditions for future occupiers

5. The appeal proposals would create three, one bedroom two person flats. Whilst two of the proposed flats would comply with NDSS, Flat 1 would have a gross internal floor space of 47 square metres which is just below NDSS of 50 square metres and also as specified in the SPD and set out in Table 3.3 of the MALP.
6. Policy 3.5 of the MALP advises that the design of all new housing should, amongst other things, take account of physical context, local character, density and relationships with, and provision of public, communal and open space. Criteria D of Policy 3.5 also recognises that development which compromises the delivery of elements of the policy, which include providing minimum space standards, may be permitted if they are demonstrably of exemplary design and contribute to the achievement of other objectives of the plan.
7. It is as a consequence of amendments made during the application process, to improve the overall external appearance of the proposal, that the internal space to Flat 1 is constrained. The Flat is however generally well laid out, with an open and spacious living area and storage space. Furthermore, the accommodation would have a dual aspect which would provide future occupiers with a good outlook and plenty of daylight. Therefore, despite there being a minor breach in the technical internal space standards, I am satisfied that the proposed accommodation would have a reasonable amount of internal living space which would provide comfortable living conditions for future occupiers.
8. The Council's RDG advises that every home should have access to suitable private/communal space and the SPD requires each dwelling to be provided with 5 square metres of outdoor amenity space for each of its habitable rooms. The proposed living accommodation would be provided above existing flatted accommodation and commercial premises in a high density urban area. There is no private external amenity space available for existing occupiers of Victor House and the proposed flats would also lack such space. However, it is recognised in the SPD that in high density areas it is not always possible to provide private external amenity space, and in this case the layout of the proposed flats would reflect the character of the existing accommodation within Victor House. In view of the type of accommodation proposed, and its close proximity to excellent open space facilities at Brunswick Park and Friary Park only some 500m away, I do not consider that the absence of private amenity

space would, in these circumstances; result in unacceptable living conditions for future occupiers of the proposed development.

9. It was apparent from my site visit that although Victor House has an enclosed bin storage area, the inaccessibility of it from the inside of the building has resulted in fly tipping close to the building. The appeal proposals would introduce a new means of access to the bin store from within the internal communal entrance area at the foot of the stairway. The existing bin store has sufficient capacity to accommodate additional refuse, and the new internal access arrangements would ensure that it provides improved and suitable refuse storage facilities for both existing and future occupiers of Victor House.
10. The development proposed would marginally compromise the delivery of some of the elements of the design requirements for new housing as set out above and within the MALP and the Council's RSG and SPD. However, the proposed development takes account of the existing site characteristics and would provide additional homes in a relatively sustainable location, on a bus route and close to shops and services. Furthermore, it would contribute to the supply of housing to meet the needs of London and the Borough of Barnet which are key objectives of the development plan.
11. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers, having particular regard to internal living space, external amenity space and refuse disposal facilities. It would comply with the provisions of the development plan as a whole, and in particular I find no conflict with the overall aims of Policy 3.5 of the MALP; Policies CS NPPF, CS1 and CS5 of Barnet's Local Plan, Core Strategy, 2012 (CS) and Policies DM01 and DM02 of Barnet's Local Plan, Development Management Strategy, Development Plan Policies, 2012 (DPD) which seek to promote sustainable development which, amongst other things, create high quality places which protect Barnet's character and amenity and where appropriate demonstrate compliance with national and London wide standards supported by guidance in the SPD.

Living conditions of neighbouring occupiers

12. The proposed flats would be located above existing residential units in an area of mixed commercial and residential character. The premises front towards a relatively busy main road. Access to the proposed flats would be via an existing communal stairway and new external walkway. Future occupiers would not therefore be passing close to the existing residential accommodation within Victor House and consequently, existing occupiers would not suffer from any material increase in noise or disturbance through the comings and goings of future occupiers.
13. The proposed layout would result in some of the kitchen accommodation being positioned above and below bedroom areas within the second and third floors. The Council's RDG advises that the vertical stacking of rooms between flats should, as far as possible, ensure that bedrooms do not overlap with living rooms, kitchens, and bathrooms on other floors to avoid noise transfer between rooms. The appellant's suggest that any potential noise nuisance as a result of this vertical stacking could be mitigated by the imposition of a condition to require suitable sound insulation, and I am satisfied that the provision of sound insulation could be secured by condition.

14. I conclude that subject to the imposition of a condition that would require the provision of suitable sound insulation, the proposed development would not harm the living conditions of the existing occupiers, with particular regard to noise and disturbance. I therefore find no conflict with the development plan and in particular with Policies CS NPPF, CS1 and CS5 of the CS and Policy DM01 of the DPD and RDG which aim to promote sustainable development which, amongst other things, create high quality places which protect Barnet's character and amenity and provide a good quality living environment that meets housing aspirations.

Highway safety and living conditions of neighbouring residents, with particular regard to parking

15. The Framework has a core principle of making the fullest possible use of public transport, walking and cycling, and advises that parking standards should take account of, amongst other things, the accessibility of development and levels of car ownership. (Paragraph 39). Policy DM17 of the DPD advises that one bedroom residential development comprising of mainly flats should provide a maximum of one on-site parking space or less. The proposed flats would not have any off-street parking space available for future occupiers, however a cycle store is proposed which would accommodate three bicycles.
16. Victor House is located on a small service road looped off the A109 Oakleigh Road North and adjoins Marlborough Gardens, a residential cul-de-sac. There are no controlled parking zones in the vicinity of the site. Oakleigh Road North is served by frequent bus services and there are rail stations located within 10-15 minute walking distance. Consequently, future occupiers would have relatively good access to public transport routes as well as to the local shops and services which are in close proximity to the site.
17. The application was accompanied by a Parking Study² which concluded that there is significant vacant kerbside parking space available in the vicinity of the site which included the overnight period. At the time of my site visit, mid-morning on a weekday, there were on -street parking spaces available within the service loop and on Marlborough Gardens. I also noted that many of the residential properties nearby had private driveways. I recognise that my observations are only a snapshot of the parking situation in the vicinity of the site, however when taken together with the results of the Parking Study it would appear that there is some evidence of on-street car parking capacity.
18. The Council do not appear to dispute either the methodology or accuracy of the results of the parking study, and although third parties raise concerns over its accuracy, I also note that the Council's Highways Officer has no objections to the proposal. In the absence of any substantive evidence of a local parking issue, I do not consider that the creation of an additional three one-bedroom flats would result in a material shortage of parking provision off road in this location, that would materially harm the living conditions for neighbouring residents or impact on the free and safe flow of traffic on the adjoining highways. Furthermore, the appeal proposals would provide cycle storage space and in sustainable locations such as this alternative means of transport should be encouraged to reduce reliance on the private car.

² Parking Study, Prepared by Transport and Traffic Consultancy, August 2014

19. I have taken into consideration the previous appeal decision³ for additional residential accommodation on this site. However, the decision was made before the Framework and related to a greater number of units than the development now proposed. The Decision is not therefore directly comparable, and in any event each application must be considered on its own merits.
20. I conclude that the appeal proposal would not have a harmful effect on highway safety or the living conditions of neighbouring residents, with particular regard to parking. I therefore find no conflict with the development plan, and in particular with Policies CS9 of the CS and DM17 of the DPD which, amongst other things, seek to provide safe, effective and efficient travel and manage parking provision and improve cycle provision. I also find no conflict with Paragraph 39 of the Framework the aims of which are set out above.

Other Matters

21. I have taken into consideration third party concerns relating to the design and appearance of the proposed development. However, I note that the Council did not raise any concerns regarding the proposed external alterations to the property and from my inspection of the site I would concur with their view.
22. I understand the concerns raised by third parties relating to the management and maintenance of the appeal property; however these are not planning matters that would justify withholding permission.

Conditions

23. The Council has suggested a number of conditions which I have considered against advice in the National Planning Policy Framework and Planning Practice Guidance. As a result I have amended some of them for clarity and omitted others.
24. I have imposed a condition specifying the approved plans as this provides certainty.
25. A pre-commencement condition is necessary requiring details of acoustic attenuation measures to protect the living conditions of future and existing residents.
26. Conditions are necessary to require details of the refuse disposal facilities to be provided and specify materials to safeguard the character and appearance of the area.
27. A condition is necessary to require details of cycle storage facilities for the convenience of future occupiers of the building and to promote sustainable means of transport.
28. I have imposed a condition relating to water saving and efficiency measures to protect and conserve water supplies. I have slightly amended the condition to reflect the wording in Policy 5.15 of the London Plan
29. The Council has suggested a condition relating to improvement of CO2 emissions. However Policy CS13 of the CS and Policy 5.2 of the London Plan

³ APP/N5090/A/05/1187583.

only require this improvement for major developments and it is not therefore applicable to this development.

Conclusion

30. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, VC-SLP001; Existing Floor Plan & Elevations, SV01; Proposed Floor Plans, Elevations & Section, GA 01/B; Existing & Proposed Part Ground Floor Plans, GA 02.
- 3) No development shall take place until details of a scheme for the attenuation of noise between the flats hereby permitted and between them and the adjoining flats beneath them, has been submitted to and approved in writing by the local planning authority. The flats shall not be occupied until the approved scheme has been implemented and the measures shall be retained thereafter.
- 4) The flats hereby permitted shall not be occupied until the new bin store enclosure and cycle store shown on approved drawing ref, GA 02 have been constructed in full accordance with details which have first been submitted to and agreed in writing with the local planning authority. The refuse and cycle storage facilities shall be retained thereafter.
- 5) The flats hereby permitted shall not be occupied until they have all 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 that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of mains water consumption of 105 litres of water is consumed per person per day (excluding an allowance of 5 litres per head per day for external water consumption) based on a fittings based approach. The development shall be retained as such thereafter.
- 6) The materials to be used in the external surfaces of the extensions hereby permitted shall be constructed in the materials shown on plan no. GA 01/B and shall match those used on the existing building.
- 7) Demolition or construction works shall take place only between the hours of 0800 and 1800 hours on Mondays to Fridays and 0800 hours and 1300 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.