

Appeal Decision

Site visit made on 18 January 2017

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 31st January 2017

Appeal Ref: APP/N5090/W/16/3161109

Rear of 140 Summers Lane, North Finchley, London N12 0QD

- 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 Cieran Downes against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3450/FUL, dated 25 May 2016, was refused by notice dated 31 August 2016.
 - The development proposed is erection of dwelling house with basement.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fifth reason for refusal as stated on the decision notice refers to inadequate off street vehicle and cycle parking. The Council has confirmed that objections on the basis of vehicle parking have been withdrawn.
3. In October 2016 the Council formally adopted the Supplementary Planning Documents "Sustainable Design and Construction" (the DCSPD) and the "Residential Design Guide" (the RDG).

Main Issues

4. The main issues for this appeal are:
 - the effect of the proposal on the character and appearance of the area;
 - whether satisfactory living conditions would be provided for future occupiers of the proposed dwelling, taking particular account of outlook, privacy and outdoor amenity space;
 - the effect of the proposed development on the living conditions of occupiers of No 5 Sunny Way taking particular account of privacy; and
 - whether satisfactory provision would be made for parking.

Reasons

5. The appeal site is within a residential area with good access to public transport and a range of shops, services and employment opportunities. On this basis I conclude that the appeal site is in a sustainable location. The construction of an
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additional residential unit would meet those aims of the development plan¹ and of the National Planning Policy Framework (the Framework) that seek to increase the supply of housing and would be acceptable in principle provided other material planning considerations are satisfied.

Character and appearance

6. The surrounding residential properties are predominantly short blocks of terraced houses with hipped roofs and relatively spacious rear gardens. They are similar in scale, design, layout and plot size. The area falls within the category "suburban terrace" in the DMP and has a strong sense of architectural cohesion and consistency of form. In design terms No 140 Summers Lane is a typical end terrace property. It occupies a corner plot adjacent to Sunny Way which is a short cul de sac ending in a turning circle and a large grassed area surrounded by other short blocks of terraced houses.
7. The former rear garden of No 140 has been subdivided. No 140 retains an uncharacteristically small garden and the rear portion of its former garden has been fenced and is the subject of the appeal before me. The land is currently unused and is overgrown. Whilst its re-development would make use of a currently disused piece of land, the Framework specifically excludes private residential gardens in built up areas from the definition of previously developed land.
8. The appeal site has a frontage to Sunny Way and is very small in relation to surrounding properties. The proposed development would result in a building which would occupy the majority of the site in very close proximity to its rear boundary and to the shared boundary with No 140. Although the front of the proposed building would approximately align with the side wall of No 140 I conclude that the proposed extent of plot coverage would result in a cramped and contrived development in relation to the surrounding more spacious properties. It would therefore be out of character with the well-established pattern of development in the area. Whilst the appeal site is surrounded by other gardens it is not good design to rely on land in adjacent gardens to provide a spacious setting for a proposed new dwelling.
9. The proposed building would appear mainly as a single storey structure when viewed from the street and would have a flat "green" roof. This design would be out of keeping with the design of the surrounding houses. The front elevation as proposed appears to seek to mimic a garage front in the shape and position of the window/door/rendered panel. As the appeal site has a road frontage the proposed building would be more prominent than most garages or other outbuildings in back gardens and would not appear as a "backland" development. Although the materials would be similar to those of the nearby houses the proposed dwelling would be out of proportion, scale, architectural style and character with the surrounding houses. It would appear contrived and would detract from the spacious character and appearance of the Sunny Way street scene irrespective of how many people pass by the site.
10. For the reasons set out above I conclude that the proposed development would be detrimental to the established character and appearance of the area and would not amount to good design. Accordingly it would conflict with those parts

¹ The London Plan 2016 (the LP) and Barnet's Local Plan Development Plan Documents: the Core Strategy (the CS) and the Development Management Policies (the DMP) September 2012

of Policies 3.5, 7.4 and 7.6 of the LP; Policies CS1 and CS5 of the CS; Policy DM01 of the DMP; the guidance in the RDG and those principles of the Framework that seek good design that respects the character of the local area.

Living conditions

11. The proposed dwelling would rely on a full basement. The basement living accommodation would have a single aspect. The proposed amenity space would be a relatively narrow rectangle some 2.5m wide. It would be at a significantly lower level than the adjoining land necessitating a retaining wall on its boundaries. Patio doors would open onto the proposed outdoor amenity space. As shown on the plans the proposed retaining wall would be higher than the patio doors and a short fence is proposed above the retaining wall. The longest boundary of the amenity space would adjoin the narrow gated path which separates the appeal site from the rear gardens of houses on Sunny Way.
12. The combination of lowered levels, fixed structures and the partially evergreen tall hedge/tree screen on the boundary of No 5 Sunny Way would, together, create a tall and oppressive barrier. Given the short distance from the boundary, the outlook from the basement kitchen/living/dining room accommodation would be very restricted resulting in gloomy and unsatisfactory living conditions within the proposed dwelling.
13. The proposed outdoor amenity area is shown on the plans as about 18.7 sqm in size. This is significantly below the 40 sqm sought by the DCSPD and the RDG for houses with up to four habitable rooms. Nor would the outdoor space be accessible for wheel chair users as the proposal relies on stepped access. I acknowledge there are public parks in the locality but these do not negate the need to provide the private outdoor amenity space necessary for good quality living accommodation for future occupiers.
14. The gated path to the side of the appeal site appears to give rear access to a number of nearby terraced houses. The proposed fence on the boundary, as shown on the submitted plan, would be too low to provide a satisfactory degree of privacy within the bedrooms of the proposed dwelling, which would be at approximately the same level as the path.
15. The appellant asserts that students, single professionals or young couples may prefer smaller amenity space and that other properties such as flatted developments have smaller outdoor amenity space. Neither of these matters leads me to conclude that substandard amenity space and a poor outlook for future occupiers amounts to good design for a new two bedroomed house.
16. The proposed dwelling would have two bedroom windows separated from the rear boundary of No 5 Sunny Way by considerably less than the 10.5m distance sought by the DCSPD. The proposed boundary fence as shown on the submitted plan would be below the level of the window sills and would be too low to prevent overlooking of the rear garden of No 5. Any increase in height of the proposed fence would add to the sense of enclosure in relation to the basement windows and amenity space of the proposed dwelling. I acknowledge that at present there is a hedge along the rear boundary of No 5 which would partially obscure views into the neighbouring garden. However, in my opinion it is not good design to rely on the retention of vegetation in a neighbouring property to address the issue of overlooking from a proposed new dwelling.

17. For the reasons set out above I conclude that the proposed development would not provide satisfactory living conditions for future occupiers of the proposed dwelling, in respect of outlook, privacy or outdoor amenity space, and would have an unacceptable effect on the living conditions of the occupiers of No 5 by virtue of the potential for overlooking of that property. In these respects the proposal would therefore conflict with Policies 7.6 and 3.5 of the LP; Policies CS NPPF, CS1 and CS5 of the CS; Policies DM01 and DM02 of the DMP; the RDG and the DCSPD.

Parking

18. Many of the nearby houses do not have vehicle parking facilities within their curtilages although there is a small car park area on Sunny Way. The appellant provided a parking survey with the appeal documents and the Council no longer raises objections on the grounds of vehicle parking. Although the proposal would be likely to generate a small additional parking requirement in the area during my site visit I observed there are parking bays on Sunny Way and there were other on street parking spaces available. On this basis I consider there would be insufficient justification to object to the proposal on the grounds of the availability of parking.
19. Cycle parking provision within the appeal site could be secured by planning condition if the proposal were otherwise acceptable. For the above reasons I conclude that satisfactory parking could be accommodated and that, in this respect, the proposal would not conflict with Policies 6.9 and 6.13 of the LP; Policy CS9 of the CS or Policy DM17 of the DMP.

Planning balance

20. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise². Planning policies can pull in different directions. The proposed development would provide a positive, albeit small, contribution to the housing stock of the Borough whether or not the Council can identify a five year deliverable supply of housing land. This weighs in favour of the proposal. A currently vacant piece of land would be brought into use but there may be other ways in which the land could be used and I accord this little weight in my considerations.
21. I have found that the proposed development would be out of character with the area; would not amount to good design; would have a substandard amount of outdoor amenity space and a poor outlook for future occupiers; and would affect the privacy of occupiers of No 5 Sunny Way. These matters weigh against the proposal.

Conclusion

22. On balance taking all the above matters into account I conclude that the benefit of an additional dwelling would not outweigh the effect on the local environment or on the living conditions of existing and future occupiers of land and buildings.
23. The proposal would comply with parts of the development plan, However, in failing to comply with all the criteria of Policies 3.5, 7.4 and 7.6 of the LP; Policies CS NPPF, CS1 and CS5 of the CS and Policies DM01 and DM02 of the

² Section 38 of the Planning and Compulsory Purchase Act 2004

DMP the proposal does not comply with the development plan taken as a whole. For the combination of reasons set out above, and taking into account all other relevant matters raised, I conclude that the appeal should not succeed.

SDHarley

INSPECTOR