
Appeal Decision

Site visit made on 13 March 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: 22nd March 2017

Appeal Ref: APP/N5090/W/16/3164391
65 York Road, Barnet, Herts EN5 1LN

- 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 Messrs Pelagias and Constantinou against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/5133/FUL, dated 3 August 2016, was refused by notice dated 14 October 2016.
 - The development proposed is alterations and extension to roof to provide 6 no. additional self-contained flats at second floor level within a new mansard roof including new dormer windows to all sides (totalling 12) and roof lights with associated refuse and cycle storage. New double glazed entrances to existing building.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and extension to roof to provide 6 no additional self-contained flats at second floor level within a new mansard roof including new dormer windows to all sides (totalling 12) and roof lights with associated refuse and cycle storage and new double glazed entrances to existing building at 65 York Road, Barnet, Herts EN5 1LN in accordance with the terms of the application Ref 16/5133/FUL, dated 3 August 2016, and subject to the conditions set out in the attached schedule.

Procedural Matter

2. The description of development changed during the course of the planning application. I have therefore used the revised description as shown on the decision notice and appeal form.

Background and Main Issues

3. A parking survey has been supplied with the appeal evidence. The Council considers this indicates there is adequate on-street parking available in the vicinity to accommodate additional parking arising from the proposed development without having an adverse effect on the free and safe flow of traffic or highway or pedestrian safety. The Council has therefore withdrawn the reason for refusal relating to insufficient off-street parking provision.
 4. Taking this into account I consider the main issues for this appeal to be: the effect of the proposed development on the character and appearance of the host property, the street scene and the local area; and whether or not satisfactory living conditions would be provided for future occupants taking
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particular account of outdoor amenity space and the internal floor space of the proposed studio units labelled as flats 1, 2 and 3.

Reasons

5. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise¹. The appeal site is within a residential area with good access to public transport and to a range of shops, services and employment opportunities. On this basis I conclude that the appeal site is in a sustainable location. Additional residential units would meet those aims of the development plan² 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. No 65 York Road is a two storey "L" shaped block of flats with relatively plain yellow/beige brick walls and hipped roof. This part of York Road rises up away from New Barnet Railway Station and due to the significant change of ground levels garages are accommodated at lower ground floor on the northern elevation. There are additional free standing garages on the other side of the building at the rear of the site.
7. The character of York Road is varied. In the vicinity of the appeal site York Road is mainly residential on one side with the railway station opposite and the railway line running alongside the highway. There are semi-detached houses of fairly uniform design with two storey bay windows and timber/render/brick detailing from No 63 southwards. Some of these have been extended. Immediately adjoining the appeal site to the north is a chalet bungalow which I understand has planning permission for conversion into two flats. This is well set back and does not feature strongly in the street scene. Beyond that is Russell Court, a long block of flats up to five storeys in height of dark red brick with dormers in the roof slope. Closer to the New Barnet Town Centre is a very tall block of flats with flat roof and white walls with more flats opposite. The appeal site provides a transition between the lower density houses to the south and the higher density development nearer to the town centre.
8. The proposed development would alter the shape of the roof to a flat topped mansard with steeper roof pitches than the existing hipped roof building. The eaves would remain at about the same height and the flat roof would be slightly lower than the existing ridge line. This would result in more bulk and mass at roof level. However, due to the land levels and the gap between the building and the site boundaries this would have relatively little effect on the appearance of the building in relation to the adjoining properties or the street scene as a whole.
9. The proposal includes dormers within the mansard roof. Whilst there are no dormers on the building at present, or on the houses to the south, there are examples of these in the locality and they would not look out of place in the local area.

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

² The Mayor of London Plan 2016 (the MLP) and the Barnet's Local Plan Development Plan Document Core Strategy (the CS) and Development Management Policies (the DMPD) September 2012

10. The proposal would increase the density of development. At around 94³ units/hectare this would comply with the density range of 35-95 units/hectare set out in the MLP. Even so the proposed development would still appear as a transition between the lower density houses to the south and the higher density development nearer to the town centre.
11. For the reasons set out above I conclude that the proposed development would not have an unacceptable effect on the character or appearance of the host property, the street scene and the local area. Accordingly it would not conflict with those parts of Policy 3.5 of the MLP; Policies CS1 and CS5 of the CS; Policy DM01 of the DMPD; the Residential Design Guidance Supplementary Planning Document 2016 (the RDG) or those principles of the Framework that seek good design that respects the character of the local area.

Living conditions

12. The RDG and the Sustainable Design and Construction Supplementary Planning Document (the SDGD) seek suitable outdoor amenity space for all new residential units of 5sqm of outdoor amenity space for each of its habitable rooms. For flats this can be provided communally around buildings although it is recognised that in high density areas it is not always possible to provide private external amenity space. The RDG advises that amenity space should be of good quality and usability and that awkwardly shaped, narrow and very steeply sloping amenity spaces should be avoided and will not be considered to count towards usable outdoor amenity space.
13. The appeal building is positioned away from all the boundaries of the site. At present there are grassed areas in front and to one side of the building and an overgrown sloping area at the rear of the site. The amount of outdoor amenity space required to meet the standards set out in the RDG is not clear from the evidence, but the Council says there is approximately 160sqm of useable outdoor amenity space at present⁴. The plans indicate additional amenity space of about 78sqm on the overgrown area at the rear of the site.
14. The proposed outdoor amenity space would be on sloping ground partly beneath the canopies of neighbouring trees and the existing vegetation would need to be cleared to make it useable. Whilst not ideal I consider that this area, together with the existing open areas, would provide sufficient outdoor amenity space for existing and future occupants provided its quality and usability is improved⁵. Although third parties have referred to the impact of the proposal on wildlife and ecology I have seen little evidence to suggest that clearance of the area would result in a material impact on protected species and appropriate planting could be incorporated to encourage a degree of diversity of habitat.
15. Policy 3.5 of the MLP indicates that new studio units should have a minimum floor area of 39sqm although where a one person dwelling has a shower room rather than a bathroom this could be reduced to 37sqm. The proposed plans show three studio flats of 37sqm floor space but with bathrooms which would be a technical breach of the standards. This could easily be remedied by altering the bathrooms to shower rooms but would not necessarily increase the

³ Planning Statement paragraph 6.20

⁴ Council Officer Delegated Report

⁵ The appellants' Final Comments proposes level alterations and landscaping could be secured by condition.

available living areas. On balance I consider that the provision of the extra facility of a bath outweighs this technical breach in this case and overall I am satisfied that reasonable living conditions for the occupier of each studio unit would be provided.

16. For the reasons set out above I conclude that the proposed development would provide satisfactory living conditions for future occupants. Accordingly the proposal would not significantly conflict with those requirements of Policy 3.5 of the MLP; Policies DM01 or DM02 of the DMPD, the RDG and the SDCD that seek a good standard of amenity for all occupiers of land and buildings.

Other considerations

17. I have taken account of representations made by others including the need for works to the building, subsidence, noise, privacy, loss of roof space, and the effect of construction works on existing tenants. Whilst I acknowledge these concerns they have not lead me to any different conclusions.

Conclusion

18. There would be a technical breach of internal space standards for three of the proposed units and possibly a technical breach of the overall amount of external amenity space. However, I have found that the proposal would not have an adverse effect on the character or appearance of the area and that satisfactory living conditions would be provided. The proposal would also add to the stock of housing in the Borough. On balance I conclude that the proposal would accord with the development plan taken as a whole. Taking all relevant matters raised into account I conclude the appeal should succeed.

Conditions

19. I have considered the conditions suggested by the parties in the light of the Framework and the National Planning Practice Guidance. In some cases I have amended the proposed wording to more closely match the guidance. As well as the standard condition specifying the time limit for commencement of development compliance with the approved plans is necessary to provide certainty. Matching materials are required in the interests of the appearance of the area.
20. Control over demolition and construction and the provision of satisfactory sound insulation are necessary to minimise the effect of the proposed development on the living conditions of local residents. A scheme of landscaping is required to ensure the satisfactory provision of outdoor amenity space and habitat diversity.
21. The proposed restriction on the internal layout of the residential units would fetter future occupants in the use of their properties and I will not impose it. The Council considers that the proposed development would be acceptable without further on-site car parking and therefore it is unnecessary to impose a parking space requirement. It is however necessary to require cycle parking to ensure a cycle alternative to the use of a private vehicle.
22. The Council seek to impose the optional requirement for a lower level of wholesome water consumption, albeit the wording of the condition refers to 105 litres per person per day rather than the 110 litres as set out in the Building Regulations. This is supported by CS Policy CS13 and Policy 5.15 of

the MLP, which set the context for the need for water efficiency measures to be imposed in the Borough. It is necessary to impose a condition to trigger the optional lower requirement, and I have done so in this case.

23. The appellants have confirmed that the scheme has been designed to achieve a 20% carbon dioxide emission reduction over Part L of the 2013 Building Regulations and a condition is necessary to ensure this takes place.

SHarley

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 documents and drawings: Planning Statement by Jones Town Planning dated August 2016; Energy and Sustainability Statement by Energy Rating Services Ltd; Design and Access Statement by CG Architects; Drawing no. 1140/00 Rev A; Drawing no. 1140/01 Rev B; Drawing no. 1140/02 Rev B; Drawing no. 1140/03 Rev A; Drawing no. 1140/04 Rev A; Drawing no. 1140/05 Rev A; Drawing no. 1140/06 Rev A; Drawing no. 1140/07 Rev A; Drawing no. 1140/08 Rev A; Drawing no. 1140/09.
- 3) The materials to be used in the external surfaces of the building shall match those used in the existing building.
- 4) No site works or works on this development including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of a contractors' compound and car parking arrangements;
 - ix. Details of interim car parking management arrangements for the duration of construction;
 - x. Details of a community liaison contact for the duration of all works associated with the development.
- 5) Prior to the first occupation of the flats hereby permitted cycle parking/storage facilities shall be provided in accordance with a scheme that shall have been previously submitted to and approved in writing by

the Local Planning Authority. Such facilities shall be permanently retained thereafter.

- 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i) existing and proposed finished levels or contours and retaining structures for the proposed amenity areas shown on Plan Ref 1140/02 Rev B;
 - ii) 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;
 - iii) hard surfacing materials;
 - iv) an implementation programme;
 - v) a scheme of management and maintenance.

The landscape works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with the approved scheme of management and maintenance.

- 7) Prior to the first occupation of the flats hereby permitted, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).
- 8) Prior to the first occupation of the new flats hereby permitted they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through 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 105 litres of water is consumed per person per day with a fittings based approach used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
- 9) Prior to the first occupation of the development hereby permitted it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 20% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

End of Schedule of conditions