

Appeal Decision

Site visit made on 14 March 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 23 March 2017

Appeal Ref: APP/N5090/W/16/3165599

2 St Edwards Close, Golders Green, London NW11 7NA

- 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 Philip Shamash against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/6182/FUL, dated 22 September 2016, was refused by notice dated 23 November 2016.
 - The development proposed is the erection of a single storey, two bedroom house with a green roof and associated refuse and cycle storage and off street parking following the demolition of the existing garage and single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey, two bedroom house with a green roof and associated refuse and cycle storage and off street parking following the demolition of the existing garage and single storey side extension at 2 St Edwards Close, Golders Green, London NW11 7NA in accordance with the terms of application Ref 16/6182/FUL, dated 22 September 2016, subject to the attached schedule of conditions.

Procedural Matter

2. I have taken the description of development from the Council's refusal notice as this comprehensively describes the appeal proposal.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of the occupiers of the proposed dwelling in respect of outlook and daylight.

Reasons

4. The appeal site comprises a narrow strip of land between two detached two storey dwellings and currently includes a single storey garage linked and ancillary to No 2 St Edwards Close. It is proposed to demolish the single storey garage (and also a single storey side kitchen extension) and to replace it with a flat roofed two bedroom dwelling with a green roof.
 5. I note the evolution of this scheme and that a very similar proposal was considered by means of an appeal in June 2016 (Appeal Ref APP/N5090/W/16/3144802). Like the previous proposal, when viewed from St
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Edwards Close the appeal dwelling would have the appearance of a single storey and subservient garage.

6. Whilst I acknowledge the concerns raised by the objectors to this proposal about its effect upon the character and appearance of the area, the aforementioned appeal is a very weighty material planning consideration. In considering a very similar development proposal, the Inspector took the view that *"whilst I agree that the proposed development would function as a dwelling rather than an ancillary extension, in built form terms it would not be significantly greater in scale or land taken to the single storey extension at the side and rear of number 3 St Edwards Close. For these reasons therefore I consider that the proposed development would not be harmful to the character and appearance of the area"*. In this respect, I have no reason to disagree with the conclusions reached by the previous Inspector, and hence the proposal would not cause harm to the character and appearance of the area.
7. The previous Inspector's main concern related to the proposed rear garden boundary treatment and the consequent outlook that would be afforded to residents when using the main living area or the garden. The Inspector accepted that the boundary treatment would protect the privacy of those who used neighbouring gardens, but commented that it *"would have a significant restricting and enclosing effect on the outdoor space that would be provided for the dwelling"* and that *"owing to the same design feature, I consider that the outlook from the rear windows of the proposed dwelling would be significantly compromised, resulting in a further oppressive effect on outlook"*. The Inspector raised no concern in respect of the overall size of amenity space.
8. I note that the proposed rear garden would be approximately 52 Square metres which compares to the previous appeal development which proposed a rear garden of about 32 Square metres. This increase in size would be achieved by taking a proportion of the bottom of the rear garden of No 2 St Edwards Close. However, I am satisfied that this would not cause significant harm to the overall size or appearance of this existing garden. Furthermore, the position of the rear windows serving the proposed main living space area would be curved and would face in a south easterly direction towards the most open and wide section of the proposed garden. Taking into account the size of the proposed garden, which significantly exceeds minimum garden size requirements in the Council's Sustainable Design and Construction SPD, the revised position of the rear windows and their relationship with the proposed boundary treatment, I consider that the occupiers of the proposed dwelling would be afforded an acceptable level of outlook whether they be in the dwelling or using the outside amenity space.
9. I acknowledge that there would be no windows on the side elevation of the building. However, three large skylights are proposed for the main living areas and light would also penetrate from the proposed rear windows, rear glazed door and from the external courtyard. Overall, I am satisfied that an acceptable amount of daylight would penetrate into the dwelling. Taking into account the position and height of the property, as well as the location and height of the boundary treatment relative to size of the proposed garden, I am satisfied that there would also be an acceptable amount of light penetration into the proposed rear outside amenity space.

10. For the collective reasons outlined above, I conclude that the proposal would accord with the amenity aims of Policies 3.5 and 7.6 of the London Plan 2016; Policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document 2012; Policy DM02 of Barnet's Local Plan Development Management Policies Development Plan Document and the Barnet Sustainable Design and Construction Supplementary Planning Document 2012.

Other Matters

11. The Council's refusal notice does not explicitly refer to the effect of the proposal upon levels of privacy for the occupiers of No 2 St Edwards Close and the appeal property. However, the Council's delegated officer report and appeal statement raises concerns about this matter. Notwithstanding the fact that this was not raised as a matter of concern by the previous Inspector, I have nonetheless carefully considered the relationship of the two properties (including the respective garden areas). Whilst it may be possible for the occupiers of No 2 St Edwards Close to look down into the proposed rear garden area from first floor windows, and the occupiers of the proposed dwelling to look back into such windows, the separation distances involved are such that this would not have a materially adverse impact. Furthermore, it is not uncommon for gardens to be overlooked to some extent particularly in an urban environment such as this.
12. I have considered the representations made by the other interested parties. Whilst there may be some disturbance at construction stage, this would be relatively short lived: a planning condition could suitably deal with this matter. The proposal would not lead to a significant increase in traffic using the immediate roads and car parking provision would accord with the Council's standards.
13. I do not have any objective evidence to substantiate the claim that the proposal would devalue properties in the area. In any event, the courts have held that this would not be a material planning consideration. I acknowledge the concerns raised about the number of planning applications that have been submitted for this site and that some feel like it is a form of "harassment". However, the appellant is entitled to submit a planning application for any development proposal on the site and it would not be reasonable for me to dismiss the appeal purely on the basis that too many proposals have been submitted to the Council. In any event, in this case the appellant has merely sought to adequately address concerns raised by a previous Planning Inspector.
14. Comments have been made from the occupier of No 1 St Edwards Close indicating that permission would not be granted to undertake works on or close to the outer wall of such a property. However, this would be a private matter which may need to be considered under the Party Wall etc Act 1996. It is not a matter which is relevant to the determination of this planning appeal.
15. None of the other matters raised outweigh my conclusion on the main issue.

Conditions

16. The conditions set out in the accompanying schedule are mainly based on those suggested by the Council. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development

shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.

17. In the interests of the character and appearance of the area, it is necessary to impose a materials planning condition. In order to encourage more sustainable transport choices, it is necessary to impose a bicycle storage condition. In order to ensure that there continues to be an acceptable amount of outside amenity space, and in order to protect the living conditions of the occupiers of neighbouring residential properties (particularly in respect of privacy), there is exceptional justification for removing permitted development rights (Classes A-F of Part 1 of the Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015) from the property.
18. In the interests of the living conditions of the occupiers of neighbouring residential properties, planning conditions are necessary which require the submission and approval of boundary treatment details; the preclusion of the use of the roof of the dwelling other than for repair or maintenance purposes; construction working hours; a construction method statement and recycling/refuse storage facilities. In order to promote the efficient use of water, a planning condition is necessary which ensures that each dwelling has a water meter and includes water efficiency measures to enable water consumption to meet the standard of 105 litres per head per day or less.

Conclusion

19. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would accord with the development plan for the area. Therefore, the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Site Location Plan; X-064-100; X-064-101; X-064-102; X-064-200; X-064-201; X-064-202; X-064-203; A-064-100; A-064-101; A-064-200; A-064-201 and A-064-202.
- 3) Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.
- 4) No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days.
- 5) Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins and/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 approved details shall be provided at the site before the development is occupied and thereafter retained.
- 6) Details of the proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with approved details and thereafter retained.
- 7) No development or site works shall take place on site until a Demolition & Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; delivery hours; loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution. The development shall thereafter be carried out in accordance with the measures detailed within the approved Statement.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A - F of Part 1 of Schedule 2 of that Order shall be carried out within the curtilage of the dwellings hereby approved.

- 9) Prior to the first occupation of the dwelling house hereby approved it shall all have been constructed to have 100% of the water supplied to it by the mains water infrastructure provided through a water meter or water meters and it 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, including fittings that can determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity.
- 10) The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
- 11) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.