
Appeal Decision

Site visit made on 14 March 2017

by Beverley Wilders BA (Hons) PgDurp MRTPI

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

Decision date: 24 April 2017

Appeal Ref: APP/N5090/W/16/3163135

Fairlight Cottage, 7 Horseshoe Lane, London N20 8NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Melvin Robinson against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/2448/S73, dated 11 April 2016, was refused by notice dated 26 July 2016.
 - The application sought planning permission for *Demolition of existing dwelling and detached garage. Erection of single storey family dwelling, including basement level and rooms in roof space. Hard and soft landscaping* without complying with condition 1 attached to planning permission Ref B/05539/14, dated 8 December 2014.
 - The condition in dispute is No 1 which states that: *"The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 7024-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14 and LP (received 8 October 2014)".*
 - The reason given for the condition is: *"For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012)".*
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing dwelling and detached garage. Erection of single storey family dwelling, including basement level and rooms in roof space. Hard and soft landscaping at Fairlight Cottage, 7 Horseshoe Lane, London N20 8NJ in accordance with the application Ref 16/2448/S73 dated 11 April 2016 subject to the conditions set out in the attached schedule.

Procedural Matter

2. The appellant has submitted amended drawings with the appeal removing the previously proposed PV panels from the dwelling. It does not appear that the amended drawings were before the Council when it made its decision or that any consultation took place on them. As the removal of the proposed PV panels from the dwelling materially alters the application that was before the Council, acceptance of the amended drawings at this stage would in my view potentially prejudice the interests of interested parties. As such in reaching my decision I have not had regard to the amended drawings.
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Application for costs

3. An application for costs was made by Mr Melvin Robinson against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Background and Main Issues

4. Following a number of previous applications planning permission was granted for the demolition of an existing dwelling and detached garage and for the erection of a single storey dwelling including basement level and rooms in the roofspace (Ref B/05539/14). The planning application form for the development that is the subject of this appeal states that development started on 1 March 2015 and at the time of my site visit the exterior of the dwelling appeared to be largely complete.
5. Condition 1 of permission B/05539/14 specifies the approved plans. A variation to the approved plans is sought to reflect a number of changes to the design and appearance of the previously approved dwelling. At my site visit I noted that with the exception of the PV panels the as built dwelling appears to incorporate the changes to the design and appearance of the dwelling as proposed by the application. However I also noted a number of deviations from the submitted plans including window and door detailing, flue positions and numbers, coping detail and the addition of a satellite dish and large aerial to the roof. Consequently in reaching my decision I have assessed the dwelling as shown on the submitted plans and not as built on site.
6. The Council refused the application that is the subject of this appeal due to concerns about the impact of the dwelling on the character and appearance of the Totteridge Conservation Area (CA) and on the living conditions of the occupiers of the neighbouring dwelling at 5 Horseshoe Lane having regard to outlook. The appellant contends that the altered dwelling would preserve the character of the CA and would not be harmful to the living conditions of the occupiers of No 5.
7. Having regard to the background to the application and the imposition of the condition, the main issues are:
 - the effect of the variation to the design and appearance of the previously approved dwelling on the character and appearance of the CA;
 - the effect of the variation to the design and appearance of the previously approved dwelling on the living conditions of the occupiers of 5 Horseshoe Lane having regard to outlook.

Reasons

Conservation Area

8. The appeal site is located in the Totteridge Conservation Area (CA). The Council's Character Appraisal Statement (CAS) for the CA states that it comprises a ribbon of development clustered along the highway and set within green fields on three sides. The CA contains a variety of building styles developed informally over many years and the CAS divides it into five character areas with the appeal site falling within Area 5: Totteridge Common.

9. The appeal site is located in a semi-rural location at the end of Horseshoe Lane, a narrow no-through road containing a small number of dwellings of varying sizes, design and appearance. The view to descending open countryside from the end of Horseshoe Lane is identified as a notable view in the CAS. The position of the site, the topography of the surrounding land, the siting of the dwelling and presence of existing boundary screening means that the dwelling is not prominent either in views along Horseshoe Lane, only becoming visible close to the site, or from the public footpath at the end of the road.
10. I note that there is some disagreement between the main parties as to the extent of the changes to the overall size and height of the dwelling, with concerns regarding the size of the as built dwelling also having been raised by interested parties. However having regard to the size of the dwelling as shown on the submitted plans when compared to the size of the dwelling previously approved (Ref B/05539/14), I consider that any increase in the size and height of the dwelling is relatively minor and is not harmful to the character and appearance of the CA.
11. Whilst the changes result in a dwelling of a more modern appearance than the originally approved arts and crafts style building, it nevertheless retains a number of traditional design features, is of a relatively simple appearance and is constructed from traditional materials reflective of the surrounding area. The modest height, design and position of the projecting rooflight means that it is not readily visible from the surrounding area and at my site visit I noted a roof lantern feature on the neighbouring dwelling visible from Horseshoe Lane. Consequently I consider that the dwelling is not an incompatible structure in this part of the CA which contains buildings of a variety of styles and materials.
12. Eight PV panels are also shown on the submitted plans but at the time of my visit these had not been constructed on site. Whilst the appellant states that it is no longer the intention to construct the PV panels, for the reasons previously stated, they nevertheless form part of the application that is the subject of this appeal. The PV panels would be positioned towards the rear of the flat roof at a ten degree pitch. Though such panels do not appear to be a common feature of the surrounding area, their relatively modest size and height together with their discrete position on the roof towards the rear of the dwelling means that they would not be prominent and would not have a significant impact on the overall design and appearance of the dwelling.
13. Taking the above matters into consideration, I conclude that the variation to the design and appearance of the previously approved dwelling preserves the character and appearance of the CA in accordance with the expectations of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraph 132 of the National Planning Policy Framework (the Framework), policies CS1 and CS5 of Barnet's Local Plan Core Strategy (CS), policies DM01 and DM06 of Barnet's Local Plan Development Management Policies (DMP) and guidance contained within the Council's Supplementary Planning Document: Residential Design Guidance April 2013 (SPD) and the CAS. These policies and guidance seek, amongst other things, high quality development proposals that preserve or enhance the character and appearance of Conservation Areas.

Living conditions

14. The appeal site and the dwelling are located adjacent to the dwelling and garden at 5 Horseshoe Lane which are set at a higher level than the appeal

site. The side elevation of No 5 faces towards the dwelling and contains a number of windows. There is fencing and walling along the common side boundary between the appeal site and No 5 with only the upper part of the dwelling visible above it.

15. The dwelling is set away from the common side boundary with No 5 and it appears that its position is unchanged when compared with the previously approved dwelling (Ref B/05539/14). Whilst it appears that there has been an increase in the size, bulk and height of the dwelling as viewed from No 5, this increase is reasonably minor. Having regard to this and to the position and height of the dwelling relative to the dwelling and garden at No 5, I consider that the variations to the previously approved dwelling do not significantly or materially affect the outlook from No 5 and that the dwelling is not overbearing or visually intrusive when viewed from No 5.
16. Taking the above matters into consideration I conclude that that the variation to the design and appearance of the previously approved dwelling does not have a significant adverse effect on the living conditions of the occupiers of 5 Horseshoe Lane having regard to outlook. The variation therefore complies with policies CS1 and CS5 of the CS, Policy DM01 of the DMP and guidance contained within the SPD. These policies and guidance seek, amongst other things, high quality development and development proposals that allow for adequate outlook and that protect the gardens of residential properties.

Other Matters

17. In reaching my decision I have had regard to the various concerns raised by interested parties, some of whom live close to the appeal site. As stated above, planning permission has previously been granted for a replacement dwelling on the site (Ref B/05539/14) and from the evidence before me it appears that the variations sought to the size and scale of the dwelling, including the basement, by the application that is the subject of this appeal are not significant when compared with what was previously approved. Consequently I am satisfied that there is no significantly greater impact on the Green Belt. Whilst I note that structural damage is alleged to have been caused to the neighbouring property by construction works on the appeal site I have seen no substantive evidence to indicate that this is the case.
18. Whilst numerous changes to the dwelling were proposed by the application the Council was satisfied that the changes could be dealt with as a variation to the previously approved dwelling and I have no reason to disagree with their approach in relation to this matter. The fact that some of the changes to the dwelling were carried out without planning permission is not a reason to withhold planning permission now and there is no evidence to suggest that allowing the appeal would set an undesirable precedent for works to be carried out on other sites without planning permission.
19. Though I note the concern raised regarding the Ordnance Survey map used within the Council's committee report, the application site edged red appears to be unchanged from the previously approved dwelling and a signed certificate of ownership was submitted with the application that is the subject of this appeal. In the absence of any substantive evidence to contrary I am therefore satisfied that the development appears to be on land owned by the appellant. It appears that some landscaping has been removed from the site. However I note that there are numerous conditions regarding trees and landscaping

attached to permission reference B/05539/14 including one requiring the submission of a landscaping scheme and the replacement of any trees or shrubs which are removed or become damaged or diseased. I have re-imposed any relevant tree and landscaping conditions and am satisfied that these will adequately ensure future tree protection and landscaping of the site. With the exception of a variation to the vehicular access point, the site layout appears to be largely unchanged compared to the previously approved dwelling (Ref B/05539/14). Any ongoing concerns regarding encroachment beyond the appeal site boundaries are not matters to be considered in the determination of this appeal but are instead matters for the Council.

20. My attention has been drawn to a previous appeal in 2003 relating to 2 Horseshoe Lane where it appears that an Inspector found harm to the CA. I am not aware of the details or particular circumstances relating to that case and as such afford it limited weight. In any event I must determine the development before me on its own merits.

Conditions

21. I have had regard to the conditions suggested by the Council. I note that not all of the conditions attached to the original permission reference B/05539/14 have been proposed and that a number of new conditions are also proposed. Whilst the Council has provided some explanation as to the need for proposed conditions 11, 12 and 13 there is no evidence explaining the other proposed changes to the previously imposed conditions. Though I understand that some of the original conditions have been discharged, I do not have sufficient information before me to be clear about what information was submitted to discharge them. I also note that the appellant recently made an application to the Council to discharge condition 6 of B/05539/14 however it is unclear whether a decision has been made on that application. Consequently I have imposed all conditions that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
22. I consider that there is no requirement or justification to replace the original condition 17 with suggested conditions 11, 12 and 13 as the wording of the original condition 17 allows for future changes to guidance relating to the environmental sustainability of buildings

Conclusion

23. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the, following approved plans: Drawing Nos. SITE, SITE-EX, PL-E-04B, PL-E-05B, PL-E-06B, and landscape drawing 2706 dated June 2016.
- 2) Before the provision of any roads and footpaths on the site or any further change in levels of the site, details of the levels of the roads and footpaths and any further change in levels in relation to adjoining land and highways shall be submitted to and approved by the local planning authority. The development shall be implemented in accordance with the approved details.
- 3) Before the provision of any hard surfaces on the site, details of the materials to be used for the hard surfaces shall be submitted to and approved by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) Before the development hereby permitted is first occupied the site shall be enclosed except at the permitted points of access in accordance with details previously submitted to and approved by the local planning authority.
- 5) Before the building hereby permitted is first occupied the proposed dormer windows in the south flank roofslope facing No. 5 Horseshoe Lane shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut below 1.7 metres above the floor level of the rooms they serve, with only a fanlight opening above this height.
- 6) Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows, other than those expressly authorised by this permission, shall be placed at any time in the south elevation or roofslope facing No. 5 Horseshoe Lane.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, C, D, E, or F of Part 1 to Schedule 2 of that Order shall be carried out within the curtilage of the dwelling hereby approved.
- 8) No further development shall take place on site until a 'Demolition & Construction Method Statement' has been submitted to and approved by the local planning authority. The statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, 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. Throughout the construction period the detailed measures contained within the approved Statement shall be strictly adhered to.

- 9) All work comprised in the scheme of soft landscaping approved under this application shall be carried out before the end of the first planting and seeding season following occupation of any part of the building or completion of the development, whichever is sooner, or commencement of the use.
- 10) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 11) The tree protection shown on drawing 'SITE' shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time.
- 12) The dwelling shall achieve a Code Level 3 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme) and achieve full Lifetime Homes credits. The dwelling shall not be occupied until evidence that Lifetime Homes credits have been achieved and a Final Code Certificate has been issued certifying that Code Level 3 (or equivalent) has been achieved and this final certificate has been submitted to the local planning authority.