
Appeal Decision

Site visit made on 27 March 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/N5090/W/16/3166085

Land to the rear of 41 and 43 Lyndhurst Avenue, London NW7 2AD

- 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 Ashley Rubin of Shield Homes against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 16/6225/FUL, dated 23 September 2016, was refused by notice dated 1 December 2016.
 - The development proposed is the demolition of existing garage to the rear of 41 - 43 Lyndhurst Avenue and erection of 2no two storey plus rooms in roofspace detached dwelling houses with access onto Eversfield Gardens. Associated amenity space, car parking, refuse and recycling store.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address and description of development given above is taken from the Council's decision notice as it provides an accurate description and location of the development as a whole. Authority has been given by the appellant for the change of description to be made.

Main Issues

3. The main issues of the appeal are the effect of the proposal on:
 - (i) the character and appearance of the area, including the adjacent Watling Estate Conservation Area; and
 - (ii) the living conditions of the neighbouring occupants at 41 and 43 Lyndhurst Avenue, with particular regard to the potential for an overbearing impact; and 39 Lyndhurst Avenue with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site forms part of the rear gardens of 41 and 43 Lyndhurst Avenue, a garage is also located within the site, with access to it from Eversfield Gardens. With the exception of the Trinity United Reformed Church and Eversfield Centre, the locality is predominantly residential in character. The residential properties on both Lyndhurst Avenue and Woodcroft Avenue are
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mainly arranged in a linear pattern. Most properties in these streets are generally substantial in scale and benefit from long rear gardens. This layout results in a sense of openness within the locality. Along with the four trees located on footpath of Eversfield Gardens, mature trees and shrubs in the adjoining neighbouring gardens make a noticeable contribution to the verdant character of the surrounding area.

5. Although not located within a conservation area, the appeal site is located directly opposite the Watling Estate Conservation Area. The Conservation Area is divided into three character areas; the main residential areas, shops in Watling Avenue, and shops in Deansbrook Road. The properties located opposite the appeal site on the western side of Eversfield Gardens are located within the Conservation Area and consist of predominately 2-storey semi-detached properties with full height curved bay windows.
6. The proposed properties would comply with the technical requirements for internal and external space as detailed within the London Borough of Barnet Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (the SPD) and The London Plan 2016 (TLP). Both properties would also follow the existing building line of 43 Lyndhurst Avenue.
7. In relation to the proposed design of the properties, both the height and width would be of a similar scale to that of surrounding housing stock. Furthermore, the use of bay windows and ground floor canopies would allow the properties to be assimilated into the street scene of Eversfield Garden, from which the front elevation of the properties would be viewed. The proposed use of sympathetic materials is also acknowledged.
8. Nonetheless, given the plot size, a separation distance of only approximately 2 metres would be achieved between the flank walls of the two properties. In addition, whilst the proposed outdoor amenity space would comply with the relevant technical guidance, this would be significantly smaller than the rear gardens of the adjacent properties on Lyndhurst Avenue and Woodcroft Avenue.
9. While the size of the properties may be broadly consistent with surrounding housing stock, it is evident that the layout of the properties would be atypical to the area. In particular, both properties would be very close to the boundaries of the rear gardens of 41 and 43 Lyndhurst Avenue and 46, 48 and 50 Woodcroft Avenue. It is acknowledged that the front of both properties would be viewed from Eversfield Gardens. Nonetheless, the proposal would result in a relatively cramped form of development that would be clearly at odds with the established character of the area. The proposal would compromise to a notable extent the important sense of openness that is derived from generous back to back gardens.
10. My attention has been drawn to properties at 13 and 15 Eversfield Gardens and also properties between 170 and 174 Abbot Road, all of which are near to the appeal site. However, I have little information relating to the particular circumstances of these developments and, as such, a comparison is not possible. Accordingly, I have considered the appeal before me on its individual merits.
11. In relation to the trees on site, none are covered by a Tree Preservation Order or protected under conservation area status. Of the fifteen trees on surveyed

on site, three were classified as being of moderate quality, eleven were of low quality and one was classified as being in an unsafe condition. It is proposed to retain six of the existing trees, including those assessed of being the highest quality on site, and some shrub vegetation. There would also be scope for new planting, which could be dealt with by the imposition of a condition. Evidence from the arboricultural consultancy employed on behalf of the appellant also confirms that the proposal will not be injurious to any of the retained trees and new planting would enable a sustainable future stock. As such, the proposal would only result in the loss of the lowest quality trees on site and scope for new planting exists.

12. Nevertheless, the overall effect of the loss of a number of trees and two properties with associated hard surfaced areas and enclosures, in a relatively cramped plot, would clearly diminish the positive contribution that the appeal site makes to both the street scene and the adjacent Conservation Area.
13. It is therefore considered that the proposal would have an unacceptable impact on the character and appearance of the area, including the setting of the adjacent Conservation Area. The proposal would therefore be contrary to Policy 3.5 of TLP, Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (the CS), Policies DM01 and DM06 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (the DMP) and guidance within the SPD. When taken together these policies and guidance seek, amongst other things, to ensure that new development respects the local context and character of an area, including the setting of heritage assets.

Living conditions

14. In relation to 39 Lyndhurst Avenue, the windows within the first floor rear elevation of plot one would be located approximately 13.5 metres from the rear boundary and just under 23 metres from the rear windows. The 'window to window' distance would increase to approximately 50 metres in regard to the location of plot two.
15. The proposal is sited closer to the existing properties at 41 and 43 Lyndhurst Avenue. However, the rear windows at No 43 would be approximately 12.5 metres from the flank wall of plot one. In addition, not only is plot one set back from the rear boundaries of Nos 41 and 43 by approximately one metre, but the retained tree and proposed planting would further assist in screening the proposal from No 43.
16. Due to the separation distances from the two plots, I am satisfied that the appeal proposal would not result in material harm to the living conditions of the neighbouring occupants at Nos 39, 41 and 43 Lyndhurst Avenue in relation to either privacy or the potential for an overbearing impact. The proposal therefore complies with Policies 3.5 and 7.6 of TLP, Policy CS5 of the CS, Policy DM01 of the DMP and guidance contained within the London Borough of Barnet Local Plan Supplementary Planning Document: Sustainable Design and Construction 2016. When taken together these policies seek, amongst other things, to ensure that the amenities of existing residents are not compromised.

Conclusion

17. The proposal would not result in a harmful effect in relation to the living conditions of the neighbouring occupants at 39, 41 and 43 Lyndhurst Avenue. In addition, the proposal would also make a modest contribution to housing supply within the Borough. However, the harm to the character and appearance of the area, including the setting of the adjacent Conservation Area, is decisive.
18. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR