
Appeal Decision

Site visit made on 25 April 2017

by G Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 22nd May 2017

Appeal Ref: APP/N5090/W/17/3167558

2a Fortis Green, East Finchley, London, N2 9EL

- 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 Joseph Manuelpillai against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/5117/FUL, dated 2 August 2016, was refused by notice dated 10 October 2016.
 - The development proposed is for demolition of the existing single storey building and erection of a two-storey building with a commercial unit at ground floor level, and 1no. self-contained residential unit with private terraces at first floor level.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing single-storey building and erection of a two-storey building with a commercial unit at ground floor level, and one self-contained residential unit with private terraces at first-floor level at 2a Fortis Green, East Finchley, London, N2 9EL in accordance with the terms of the application, Ref 16/5117/FUL, dated 2 August 2016, subject to the conditions set out in Annex A to this letter.

Procedural Matter

2. I have used Council's description of the proposal as used on its decision notice. I am satisfied that this is a succinct and accurate description of the proposed development.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the proposed development would provide satisfactory living conditions for its future residents, with particular reference to outlook.

Reasons

Character and appearance

4. The appeal site currently accommodates a single-storey commercial unit occupying most of the site, save for a small open parking area adjacent to the street frontage. It is situated between the rear elevations and yards of the
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long residential terrace and retail parade fronting High Road to the west, and the more domestically scaled terraces fronting Fortis Green, to the immediate east of the site. The appeal proposal incorporates the construction of a new, two-storey building which would include a self-contained flat occupying the upper floor of the development.

5. The area has a built-up character, as the local activity centre for East Finchley. Much of its original, distinctive architecture remains, with limited new development around the main centre. The appeal site deviates from this pattern, accommodating a single-storey infill building between larger terraces, which is out of character with its surroundings. Although the new development would similarly deviate, replacing the existing discordant building, and a difference in height between the existing and proposed buildings, the new development would have a significantly higher design quality and appearance than the existing.
6. Having seen an example of similar infill development fronting Lincoln Road, directly to the rear of the site, there is some precedent for this form of development within the area. I acknowledge the Council's concern regarding this previous development, but consider that the retained open space between the proposed building and the High Road terraces, as well as its significant front setback, will provide a softer impact on the street scene than the Lincoln Road example.
7. Despite the Council's concerns that the development would not reference existing architectural forms found within the area, the proposed development would clearly appear as a detached, infill building with its own style. Given that this is not the predominant form characterising the area, its stand-alone architectural approach would not invite comparison with the older, taller buildings to the east and west of the site. As such, although it would appear incongruous within the street scene, it would not adopt an obtrusive or pastiche appearance. Furthermore, its relatively compact scale and massing would not appear unreasonable, and it would result in a modern building that makes good use of the constrained site proportions, within a busy town centre, infill context.
8. I therefore conclude that the proposed development would not have a materially harmful effect on the character and appearance of the area. It would not conflict with the intentions of the Council's adopted *Core Strategy* (2012) Policy CS5, its *Development Management Policies* (2012) (DMP) Policy DM01, or the strategic design policies of *The London Plan* (2015). Together, these require development to achieve a high quality of design, with due regard to its surrounding context and distinctiveness. I have also considered the guidance set out within the Council's adopted *Residential Design Guidance Supplementary Planning Document* (SPD) (2013) in making my decision.

Living conditions for future residents

9. The proposed residential flat would occupy the entire first floor of the building, replicating the appeal site's long and narrow proportions. Accordingly, garden terrace areas would be inset within the building envelope along its western and eastern sides. Both terraces would have their outer boundaries fitted with tall obscure glass edges to limit overlooking of adjoining sites.

10. The Council's adopted *Sustainable Design and Construction SPD* (2013) suggests that habitable rooms should have a reasonable outlook and be fitted with clear glazed windows. The windows in the proposed development would be clear, with outlook onto the terraced areas. The terraces are similar in depth to an internal room, and as such, the views from the main rooms would terminate at the obscure glazed edges of the terraces, and not be particularly expansive. Nonetheless, the generous proportions of the terraces in this case would prevent the habitable rooms from seeming overly enclosed, and would allow a decent outlook, both directly outward into the terraced areas, and upward beyond their edges. Moreover, the dual- aspect nature of most of the house, and its extensive use of glazing, would allow residents to gain a satisfactory amount of openness, without leading to significant harm to future residents' living conditions.
11. I therefore conclude that the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to outlook. There would be no conflict with Core Strategy Policy CS5, DMP Policy DM01, or London Plan Policies 3.5 and 7.6, which together require development to provide a high standard of amenity for its residents, amongst other factors.

Other issues

12. I acknowledge the concerns of occupiers of the flats at 2 Fortis Green, which is the end-of-terrace building immediately to the east of the appeal site. The chief areas of concern are obstruction of light and restriction of outlook. I visited the property during my site inspection and consider that the proposed development would be clearly visible from the properties at No. 2. However, the proposed building would incorporate setbacks on the eastern side of its upper floor, which would enable a reasonable upward viewing angle to be retained from the habitable rooms of these dwellings. There would be some restriction of the outlook currently enjoyed by these residents, but the proposal would not result in a significant increase in the current level of enclosure along the western boundary of No. 2.
13. Sunlight and daylight modelling was not provided for the proposed building. Considering of the varied profile of the eastern side of the proposed upper floor, the development may be some loss of afternoon sunlight to the side passage at No. 2, but minimal impact on habitable rooms. Any loss of daylight would be negligible due to the setback of the upper floor along its length. Accordingly, the development would not result in a level of harm that would significantly affect No. 2's occupiers' enjoyment of their properties. Overshadowing concerns were also raised by the occupier of 3 Lincoln Road, but the distance of the proposed building to No. 3 is greater than that of the immediate neighbours to the appeal site, and detrimental impacts on living conditions is unlikely.
14. Neighbouring occupiers also raised concerns about the impacts of construction on the living conditions, and as such, control by way of planning conditions is necessary. Comments were also made on the impact of the proposed development on property values of surrounding homes, but bearing in mind the advice provided by the *Planning Practice Guidance*¹ (PPG), this is a matter of protection of private interest, and thus it is not a material consideration in my decision.

¹ PPG Reference ID: 21b-08-20140306.

Conditions

15. The Council recommended conditions which I have considered in light of the tests set out in the PPG². All but one of the suggested conditions are necessary, reasonable and enforceable in the interests of securing an acceptable development.
16. Condition 2 is necessary in the interests of proper planning and to ensure that the development is carried out as approved. Condition 3 is required to ensure that the development has an appropriate impact on the character and appearance of the development and the surrounding area, and condition 4 is required in for the appropriate storage of waste and recycling, as well as its collection from the site. Conditions 5 and 6 are necessary to ensure that suitable mitigation against the effects of construction would be in place in accordance with my previous comments, and condition 7 is needed in the interests of sustainable water provision within the development.
17. The Council requested the inclusion of a condition to restrict future permitted development works. The PPG states that conditions restricting the future use of such development rights will rarely pass the test of necessity and should only be used in exceptional circumstances³. The types of permitted development referred to by the Council apply to dwellinghouses, which under the interpretation of *The Town and Country Planning (General Permitted Development) (England) Order 2015* does not include a building containing one of more flats, or a flat contained within such a building⁴. The proposed dwelling is a flat, and as the development does not include a dwellinghouse, the condition is unnecessary, and I have declined to include it.

Conclusion

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

G Rollings

INSPECTOR

(Overleaf: Annex A – List of conditions.)

² PPG section: "Use of Planning Conditions".

³ PPG Reference ID: 21a-017-20140306.

⁴ Part 2 of the Order: "Interpretations".

Annex A: List 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 plans: A2145PA2000; A2145PA2001; A2145PA2002; A2145SD3000; A2145PA3001; A2145PA3002; A2145PA3003; A2145PA4000; A2145PA4001; A3145EX2000.
- 3) Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the new 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) 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 and shall be provided at the site in accordance with the approved details before the development is occupied.
- 5) 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.
- 6) No development shall take place, including any works of demolition, until a Demolition & Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) access to the site;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) hours of construction, including deliveries, loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) the erection and maintenance of any temporary enclosure or security hoarding;
 - vi) measures to control the emission of dust and dirt during construction; and
 - vii) measures to minimise any other pollution.

The approved Statement shall be adhered to throughout the construction period for the development.
- 7) Prior to the first occupation of the new dwellinghouses (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 per head per day or less. The development shall be maintained as such in perpetuity thereafter.