



Appeal Decision

Site visit made on 23 May 2017

by J Ayres BA Hons, Solicitor

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

Decision date: 14th June 2017

Appeal Ref: APP/N5090/W/17/3170731

5 Lawrence Gardens, Mill Hill, London NW7 4JU

- 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 Mrs Faranak Ariamanesh against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/5051/FUL, dated 29 July 2016, was refused by notice dated 21 December 2016.
 - The development proposed is described in the application as the demolition of existing building and erection of new two storey dwelling house including basement level, room in loft space, refuse/recycling facilities and hard/soft landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and erection of new two storey dwelling house including basement level, room in loft space, refuse/recycling facilities and hard/soft landscaping at 5 Lawrence Gardens, Mill Hill, London NW7 4JU in accordance with the terms of the application, Ref 16/5051/FUL, dated 29 July 2016, subject to the planning conditions in the attached schedule.

Main Issues

2. The main issues are the effects of the proposal on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of Nos 3 and 7 Lawrence Gardens with particular regard to outlook and privacy.

Reasons

Character and appearance

3. The new house would be materially wider than the existing property. However, many of the properties in the road have narrow gaps next to their side boundaries and are close to the houses either side. The modest spaces left between the proposal and Nos 3 and 7 mean that the new house would not look squeezed in or be out of keeping with the general layout of development in the area. The new house would also respect the line of development either side and its ridge line would be lower than the existing property. Moreover, the staggered front elevation and the gable features would successfully break up the mass of the built form and the overall design would accord with the generally mixed architectural styles of other properties in the road.

4. With these factors in mind I find that the proposal would not harm the character and appearance of the area. As such it would also accord with the design aims of policy 7.4 from the London Plan, Policy DM1 from the Development Management Policies Development Plan Document (2012), Policy CS5 from the Local Plan Core Strategy, the Council's Residential Design Guide and the National Planning Policy Framework.

Living conditions

5. The proposal would result in a rear build line that matches that of No 3 Lawrence Gardens. As such, from No 3's point of view at the back the new house would not appear overbearing. It would extend beyond the rear build line of No 7 Lawrence Gardens. However, that would be no further than the existing single storey garage on the appeal site and for the most part the new flank wall closest to No 7 would be single storey as well. Part of the new side wall would be two storeys (excluding the basement), but the staggered design means the taller wall would be away from No 7. Along with the separation between the new house and next door I consider that the scheme would not dominate the outlook for the occupiers of No 7.
6. The new house would come closer to No 3 and slightly further forward on the plot than the existing property. However, the proposed stepped front elevation and the distance away from the nearest front window of No 3, which is above the garage, mean that any views from there to the new house would be oblique and at first floor level. The other front windows to No 3 are even further away. In these circumstances the appeal scheme would also not dominate the outlook for the occupiers of No 3 at the front.
7. The proposal incorporates a decking area at the rear. Although this would be elevated due to the fall away in ground levels, it would be a relatively small area and due to the distance between the decking and the site boundaries I consider that the use of the decking at No 5 would not result in harmful overlooking towards either of the neighbouring properties. Any views from the patio accessed from the new basement would be much lower down and thus not create a privacy problem. Moreover, the Council has also suggested a condition to secure privacy screens.
8. Windows are proposed at first floor level on the side elevations. However, these windows would be obscurely glazed, which can be secured by way of condition, and would not therefore allow persons to overlook the occupiers of the neighbouring properties. Neighbours have also raised concerns relating to possible loss of light and sunlight. However, there is no substantive evidence to back up these concerns and given the orientation and position of the existing houses and the new house I am satisfied that there would be no harmful effects in these respects.
9. In view of the above, I find that the proposal would not materially harm the living conditions of the occupiers of Nos 3 and 7 Lawrence Gardens with particular regard to outlook and privacy. It would therefore be consistent with Policy 7.4 of the London Plan (2015) in so far as it seeks to ensure that development has regard to the pattern of existing space in terms of scale, proportion and mass. It would accord with Policy DM01 of the Development Management Policies Development Plan Document (2012) in respect of its impact on neighbouring properties, and it would comply with the design

principles set out in the Local Plan Supplementary Planning Document Residential Design Guide (2016).

Other Matters

10. Concerns have been raised by local residents regarding the access to the proposal. The Highway Authority did not object to the proposal in respect of access and I have no evidence before me which would lead me to conclude that the access would not be achievable. I have considered all other matters raised, including alleged plan differences, but none persuade me away from my earlier findings.

Conditions

11. The Council has suggested a number of planning conditions which I have considered against the advice contained in the Planning Practice Guidance.
12. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty. Conditions to secure appropriate refuse disposal facilities, finishing materials, slab levels, landscaping, boundary treatment, obscure glazing and privacy screens are necessary in the interests of protecting the character and appearance of the area and surrounding living conditions.
13. Conditions relating to accessibility, water efficiency and carbon dioxide emissions are necessary to ensure that the development is sustainable.
14. A condition securing a Construction Management Plan is necessary to ensure there are no significant adverse impacts upon the living conditions of local residents, or upon the highway.
15. Conditions 4 and 8 are pre-commencement conditions which are justified in this case as they cover matters that are essential to be agreed before the development starts.
16. I have had regard to the Council's suggested condition restricting permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. On the limited evidence before me I consider that such a condition would not meet this test of necessity.

Conclusion

17. For the reasons above, I conclude that the appeal should be allowed.

Johanna Ayres

INSPECTOR

CONDITIONS SCHEDULE

- 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 914420, 14-776-E01, 14-776-E02, PL01 rev.D, PL02 rev.E, PL03 rev.E, PL04 rev.D and PL05 rev.D.
- 3) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building and hard surface areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the levels of the building hereby permitted in relation to the adjoining land and highway and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) The house hereby permitted shall not be first occupied until means of enclosure, including boundary treatments, have been erected in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure and boundary treatments shall be retained as such thereafter.
- 6) Before the building hereby permitted is first occupied the proposed first floor windows in the North side elevation and all windows in the South side elevation facing No.3 and 7 Lawrence Gardens shall be glazed with obscure glass only and only have fanlight openings. The windows shall be retained as such thereafter.
- 7) Before the development hereby permitted is first occupied, details of facilities for the storage of recycling containers, wheeled refuse bins or other refuse storage containers where applicable, together with a point of collection shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be provided in full before the house is first occupied and they shall be retained as such thereafter.
- 8) 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; hours of construction, including deliveries, loading and 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 implemented in accordance with the measures detailed within the statement.
- 9) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the approved details before first occupation and retained as such thereafter.

- 10) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, the new house hereby permitted shall have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.
- 11) Prior to the first occupation of the new house hereby permitted it shall 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 with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
- 12) 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 10 % 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