
Appeal Decision

Site visit made on 20 June 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 6 July 2017

Appeal Ref: APP/N5090/W/16/3164702

Rear of 36 Hendon Lane, Finchley, London N3 1TT

- 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 L Lipman of Safeland against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/4466/FUL, dated 20 June 2016, was refused by notice dated 13 September 2016.
 - The development proposed is erection of a new house.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Council of the London Borough of Barnet against Mr L Lipman of Safeland. This application is the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of adjacent occupants;
 - iii) whether or not the proposal would provide acceptable living conditions for its occupants; and
 - iv) the implications for on-street parking.

Reasons

Character and Appearance

4. Along Hendon Lane there are closely built 19th century buildings interspersed with larger scale public buildings and shopping parades dating from the early 20th century. The site forms part of the rear yard to a frontage building and is accessed via a path to the side of the building. That path also gives access to three dwellings. Those dwellings date from the 19th century and together with two further dwellings on the other side of the site form part of the historic pattern of development to the rear of the frontage buildings. Four of the dwellings, consisting of two pairs of semi-detached cottages (1 to 4 Park Cottages) are locally listed. The site is within the Finchley Church End
-

Conservation Area and the Character Appraisal¹ identifies the cottages as forming a key characteristic of the area.

5. The two pairs of cottages are close to each other and the site provides the intervening space. In addition to this proximity the two pairs of cottages and the immediately adjacent Morningside Cottage are close to the frontage buildings. Thus the overall grouping forms a tightly knit pattern of development. The space that would be occupied by the proposal is between the front walls of Nos 3 and 4 and the side of No 2 and given the limited space available and the relationship of the existing cottages the proposal would be unduly overcrowded and intrusive. It would also be disruptive in relation to the historic group.
6. The architectural style of the dwelling would reflect the appearance of the cottages but its detached form would differ from them. It would substantially fill its plot with single storey elements to the side and rear, a two storey rear projection and a second floor dormer. While there are examples of these forms of extension in the area the combined effect would be to give the development a very intensive and bulky appearance which would add to its dominant effect and incongruous appearance.
7. For these reasons the proposal would not preserve or enhance the character or appearance of the Conservation Area. The harm to the Conservation Area would be less than substantial however given the existing closely built layout and the general similarity in appearance to the existing buildings. In accordance with paragraph 134 of the National Planning Policy Framework it is necessary for me to weigh that less than substantial harm against the public benefits of the proposal. The provision of a new unit of housing would be of public benefit but the scale of that benefit would be limited. I give great weight to the conservation of the designated heritage asset and that weight is not outweighed by the limited weight that I give to the public benefit of the proposal.
8. I conclude on this main issue that the proposal would unacceptably harm the character and appearance of the area. The London Plan (2015) includes policies that require high quality design that enhances the quality of local places. Policies 3.5, 7.4 and 7.6 have these requirements. The pattern and grain of existing development and local character are important matters to be taken into account. Policy CS5 of the Core Strategy² (CS) and policies DM01 and DM06 of the Development Management Policies³ (DMP) have similar requirements including the protection and enhancement of heritage assets. For the reasons given the proposal would not accord with those policy requirements.

Living Conditions of Adjacent Occupants

9. The proposal would be set at a lower level than the adjacent cottages but its overall height would be similar. It would be in very close proximity to the frontages of 3 and 4 Park Cottages and Morningside Cottage which are on the opposite side of the path and have ground and first floor windows facing towards the site. No 4 and Morningside Cottage would be about 3.4m and

¹ Finchley Church End Conservation Area Character Appraisal and Management Proposals

² Barnet's Local Plan Core Strategy (2012)

³ Barnet's Local Plan Development Management Policies (2012)

- 3.2m respectively from the side wall of the proposal which would be a full two storeys in height.
10. The appellant's plan illustrates that the two storey part of the dwelling would be positioned largely between the facing windows in those dwellings but its height and close proximity to those windows would nonetheless enclose the path giving a dark and oppressive outlook from those front windows. It is unlikely that the proposed green roofs over the ground floor elements would compensate for this adverse effect to any material degree.
 11. There is no detailed information before me regarding any effect of the proposal on sunlight or daylight to the adjacent properties. Its siting to the east/north-east of those properties may not directly affect sunlight but its height and very close proximity would in my view be likely to have some effect on the daylight received by the ground floor windows of the adjacent cottages.
 12. Considered together I find that these effects would be likely to be materially and unacceptably harmful to the living conditions of adjacent occupants. Policy 3.5 of the London Plan requires general protection of London's residential environment and policies 7.6 of the London Plan and DM01 of the DMP require that there is no harm to residential amenity. The proposal would not accord with those requirements.

Living Conditions of the Occupants of the Proposal

13. The latest version of the London Housing Standards⁴ is not before me but I understand from both main parties that these require a floor space of 70 sq m for a 2 bedroom 3 person house such as the proposal. The floor space would be less than that standard at about 66 -67 sq m but the shortfall in this respect would be small and I note that the proposed room sizes would exceed the standard requirements. Nonetheless the deficit may be indicative of a cramped standard of accommodation.
14. Garden areas of 23 sq m at the front and 7.5 sq m at the rear would be provided but the total of 30.5 sq m would fall some way short of the 40 sq m required by the Sustainable Design and Construction SPD⁵ for houses with up to four habitable rooms. This adds to my concern about the generally cramped nature of the proposal given that it could be occupied by a family. The existence of public open space in the locality would not overcome this shortcoming. While I note that the cottages have very small gardens this does not justify a departure from the guidance.
15. The front living room and bedroom windows would be about 12.5m away from the rear of the host property which has rear windows at ground and first floor levels. That building is in use as a hairdresser and the first floor room is an ancillary office but this could still result in overlooking at times when the business is open. The proposal would be much closer to the host building than would normally be acceptable in terms of ensuring adequate privacy in residential development.
16. Associated with this because of the close proximity of the adjacent cottages there would be potential for quite a high level of overlooking of the proposed garden areas from the upper floors of those cottages or at least a perception of

⁴ Mayor of London's Housing Standards Supplementary Planning Guidance (2016)

⁵ London Borough of Barnet Supplementary Planning Document: Sustainable Design and Construction (2013)

being overlooked. For these reasons I find that the proposal would provide a low level of privacy.

17. Considering these matters in combination I find that the proposal would not provide acceptable living conditions for its occupants. The proposal would not accord with policy DM01 of the DMP which requires high quality design providing adequate privacy or with policy DM02 which requires compliance with relevant standards including those contained in the London Plan and the Sustainable Design and Construction SPD. Neither would the proposal accord with policy 3.5 of the London Plan in this regard nor policy 7.6 which requires provision of high quality indoor and outdoor spaces.

On-Street Parking

18. Policy DM17 of the DMP requires the provision of a parking space or alternatively a planning obligation to prevent occupants from obtaining parking permits given that the site is within a Controlled Parking Zone. The latter requirement of the policy is however subject to demonstration that there is insufficient capacity on street. No information is before me to demonstrate such a lack of capacity. However I saw on my visit that most of the on-street parking in the area is restricted to permit parking with a limited amount of parking space for which payment is required for restricted periods. It is likely that there is significant pressure for on-street parking space but this has not been conclusively demonstrated.
19. The absence of either an on-site parking space or a planning obligation to effectively ensure that the development is car-free means that the proposal would not accord with policy DM17 of the DMP. Having said this however the site is in an accessible location meaning that the occupants need not necessarily own a car. Furthermore there is no evidence before me to demonstrate that the proposal would have a harmful effect in terms of leading to undue pressure on available parking space on the street. For these reasons particular harm in respect of this issue has not been shown.

Conclusions

20. I have found significant harms in respect of the character and appearance of the area and living conditions which indicate that the appeal should be dismissed. My findings in respect of on-street parking do not alter this. Neither do the other matters raised, including the water efficiency measures to be incorporated.
21. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR