
Appeal Decision

Site visit made on 13 June 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 24 July 2017

Appeal Ref: APP/N5090/W/17/3172374

70 Hutton Grove, North Finchley, London N12 8DR

- 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 Billy Kin Pang against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/4772/FUL, dated 19 July 2016, was refused by notice dated 17 November 2016.
 - The development proposed is described as a new build 3 bedroom house to the rear garden plot of 70 Hutton Grove.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a new single storey dwelling, associated waste and recycling store and bike storage at 70 Hutton Grove, North Finchley, London N12 8DR, in accordance with the terms of the application Ref:16/4772/FUL, dated 19 July 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Billy Kin Pang against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matter

3. The Council changed the description of application Ref 16/4772/FUL from that contained on the application form the 'Creation of a new single storey dwelling. Associated waste and recycling store, bike storage'. This is a more accurate description of the proposed development which I have therefore used in the determination of this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal site is a triangular shaped plot boarded by the rear gardens of several properties on Hutton Grove and Nether Street. Properties in the area comprises terraced and semi-detached dwellings that predominantly have relatively long traditional rectangular shaped rear gardens. Although No 70
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Hutton Grove also has part of its garden that is formed in a traditional rectangular shape, the end of the garden provides access to the appeal site which is also currently used as a garden.

6. The rear gardens of the dwellings that surround the appeal site predominantly have close boarded fencing and outbuildings on the property boundary together with hedges and trees. As such the appeal site is relatively secluded, and cannot be readily seen from the rear of surrounding properties or in public views. Immediately to the east is the Finchley Synagogue that has a similarly spatial arrangement to the appeal site in being surrounded by the rear gardens of dwellings.
7. The proposed development would involve the construction of a single storey 'L' shaped contemporary designed dwelling having a predominantly staggered flat roof that would be sited approximately 1.5m below the existing ground level. As such, a considerable portion of the roof would be below the height of the adjoining property boundary fences. Pedestrian and cycle access only would be provided between the gardens of Nos 70 and 72 Hutton Grove and the Council indicate that the private amenity area for the development would exceed the minimum 40sqm required for a dwelling with up to four habitable rooms.
8. Policy 3.5 of the London Plan indicates that 'Boroughs may in their Local Development Frameworks introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified'. However, the Council indicate that there is no policy with the Borough's development plan documents that provides any presumption against such backland development.
9. The proposed development would retain an area of garden at No 70 that is commensurate with that of the adjoining gardens at Nos 68 and 72 both in shape and in relation to the position of the boundary at the rear of the garden. Although the dwelling would constitute a backland site being surround by adjoining gardens, these locational circumstances are little different to those that exist at the adjoining Synagogue site.
10. The Council suggests that the development would provide for limited natural surveillance. However, it would be enclosed by private gardens and would have space all around the building to enable surveillance of its grounds. In this respect the extent of natural surveillance would be little different to that which exists between current properties in the area. Although there would be a slight limitation to complete surveillance of the site from surrounding properties due to the lower ground level, given the enclosed residential nature of the surrounding area I do not consider that it would contribute to an insecure environment or constitute poor design of an extent to warrant the dismissal of the appeal on those grounds.
11. Given, that the proposed dwelling would not be readily seen from the surrounding properties it would not compete with the design of the more traditional dwellings nor appear as being imposing. The shape of the plot is unusual in relation to the more tradition rectangular design of those of adjacent properties. However, I have taken into account the limitations in view, the height of the proposed building relative to adjacent gardens, the fact that the spatial relationship to surrounding development would be little different to the adjoining Synagogue site and that the host property would retain an adequately sized garden that is commensurate with the character of those

nearby. Although the proposed development would not conform to the predominant rectangular plot shape of the locality, these are all factors that in combination lead me to conclude that it would not cause significant harm to the character and appearance of the surrounding area of an extent to warrant the dismissal of this appeal.

12. Taking the above factors into account, the proposed development would not cause demonstrable harm to the character and appearance of the surrounding area. Consequently, there would be no conflict with Policies CS1 and CS5 of Barnet's Local Plan Core Strategy (2012), Policy DM01 of Barnet's Local Plan Development Management Policies (2012) or Policy 7.3 of the London Plan (2015). These policies, amongst other things, require that new development should create a high quality environment that preserves local character, retains outdoor amenity space and provides natural surveillance.

Other matters

13. I have taken into account the concerns of local residents regarding the effects of the proposed development on the living conditions of the occupiers of neighbouring properties, the availability of on-street parking spaces and the impact on trees. Although these matters have been carefully noted, they do not alter the main issue which has been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.

Conditions

14. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance. As a result, I have amended some of them for clarity and to minimise the use of pre-commencement conditions and eliminated some for the reasons set out below.
15. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area conditions are necessary relating to the external finishes of the development, details of site levels, boundary treatment, measures to protect existing trees and a scheme of landscaping.
16. In order to protect the living conditions of nearby residents I agree that conditions are required relating to the submission of a Construction Management and Logistics Plan and working hours. In the interests of highway safety, I agree that a condition is required to control mud and dirt from being deposited on the highway.
17. The National Planning Policy Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary given the distance to the rear of adjoining properties. However, I have restricted extensions to the proposed dwelling, which appears to me could otherwise be enlarged excessively in relation to the plot size. I am also not persuaded that a condition that restricts the development to a C3(a) use only and for no other

purpose within the C3 use class, for the reasons of protecting the living conditions of nearby residents, is reasonable or necessary given the small scale nature of the development and its relationship to surrounding dwellings. As such, I have deleted the relevant condition.

18. In the interest of protecting the living conditions of the occupants of the properties at Nos 73 to 87 Nether Street, I agree that a condition restricting the installation of any further windows or doors in the elevation facing these properties is necessary. In the interests of securing adequate arrangements for refuse collection and recycling and to provide a sustainable means of construction I agree that conditions are required relating to the submission of a refuse and recycling strategy and measures to improve carbon dioxide emission levels. However, I have amended the Council's suggested condition to require the submission of the details of the measures to be incorporated in the construction of the development to achieve such reductions.
19. The Council has suggested two conditions relating to water saving and efficiency and accessibility arrangements that specify compliance with the relevant parts of Building Regulations. As the requirements of these conditions are administered and enforced by legislation other than planning, the suggested conditions are unnecessary, unreasonable nor relevant to planning. As such I have deleted them. A condition has also been suggested relating to *"an open recessed area adjacent to the neighbouring building 'The Gallery', marked as being not accessible to occupants on the third floor plan of Drawing 4839_06 A."* This condition does not appear to relate to the development proposed in this appeal and consequently I have deleted it.

Conclusion

20. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

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: Building Regulations Part L1A SAP Assessment by Barlings kwa Ltd; Design and Access Statement by Ernest Tsui Architects + Partners; Sustainability Statement by Ernest Tsui Architects + Partners; Arboricultural Impact Assessment by AGB Environmental; Drawing no. ETA_HUT- 001 Rev B; Drawing no. ETA_HUT-002 Rev F; Drawing no. ETA_HUT-010 Rev F; Drawing no. ETA_HUT-011 Rev F; Drawing no. ETA_HUT-014 Rev F; Drawing no. ETA_HUT-015 Rev A; Drawing no. ETA_HUT-016 Rev A; Drawing no. ETA_HUT- 017 Rev A
- 3) No development shall take place until details of the levels of the floor building, in relation to the adjoining land 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 be implemented in accordance with the details as approved under this condition and retained as such thereafter.
- 4) No development above foundation level shall take place until details of the materials to be used for the external surfaces of the building and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved materials.
- 5) Prior to the commencement of the development a Construction Management and Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented and constructed in full accordance with the details approved under this Plan. This Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of the measures to be implemented to manage the construction of the sunken building and minimise the impact of this process on the amenities of neighbouring occupiers and ground and surface water conditions in the area;
 - iv. details of provisions for recycling of materials, the provision on site of storage/delivery area for all plant, site huts, site facilities and materials;
 - v. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;

- vi. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vii. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - viii. noise mitigation measures for all plant and processors;
 - ix. details of contractors car parking arrangements; and
 - x. details of interim car parking management arrangements for the duration of construction.
- 6) No development above foundation level shall take place until details of a Refuse and Recycling Collection Strategy have been submitted to and approved in writing by the Local Planning Authority. This strategy shall include, but not be limited to, the following information:
- (i) details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider,
 - (ii) details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and
 - (iii) plans showing satisfactory points of collection for refuse and recycling.
- The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the side elevations facing the rear gardens of no. 73-87 Nether Street.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), the dwellings hereby permitted shall not be enlarged under the provisions of Schedule 2, Part 1, Class A or B of that Order.
- 9) The development shall not be occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved before first occupation or the use is commenced and shall be retained as such thereafter.

- 10) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan contained within the hereby approved Arboricultural Impact Assessment has been erected around existing trees on site. This protection 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. The development shall be implemented in accordance with the protection plan and hereby approved Arboricultural Impact Assessment.
- 11) No development above foundation level shall take place until a scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, has been submitted to and agreed in writing by the Local Planning Authority. All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. 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.
- 12) Provisions shall be made within the site to ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.
- 13) 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 pm on other days.
- 14) No development above foundation level shall occur until details of the measures to be installed or incorporated in the construction of the development to achieve an improvement of not less than 6 % in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details which shall thereafter be retained and maintained.