
Appeal Decision

Site visit made on 21 November 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 14th December 2017

Appeal Ref: APP/N5090/W/17/3180285

Land adjoining 4 Hyde Close, Barnet EN5 5TJ

- 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 and Mrs Lee against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/5206/FUL, dated 2 August 2016, was refused by notice dated 22 June 2017.
 - The development proposed is demolition of existing garage and proposed erection of detached three-bedroom property.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are :
 - Whether the proposal would provide adequate living conditions for future occupiers with particular regard to external space; and
 - The effect of the proposed development on the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook.

Reasons

Living conditions – future residents

3. The Council's Supplementary Planning Document: Sustainable Design and Construction (2013) (SDC) acknowledges the value and provision of outdoor amenity space with regards to protecting and improving the living standards of residents, as well as contributing to maintaining and enhancing the wider character of the Borough. It also recognises that dwellings with insufficient garden or amenity space are unlikely to provide good living conditions for future occupiers.
4. The proposed dwelling would have five habitable rooms and as such table 2.3 of the SDC requires 55m² of outdoor amenity space. The Council states that the proposal only makes provision for 43m², a shortfall of 12m². The appellants argue that the dwelling would have approximately 82m² of outdoor amenity space. However, the appellants have not submitted the details of how this figure was arrived at and what space they have included. On the other hand,

the Council state that their calculation is of the rear garden space only. The SDC makes it clear that it is useable space that should be counted and shared surfaces, driveways, vehicle parking areas and or hard standings, cycle storage areas, footpaths, servicing areas and refuse storage areas should be discounted. I find the Council's approach in this regard a reasonable one.

5. The appellant argues that the plot size and garden area is commensurate with others found in the locality. Whilst this maybe the case, I cannot be sure that these were built following the adoption of the development plans and SDC against which I have considered the appeal. This limits the weight that can be attached.
6. Consequently, given the shortfall in useable space, I am of the opinion that the garden would fail to provide adequate functional amenity space for the size of the dwelling and would not therefore provide adequate living conditions for future occupiers. I therefore find conflict with Policy CS5 of the Barnet Local Plan Core Strategy (2012) (CS), Policies DM01 and DM02 of the Barnet Local Plan Development Management Policies (2012) (DMP), and guidance within the SDC and the Residential Design Guidance Supplementary Planning Document (2013) (RDG). These seek to ensure, amongst other things, high quality development with sufficient, functional amenity space for all new houses that meets minimum standards.

Living conditions – neighbouring residents

7. The proposed dwelling would be located approximately 0.6 metres from the common boundary with 2 Hyde Close. No 2 sits perpendicular to the appeal site and at a lower level. This means that the flank wall of the new dwelling would face the rear elevation and rear garden of No 2. Whilst I acknowledge that there is some quite mature planting along the boundary shared with this neighbouring property, its retention for future generations cannot be guaranteed. Given its close proximity to the common boundary, compounded by the difference in levels, I find that the new building would introduce considerable bulk in the garden scene, giving rise to loss of outlook.
8. The first floor windows would have direct downward views into the rearmost part of the garden of 36 Wyburn Avenue. The SDC requires a minimum privacy distance of 10.5m to neighbouring gardens. The proposal would only achieve distances of between 4 and 7.5m. This distance would not be sufficient to prevent opportunities for direct overlooking, resulting in a loss of privacy for the occupants of No 36. I do not agree with the appellant that the garden is so large that any overlooking would be mitigated.
9. Whilst the proposed dwelling would be noticeable from the rear windows and garden of 38 Wyburn Avenue, given the intervening distance and orientation of the proposed dwelling relative to No 38, the dwelling would not in itself be so intrusive as to reduce outlook to an extent that would materially harm the living conditions of the occupiers of No 38.
10. Nevertheless, I have concluded that the proposed development would have a detrimental impact on the living conditions of the occupiers of 2 Hyde Close and 36 Wyburn Avenue and find conflict with Policies CS1 and CS5 of the CS, Policy DM01 of the DMP and guidance within the SDC in this regard. These seek, amongst other things, to protect and enhance residential gardens, and to

ensure development allows for adequate privacy and outlook for adjoining occupiers.

Other matters

11. I acknowledge that the Council did not raise any objection to the internal living space of the proposed dwelling and I have no reason to come to a different view. I also agree that the proposed design and size of the dwelling would be respectful of the prevailing context of the locality. Nonetheless, these matters do not outweigh the harm that I have found above and do not lead me to alter my findings on the substantive matters.

Conclusion

12. For the reasons given above and taking all matters into account, I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR