
Appeal Decisions

Site visit made on 28 November 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 20th December 2017

Appeal Ref: APP/N5090/W/17/3181929

89 and 91 Highfield Avenue, Golders Green NW11 9TU

- 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 BISS 89 Limited and Mr & Mrs Beider against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 17/3190/FUL, dated 17 May 2017, was refused by notice dated 2 August 2017.
 - The development proposed is the conversion of private dwelling house with alterations and extensions to form three self-contained flats at 89 Highfield Avenue and ground floor single storey extension to 91 Highfield Avenue.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of the site visit, a number of the internal works on the 3 units within 89 Highfield Avenue were nearing completion. It is however noted that the attic conversion was carried out under permitted development rights prior to the submission of the planning application which is the subject of this appeal. The appeal has therefore been dealt with on a part retrospective basis.
3. Amended plans have been submitted with the appeal. The amendments represent a material change to the scheme that was submitted and considered by the Council. As such, determining the appeal on the basis of the amended plans would prejudice the interests of local representatives. The plans have therefore not been considered.
4. The Council confirmed in an email¹ that following the submission of the appellants' statement of case, the confirmation of the height within the attic unit resulted in the Council no longer defending this reason for refusal. From the submitted evidence I concur with the Council's view and this matter therefore no longer requires consideration.

Application for costs

5. An application for costs was made by BISS 89 Limited and Mr & Mrs Beider against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

¹ Council email dated 27 October 2017, sent at 13.35

Main Issues

6. The proposal consists of single storey rear extensions to both 89 and 91 Highfield Avenue, and the conversion of No 89 into 3 self-contained units. In regard of the proposed extensions, the Council found that at both dwellings these sections of the proposal would be proportionate additions that would not harm the character and appearance of the surrounding area or the living conditions of neighbouring occupiers.
7. From both the submitted evidence and observation made on site, I find no reason to reach a different conclusion. I have therefore limited my assessment to the planning merits, or otherwise, of the alterations to form the 3 self-contained units at No 89.
8. The main issues of the appeal are the effect of the proposal on:
 - (i) the living conditions of the future occupiers of the ground floor unit , with particular regard to the provision of light and outlook;
 - (ii) the living conditions of the future occupiers of the first floor and attic units, with particular regard to the provision of outdoor amenity space;
 - (iii) the living conditions of the future occupiers of the first floor unit, with particular regard to internal space provision; and
 - (iv) the living conditions of the future occupiers of the attic unit , with particular regard to internal space provision.

Reasons

9. The appeal site is a semi-detached two storey dwelling located on the northern side of Highfield Avenue. The dwelling is located in an accessible location being approximately 100 metres from Brent Cross tube station.
10. The planning history of the site is noted. In particular the application for the conversion of No 89 into 3 self-contained flats which was refused in 2015² and the two prior notifications for rear extensions which were refused in 2016³. As such, I am aware that the appellant has aimed to address the reasons for refusal in regard of the objections received from No 91. As the proposed extension at No 89 would incorporate and join the proposed at No 91, the issue raised with regard to the potential loss of light to No 91 would be alleviated.

Living conditions – ground floor unit light and outlook

11. With regard to the ground floor, concern has been raised regarding the level of light that the proposed level of fenestration would provide for future occupiers in the main living space. Table 2.4 of the London Borough of Barnet Local Plan Supplementary Planning Document: Sustainable Design and Construction 2016 (the SDC) states that glazing to all habitable rooms should not normally be less than 20% of the internal floor area of the room. Given the limited level of fenestration, the proposal would significantly fail to comply with this guidance.
12. Turning to outlook, both the proposed front and rear bedrooms would over look outdoor amenity space. Nevertheless, the proposed fenestration in the main

² Council reference 15/04381/FUL

³ Council references 16/3051/PNH and 16/0483/PNH

living area would only allow views of the existing pathway which runs to the side of the dwelling and the side elevation of No 87. The main living space would not therefore be afforded any proper outlook.

13. The lack of outlook would be harmful in its own right and would exacerbate the sense of claustrophobia in the living space caused by the lack of light. As such, the lack of light and outlook would unacceptably diminish the living conditions of any future occupiers of the ground floor unit. It therefore follows that this section of the proposal fails to comply with Policies DM01 and DM02 of the Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (the DPD), Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (the CS), The London Borough of Barnet Barnet's Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (the RDG), the SDC and Policy 3.5 of The London Plan 2016 (TLP). When taken together these policies and guidance seek, amongst other things, to ensure that new development provides appropriate living conditions for future occupiers.
14. This section of the proposal would also run contrary to the National Planning Policy Framework's (the Framework) core planning principle of seeking to secure a good standard of amenity for all existing occupiers of land and buildings.

Living conditions – outdoor amenity space

15. The outdoor amenity space located to the rear of No 89 would be approximately 74 square metres. Table 2.3 of the SDC states that a provision of 5 square metres per habitable room must be provided for flatted developments. As the level of space would far exceed the required levels, guidance within the SDC would be complied with.
16. However, only the ground floor unit would have direct access to the rear outdoor amenity space. The suggestion by the appellant that, given the size of the plot, the space could easily be divided to meet the required standards is noted. However, the submitted plans do not depict how this could be achieved and therefore an assessment of the potential impact is not possible.
17. As such, this section of the proposal would not provide satisfactory living conditions for future occupiers of the first floor or attic units. Consequently, this section of the proposal conflicts with Policies DM01 and DM02 of the DPD, Policies CS1 and CS5 of the CS, the RDG, the SDC and Policy 3.5 of TLP. When taken together these policies and guidance seek, amongst other things, to ensure that new development provides appropriate living conditions for future occupiers.
18. This section of the proposal would also run contrary to the Framework's core planning principle of seeking to secure a good standard of amenity for all existing occupiers of land and buildings.

Living conditions – first floor unit internal space

19. Policy DM02 of the DPD states that new dwellings should comply with the space standards as detailed within Table 3.5 of TLP. The supporting text to Policy 3.5 states that developers should confirm the number of occupants a proposal is designed to accommodate, rather than just provide numbers of bedrooms. In

their submitted evidence, the appellant confirms that the unit on the first floor is a one bedroom, one person unit.

20. Table 3.3 of Policy 3.5 of the TLP states that the minimum Gross Internal Area (GIA) is 39 square metres for a one bedroom, one person unit. At approximately 40 square metres the GIA would be exceeded. From observations made during the site visit, it is thus considered that the unit on the first floor would be spacious, well-lit and ventilated and will not therefore harm the living conditions of any future occupiers. Accordingly, this section of the proposal complies with Policies DM01 and DM02 of the DPD, Policies CS1 and CS5 of the CS, the RDG, the SDC and Policy 3.5 of TLP. When taken together these policies and guidance seek, amongst other things, to ensure that new development provides appropriate living conditions for future occupiers.
21. This section of the proposal would also comply with one of the Framework's core planning principles of seeking to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Living conditions – attic floor unit internal space

22. Dispute exists between parties regarding the attic unit; as to whether it constitutes a one bedroom unit or studio unit. Whilst the terms one bedroom unit and studio unit are used interchangeably, there is a critical difference between the two.
23. A basic one bedroom unit usually consists of a bedroom, kitchen, living room and a bathroom. A studio unit generally refers to a single room is basically a self-contained unit which houses everything in a single room space, except the bathroom.
24. The distinct difference between a one bedroom unit and a studio unit is that a one bedroom unit features separate spaces for the bedroom area, living area and kitchen area. However, a studio unit has a single multi-purpose room which serves as the bedroom, kitchen and living space. The only similarity between them both is that they feature a separate space for the bathroom.
25. It is accepted that the shower room for the attic unit is located on the first floor. However, this does not subsequently mean that the unit becomes a one bedroom unit. It is evident from the submitted plans that the attic unit consists of one large single room, which would be used as a living space, kitchen and bedroom.
26. In their submitted evidence, the appellant has confirmed that the attic unit is to function as a single person, studio unit. Table 3.3 of Policy 3.5 of the TLP states that the minimum Gross Internal Area (GIA) is 37 square metres for a one bedroom, one person unit with a shower room. The TLP does not differentiate between a one bedroom unit and a studio unit.
27. Taking the T-fall roof into consideration, the GIA for the attic unit is approximately 37.13 square metres. It is thus considered that the attic unit would not therefore harm the living conditions of any future occupiers. Accordingly, this section of the proposal complies with Policies DM01 and DM02 of the DPD, Policies CS1 and CS5 of the CS, the RDG, the SDC and Policy 3.5 of TLP. When taken together these policies and guidance seek, amongst other

things, to ensure that new development provides appropriate living conditions for future occupiers.

28. Furthermore, this section of the proposal would also comply with one of the Framework's core planning principles of seeking to secure a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

29. The appellant raises concerns over the Council's handling of the planning application, with particular regard to lack of engagement and communication. Whilst such matters are noted, the appeal has been considered on its own planning merits. Concerns over the Council's handling of the application should be made in the first instance through the Council's own complaints procedure.

Conclusion

30. Despite finding no harm with regards to the internal space provision for the first floor and attic units, the harm in terms of the lack of private outdoor amenity space for the first floor and attic units and the lack of light and outlook for the ground floor unit is decisive.
31. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR