
Appeal Decision

Site visit made on 11 December 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 15th January 2018

Appeal Ref: APP/N5090/W/17/3179968

8 Poynings Way, North Finchley, London N12 7LP.

- 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 Joe Henry against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/1981/FUL, dated 24 March 2017, was refused by notice dated 29 June 2017.
 - The development proposed is erection of a new two-storey dwelling house with rooms in roof space and basement level following demolition of garage and outbuildings. Alterations and extension to the existing dwelling including provision of rear dormer roof extension and roof lights. Part single, part two-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new two-storey dwelling house with rooms in roof space and basement level following demolition of garage and outbuildings. Alterations and extension to the existing dwelling including provision of rear dormer roof extension and roof lights. Part single, part two-storey rear extension 8 Poynings Way, North Finchley, London N12 7LP in accordance with the terms of the application, Ref 17/1981/FUL, dated 24 March 2017, subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. Both parties have drawn my attention to the previous appeal decision¹. Having been provided with a copy of the plans, I have carefully considered its relevance to the scheme before me. On any reasonable reading of that decision, it is evident the Inspector was principally concerned by the eaves heights and lack of visual separation between the proposed dwelling and No 8. The current scheme has sought to address these concerns with a lower eaves height and the gap increased from 1.849m to 3.2m. Various other amendments are listed in section 6.3 of the appellant's Grounds of Appeal. Based on these differences the current scheme is materially different to its predecessor. Therefore, whilst I have had regard to the previous decision, I have determined the appeal before me purely on its own merits, in the light of the particular circumstances which apply in this case.

¹ Appeal Ref: APP/N5090/W/16/3163160

Application for costs

3. An application for costs was made by Mr Joe Henry against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Main Issues

4. The main issues are the effect of the development on, firstly, the character and appearance of the area and, secondly, the living conditions of neighbouring occupiers.

Reasons

Character and appearance

5. The appeal site comprises part of the curtilage to 8 Poynings Way, a 2-storey detached property located close to the head of a residential cul-de-sac which rises away from Walmington Fold. The street forms part of a wider pre-war planned estate development. The road is framed by detached properties of varying design. Dwellings address the road in the traditional manner and are set back generously from it behind landscaped frontages and/or paved parking areas. These features lend the street a pleasant suburban character.
6. Despite that, its distinctiveness as an area has been compromised by the loss of some front gardens to paved parking areas and also by side additions which in places has eroded the spacing between dwellings. The area is not subject to any special designation and despite its qualities I do not consider that it is particularly sensitive in streetscape terms nor is it notable for large gaps between dwellings.
7. The proposed dwelling would be sited between Nos 8 and 6² on what is an unusually large side garden in the context of Poynings Way. I therefore see no reason to disagree with the planning officer's and previous Inspector's assessment that the site is of sufficient size to accommodate a dwelling. The dwelling would address the road and respect the existing building line. Off-street parking and a small amount of landscaping would be provided to the site frontage. The detailed design, materials and proportions of the dwelling would reflect those of other properties in the street.
8. As the appellant's analysis demonstrates, the distance between the dwelling and its side boundaries and neighbouring properties would not be materially less than that found elsewhere in Poynings Way. I have noted the Council's view that the site is located at a transition point between two different streetscapes. However, I was unable to identify such a distinction when I conducted my site visit and such a view is unsupported by appropriate evidence. Whilst I accept that the spacing between the new dwelling and its immediate neighbours might be slightly less than other gaps in the street, I doubt this would be perceptible to the average person. However, good design is about an appreciation and understanding of context and as the Council argues, should not be reduced to such a simple numerical exercise.
9. The design of roof profile to both properties has been amended to ensure the eaves sit just above the first floor windows. The appellant's site elevation

² There is no No 7.

drawing³ demonstrates that the eaves and ridge heights of the two dwellings would be consistent with the '*harmonious step of buildings*' along Poynings Way. The Council's refusal reasoning refers to matters such as the size, siting, plot coverage and front forecourt arrangement. However, these concerns were not shared by the previous inspector in relation to the larger scheme and I see no reason to take a contrary view on these matters. The Officer Report acknowledges, the concerns of the previous Inspector have been addressed, I am thus satisfied that the development would not appear cramped or contrived.

10. I therefore conclude that the development would not harm the character or appearance of the area. There would thus be no conflict with Policy 3.5 of "*The London Plan 2016*" Policies CS NPPF, CS1 and CS5 of the "*Barnet Local Plan (Core Strategy) Development Plan Document 2012*" (the CS), Policy DM01 of the "*Barnet Local Plan (Development Management Policies) Development Plan Document 2012*" (the DMP) and the "*National Planning Policy Framework*". Amongst other things, these state that the Council will always work proactively with applicants and that development should be of a high quality that has an understanding of local characteristics.

Living conditions

11. The effect of the development on the living conditions of neighbouring occupiers was dealt with unequivocally by my colleague in relation to the previous scheme⁴. That being the case the issue ought not to have been raised again unless there was a substantial difference between the two schemes. The appellant's Grounds of Appeal and the Officer Report confirm this is not the case and for all intents and purposes the current scheme is the same as the previous scheme with regards to its relationship to No 6.
12. The new dwelling would undoubtedly be visible in angled views from the rear of No 6 particularly from the recessed living room window. However new development in residential areas invariably causes some intrusion into view. Whilst the outlook from the rear of No 6 would change as a result of the proposal, there is no right to a view over adjoining land or to an open outlook. In this case, the amount of separation as well as the length of the rear projection would not cause unreasonable levels of enclosure or overbearing elements in rearward views from No 6.
13. I can see no plausible reason why the eaves overhang would result in unacceptable living conditions. Based on the foregoing, and with the benefit of having viewed the appeal site from the rear of No 6, I am satisfied that the development would not harm the living conditions of neighbouring occupiers. Accordingly there would be no conflict with the requirements of CS Policies CS NPPF, CS1 and CS5 of the CS or Policy DM01 of the DMPD. Collectively these seek a good standard of amenity for all occupiers of land and buildings.

Other Matters

14. Local residents have expressed concerns regarding; noise and disturbance, flooding and the effect of the basement on neighbouring properties. However, these matters were carefully considered by the Council at the application stage

³ Dwg ref: A0.03

⁴ Paragraphs 15 & 16

as well as the previous Inspector and there is no compelling evidence before me which would lead me to conclude differently on these matters.

Conditions

15. The Council has suggested a number of planning conditions which I have considered against the advice in the *Planning Practice Guidance* (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity.
16. I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans, as this provides certainty. A boundary treatment condition is necessary to ensure the satisfactory appearance of the development and to protect the amenity of neighbouring occupiers. A drainage condition is necessary to ensure the development does not lead to surface water flooding problems in the area. A condition relating to the construction of the basement is necessary to ensure there are no adverse effects on adjacent properties. The suggested conditions relating to carbon reduction measures, compliance with Part M4(2) of the Building Regulations and water metres are all necessary to comply with development plan policies in these areas.
17. The proposed materials are clearly shown on the approved plans. The Council do not suggest these are unacceptable and I see no reason to disagree. On that basis the suggested materials condition is unnecessary. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights "*will rarely pass the test of necessity and should only be used in exceptional circumstances*". On the evidence before me, I am not persuaded that the Council has demonstrated that such circumstances apply in this instance. I have omitted suggested condition 5 accordingly.
18. In view of the scale of development, its location and likely construction period, I am not persuaded that a Demolition and Construction Management and Logistics Plan is proportional and reasonable. I have omitted the suggested condition accordingly. I have however imposed a condition in relation to construction hours to safeguard the amenities of local residents. It is not necessary to mark out residential parking spaces, I have therefore amended the Council's suggested condition. The bin storage area is shown on the approved plan (A5.01_PR) at the front of the dwelling and therefore captured by the plans condition. As there is no suggestion that such an arrangement is unacceptable, a separate condition is unnecessary. Given the details shown on the approved plans and the fact that the trees on the site are of low quality, I am not persuaded that landscaping and tree protection conditions are necessary in this instance.
19. No windows are proposed in the side elevation of the proposed dwelling facing No 6. Moreover, there are already habitable room windows in the side elevation of No 8 facing No 9. As these would be removed and replaced with two small windows serving an en-suite bathroom there would be no loss of privacy to neighbouring occupiers. The Council's suggested condition 16 is therefore unnecessary. I have however imposed conditions to prevent any

additional openings in these elevations and the use of the extension roof as a terrace to protect the privacy of neighbouring residents.

Conclusion

20. In reaching my decision I appreciate the strength of opposition to the proposal from the local community and have taken account of the wide range of specific concerns that have been raised. However, to carry weight objections should be supported by appropriate evidence. I have found that the proposed development would not adversely affect the character and appearance of the area or the living conditions of neighbouring occupiers. There are no other factors which would justify withholding planning permission.
21. Based on the foregoing and having regard to all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

- 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: A0.00, A0.01, A1.04, A1.05, A0.02, A0.03, A1.01_PR, A1.02_PR, A1.03_PR, A1.04_PR, A1.05_PR, A2.01_PR, A2.02_PR, A2.03_PR, A2.04_PR, A3.01_PR, A2.05_PR, A2.06_PR, A2.07_PR, A2.08_PR, A3.02_PR, A4.01_PR, A4.02_PR and A5.01_PR.
- 3) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which 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. The development shall be maintained as such in perpetuity thereafter.
- 4) Prior to the first occupation of the dwelling hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling 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.
- 5) Notwithstanding the details shown in the drawings submitted, the development shall be 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.
- 6) The site shall not be brought into use or first 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 as part of this condition before first occupation or the use is commenced and retained as such thereafter.
- 7) Construction works shall take place only between 0800 and 1800 hours on Monday to Friday and between 0800 and 1300 on a Saturday and not at any time on Sundays or on Bank or Public Holidays.
- 8) Before the development hereby permitted is first occupied the car parking spaces shall be provided and thereafter retained.
- 9) No development other than demolition work shall take place unless and until a Drainage Strategy detailing all drainage works to be carried out including Sustainable Urban Drainage System features has been submitted to and approved in writing by the Local Planning Authority. The

approved strategy shall be implemented prior to first occupation of the dwelling.

- 10) Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) no windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the flank elevations of either property facing no. 6 or no. 9 Poynings Way.
- 11) The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
- 12) Before development commences, the construction methodology statement, to include impact on ground water and structural stability of the basement development, shall be reviewed and approved by a suitably qualified Chartered Engineer and confirmation of the review shall be submitted to and approved by the Local Planning Authority. The basement construction shall be carried out in accordance with the approved details.