
Appeal Decision

Site visit made on 20 February 2018

by M Seaton DipTP MRTPI

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

Decision date: 12 March 2018

Appeal Ref: APP/N5090/D/17/3181258
98 Nether Street, London, N12 8 EU

- 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 Hasu Vora against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/2817/RCU, dated 2 May 2017, was refused by notice dated 29 June 2017.
 - The development is a new terrace and workshop area and trellis fence (Retrospective Application).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - the effect of the development on the character and appearance of the host dwelling and the area; and,
 - whether the development safeguards the living conditions of the neighbouring occupiers of Nos. 96 and 100 Nether Street, having regard to privacy.

Reasons

Character and appearance

3. The appeal site is occupied by a two-storey semi-detached dwelling located on the north side of Nether Street. The property has been previously extended to the rear, incorporating part single and part two-storey elements, with an existing full width basement extending beyond the rear extension. The roof of the basement forms the rear terrace, which is set at the same floor level as the ground floor of the dwelling and the rear garden set much lower down, with further steps down to the same level as the basement floor. There was no evidence that the terrace appeared to have been previously in use given the absence of balustrading.
4. In assessing the impact of the basement, the Council has drawn my attention to guidance contained within the Barnet Supplementary Planning Document: Residential Design Guidance 2016 (the SPD), which states that extensions should be subordinate to the original house, with basement extensions not

normally allowed where projecting further than 3 metres from the rear wall, or more than half its width beyond each side elevation.

5. I accept that the size of the basement exceeds the guidance in the SPD. However, its form as a consequence of the topography of the appeal site would appear more akin to a lower ground floor addition at the rear of the property than a basement. In addition, given the differences in levels, I do not consider that it would be unexpected to see a terrace in position at a similar level to the ground floor of the house in this location, and in this respect have noted the presence at No. 96 Nether Street of a substantial terrace of similar form. Furthermore, I regard the function of the roof of the extension as a terrace, and the comparatively limited height of the extension above ground level at 1.4 metres, as assisting in the mitigation of any adverse visual effect of the extension, and its assimilation with the existing dwelling. I am therefore satisfied that the size of the basement extension and terrace would not compete with the existing dwelling, and would maintain an appropriately subordinate relationship.
6. I note that the terrace and its use, would be partially visible from Argyle Road. However, I am not persuaded that either the structure or the nature of the activity would appear uncharacteristic of this primarily residential area.
7. I am therefore satisfied that the development would not result in an adverse effect on the character and appearance of the host dwelling or the area. Whilst I have accepted that the proposal would not accord with the guidance set out within the SPD, I have not found there to be conflict with Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document 2012 (the DM DPD), which requires development to protect Barnet's character and amenity and represent a high quality of design.

Living conditions

8. In assessing the effect of the extension and terrace on the living conditions of neighbouring occupiers, the Council has expressed particular concern over the effect that the use of the terrace would have on the privacy of neighbouring occupiers, particularly as a consequence of its depth.
9. In this respect, I note that there is an existing substantial brick wall on the boundary with No. 96 Nether Street, albeit that it appears to be indicated on the submitted plans that the existing wall would be removed and the boundary would be defined by a 1.8 metre high timber trellis in its place. In this respect, I have no specific details as to the nature and appearance of the trellis, or the level of inter-visibility which it would allow between the neighbouring terraces. In the absence of this detail, I am not persuaded that the format and scale of the boundary treatment would facilitate an acceptable privacy relationship with users of the adjacent terrace and the neighbouring occupiers of No. 96 Nether Street.
10. Turning to the relationship with No. 100 Nether Street, I note that the height of the terrace compared with the ground level of the neighbouring rear garden would allow users to enjoy an elevated outlook over the garden and the comparatively set-back rear elevation of the neighbouring property. Whilst I observed that the existing boundary treatment with trellis atop and planting provided a certain degree of visual mitigation, it was nevertheless evident that users of the terrace would from their elevated position still be able to look back

into the habitable room windows of No. 100 Nether Street, both at ground floor and first floor levels. I find this relationship to be unacceptable and would represent a loss of privacy for neighbouring occupiers.

11. The appellant has indicated that neither neighbouring occupier has expressed any concern over the development, and in this respect I have also had regard to the supporting correspondence which has been received from neighbouring occupiers. However, irrespective of the correspondence of the current neighbouring occupiers, for the reasons set out above I am not satisfied that the development in its proposed form would not result in an unacceptable impact on living conditions for current and future occupiers of the neighbouring properties.
12. On the basis of the submitted evidence and my observations of the appeal site, I am not persuaded that the living conditions of the neighbouring occupiers of Nos. 96 and 100 Nether Street, having regard to privacy, would be safeguarded. There would be conflict with Policy DM01 of the DM DPD and Policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document 2012. These policies seek to ensure that development respects local context and should be designed to allow for adequate privacy for adjoining and potential occupiers and users.

Conclusions

13. I have concluded that the basement extension and terrace would not have an adverse impact on the character and appearance of the host dwelling or area. However, I have found that the development would fail to safeguard the living conditions of the neighbouring occupiers of Nos. 96 & 100 Nether Street, having regard to privacy, and would as a consequence not be in accordance with the Development Plan for the reasons as set out.
14. Therefore, for the reasons given above, the appeal is dismissed.

M Seaton

INSPECTOR