



Appeal Decision

Site visit made on 3 June 2019

by Chris Couper BA (Hons) DiP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/N5090/W/19/3224870

The Bungalow, Ridge Road, Cricklewood, London NW2 2QU

- 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 R Patel against the decision of the London Borough of Barnet Council.
 - The application Ref 19/0184/FUL, dated 13 January 2019, was refused by notice dated 11 March 2019.
 - The development proposed is the demolition of the existing residential building and the erection of a replacement building with basement, ground and first floor, with a mix of 6 flats/studio.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since this appeal was lodged, an earlier appeal on the site involving a replacement building comprising six dwellings has been dismissed (Ref: APP/N5090/W/18/3218186) ('previous appeal'). I gave both principal parties an opportunity to comment on that decision, and I have taken the representation I received into account.

Main Issues

3. The main issues are:
 - Whether the proposed accommodation would provide appropriate living conditions for the future occupants, with particular regard to outlook, the availability of natural light, and access to outdoor amenity space;
 - The effect of the proposal on the living conditions of nearby residents, with particular regard to their outlook; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living conditions for future occupants

4. The proposed flats would comply with the minimum internal space standards as advised by the Council's Sustainable Design and Construction SPD 2016 ('SDCD').

5. However, the SDCD also sets out that, for flats, 5sqm of outdoor amenity space should be provided per habitable room, unless there are innovative design solutions, or there is an appropriate planning obligation. It continues that units with insufficient amenity space are unlikely to provide good living conditions for their occupants.
6. That approach is broadly echoed by the Barnet Residential Design Guidance SPD 2016 ('RDG'). It states that sufficient, functional amenity space should be provided for all flats wherever possible; and that every home should have access to suitable private, and/or communal amenity space through one or more of private gardens, communal gardens, courtyards, patios, balconies and roof terraces.
7. Flats 3 and 6 here would have no private outdoor amenity areas at all. Flats 1 and 2 would be wholly below ground level, and would have only very narrow outdoor terraces. As those small terraces would be enclosed by tall retaining walls, they would have a very constrained outlook. Notwithstanding these flats' large front and rear openings, that would also be the case for their adjacent habitable rooms. Given the additional presence of a boundary fence above the wall to the rear of the site, the occupants of those two flats would suffer from a particularly enclosed and sunken aspect from their rear terraces and rear habitable rooms.
8. The site is within walking distance of public parks. However, as set out at paragraph 14 in the previous appeal, such public spaces do not perform the same function as, and cannot take the place of, small areas of private outdoor amenity space. For instance, they do not provide private areas for the occupants to sit outside, or to dry clothes. Whilst the RDG and the SDCD adopt a flexible approach to amenity space standards in certain circumstances, given my conclusions above, the scheme would conflict with their advice.
9. Having regard to the Daylight and Sunlight Assessment by T16 Design, and the use of white reflective render, I am satisfied that all the proposed flats would receive sufficient natural light. Flat 5 would also receive sunlight into a bedroom from a south facing window which would address its small, raised terrace. All the flats would have tall floor to ceiling heights. Whilst flat 6 would have a single northerly aspect and therefore receive little, if any, sunlight, that would be at least partially mitigated by its large window expanse. Additionally, as referenced at page 23 of the appellant's statement, I note that single aspect flats have been allowed at nearby Church Walk.
10. I have considered the permitted scheme at 1 Ridge Road (Ref: 18/2270/FUL). However, flats 1 and 2 in that scheme are spread over two floors and are therefore only partially below ground level. Furthermore, all those flats would include outdoor amenity areas. There are therefore material differences between that scheme and this one.
11. Not all flats in the local area have private outdoor amenity space, and the appellant's Amenity Statement cites further examples elsewhere where that is also the case. However, given the particular combination of concerns here, the scheme would not provide appropriate living conditions for its future occupants, particularly in flats 1, 2, 3 and 6. Consequently, it would conflict with Barnet Core Strategy 2012 ('Core Strategy') Policies CS1 and CS5; and Barnet Development Management Policies 2012 ('DMP') Policies DM01 and DM02.

12. Amongst other things, and in general terms, they promote the highest standards of urban design and an attractive environment for people to live in; require an adequate outlook for potential occupiers; and, where appropriate, seek compliance with documents including the SDCCD.

Living conditions of nearby residents

13. There is a fairly abrupt drop in levels just beyond the site's rear boundary, such that the nearby residential terrace at 29-33 Prospect Road ('Nos 29-33') is on significantly lower land. The outlook from the ground floor, the short rear gardens, and the first floor, of those properties, is therefore already very constrained. Some of those properties also have rear dormers or second floor extensions, from where there is a more open outlook.
14. As depicted on drawing no. RR-AP1-1007, a fence on the rear boundary would prevent any significant view between the scheme's ground floor to the Prospect Road properties; and the scheme's only first floor rear habitable room opening would look onto a small terrace enclosed by a frosted glass screen. The proposal would not therefore result in significant overlooking of Nos 29-33.
15. Unlike in the previous appeal, this scheme's ground floor would be set in from the rear boundary and, as shown by the sections in drawing no. RR-AP1-1008, its rear face would be in the same position, and of broadly the same height, as The Bungalow, which it would replace.
16. However, at first floor, parts of the scheme's rear face would be sited closer to the boundary than the pitched roof of The Bungalow, and its flat roof would also be taller. Those differences would be most apparent towards the western end of the site where the rear elevation would step towards the boundary. Consequently, viewed from the rear elevations of Nos 29-33, particularly from their first and second floor windows, the proposal would have a greater mass and bulk compared to The Bungalow.
17. In the previous appeal, the Inspector noted that the existing relationship between The Bungalow and Nos 29-33 is far from ideal, and that any worsening of the situation should be treated with caution. Whilst I have considered the differences between this scheme and the previous appeal, for the above reasons, the proposal would materially worsen the already limited and constrained outlook from Nos 29-33. It would have a harmful overbearing impact to the significant detriment of those occupants' living conditions.
18. Given the distance between the proposed building and 22-28 Prospect Road, the scheme would not significantly harm those occupants' living conditions. As there would be no windows in the building with an unrestricted rear outlook, on that particular matter the scheme would not conflict with the SDCCD, nor with the RDG's advice regarding protecting the privacy of adjoining properties.
19. Notwithstanding that, for the above reasons, the scheme would be contrary to Core Strategy Policy CS5, and DMP Policies DM01 and DM02 which, amongst other things, seek to create an attractive environment, with an adequate outlook for adjoining occupiers.

Character and appearance

20. The buildings on Ridge Road and nearby streets vary in terms of their style and appearance, but are overwhelmingly two or more storeys high. They include

older residential properties, including the terraces on Prospect Road, as well as some substantial detached buildings on Ridge Road. Some buildings have a modern appearance, such as at 5 Ridge Road and around the nearby junction with Finchley Road. The permitted replacement building with four floors at 1 Ridge Road also has a contemporary style.

21. In that context, the single storey building at The Bungalow, although very discreet, is rather an anomaly. Whilst the proposed building would be larger and taller, it would provide a smooth transition in the streetscene to the adjacent substantial property at Ridgemount. The scheme's articulation and flat roofs, would also limit its apparent scale and bulk.
22. The proposed building would occupy much of the plot, and it would be sited close to the terraced properties on Prospect Road, including their rear gardens. However, plot sizes and plot coverage in the area are very varied, and there is no prevailing pattern or rhythm to nearby development.
23. As a result, in the context of this diverse area, the scheme's layout, size, scale, height and contemporary design would not appear out of place, and it would not have a domineering visual impact on the streetscene, or on the wider locality.
24. The scheme would not harm the character and appearance of the area. It would not therefore conflict with those parts of Core Strategy Policies CS1 and CS5; Policy DM01 of the DMP; and advice in the RDG, which, in general terms, require development to respect the local context and character, having regard to matters such as appearance, scale, mass, height and the surrounding pattern of development.

Other matters

25. By reference to a report at Appendix D of the appellant's statement, Barnet Council failed to deliver its minimum housing requirement against the London Plan 2016 ('LP') target for the three years to 2016-17. The minimum housing target is proposed to be increased in the emerging draft London Plan. As set out in the 2018 Housing Delivery Test results, the Council's housing delivery in the last three years was 82% of its requirement. However, that rate is not so far below the requirement that the presumption in favour of sustainable development at paragraph 11 d) of the National Planning Policy Framework ('Framework') would be triggered.
26. Additionally, whilst the under-delivery is such that a supply buffer of 20% should be applied, the appellant states that the Council has a good track record in granting planning consent for new homes; and I have not been provided with cogent evidence to suggest that it does not have an appropriate five year supply (with additional 20% buffer) of specific, deliverable housing sites.
27. Notwithstanding that, the scheme would make an efficient use of this small, accessibly-located site, which is close to facilities and public transport. I do not doubt that the net contribution of five housing units could be swiftly delivered. The scheme would be at a high density, and would incorporate sustainable design features, as summarised at page 37 of the appellant's statement.
28. These are modest benefits in the scheme's favour, and in those regards, it would accord with various Framework and development plan policies, including in the LP; and in the emerging Draft London Plan.

29. The Council's fourth reason for refusal concerned the lack of off-street parking to serve the proposed development, and the absence of a legal undertaking to enable a Traffic Regulation Order to be amended within this Controlled Parking Zone to ensure that the scheme would be largely 'car-free'. However, a signed and dated unilateral undertaking concerning this matter was submitted during the appeal process.

Planning Balance and Conclusion

30. I have found that the scheme would not harm the character and appearance of the area. There are also modest benefits in its favour. However, these benefits do not outweigh the significant harm that would be caused as a result of the poor living conditions for the scheme's future occupants, and the overbearing impact it would have on the outlook from the nearest properties on Prospect Road.
31. Core Strategy Policy CS NPPF states that the Council's approach will reflect the presumption in favour of sustainable development contained within the Framework. However, for the above reasons, I have no persuasive evidence that that presumption should apply here.
32. As the appeal will be dismissed on other grounds, it has not been necessary for me to consider the unilateral undertaking in any further detail, or indeed other matters raised by interested parties.
33. The scheme would conflict with the development plan when considered as a whole and, having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR