



Appeal Decisions

Site visit made on 9 July 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal A Ref: APP/N5090/W/19/3227283

Land at rear of 33 Friars Avenue, Whetstone, London N20 0XE

- 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 & Mrs Chapman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/6280/FUL, dated 17 October 2018, was refused by notice dated 17 December 2018.
 - The development proposed is erection of a detached dwelling.
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Appeal B Ref: APP/N5090/W/19/3227303

Land at rear of 33 Friars Avenue, Whetstone, London N20 0XE

- 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 & Mrs Chapman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0187/FUL, dated 14 January 2019, was refused by notice dated 27 March 2019.
 - The development proposed is erection of a detached dwelling.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matters

2. As set out above there are two appeals on this site. They differ only in that the Appeal B proposed development includes a sun room and utility room as additional ground floor accommodation compared to the development proposed under Appeal A. Also, the Appeal B proposal includes rooflights in the rear roof slope with an office and bathroom at first floor level rather than storage space as shown for Appeal A. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together.
3. The National Planning Policy Framework (the Framework) was revised on 19 February 2019 and this post-dates the Council's refusal notice in respect of Appeal A. I have considered the Framework as part of the determination of this appeal.

Main Issues

4. The main issues for both Appeal A and Appeal B are (i) the effect of the development on the character and appearance of the surrounding area and (ii) the effect of the development on living conditions of the occupiers of 31 and 33 Friars Avenue (No 31 and No 33) with particular regard to visual intrusion, and (iii) whether acceptable living conditions for the future occupiers of each of the proposed dwellings would be provided in terms of the amount and quality of internal space.

Reasons

Character and appearance

5. The appeal site forms part of the back garden to No 33, a 2 storey, semi-detached house of a design typical of the area. No 33's side boundary runs along Queenswell Avenue, with the trees and bushes in its back garden seen from the road above boundary fencing. The appeal site positively contributes to the spacious and landscaped character and appearance of Queenswell Avenue, the majority of which lies alongside lengthy back gardens.
6. Both Appeal A and Appeal B proposals would result in a new pitched roof dwelling providing accommodation at ground floor and first floor level in the roof space. Whilst set back from the road, both proposed dwellings would be of a height and position to make them visible from Queenswell Avenue, thereby impinging on the openness and landscaped appearance of the site and surrounding area. The appeal site is markedly shorter in depth compared to other properties in the locality and the proposals would noticeably reduce the length of No 33's garden. In addition, the proposed dwellings would be relatively close to the back of No 33, markedly at odds with the long back gardens seen between other nearby properties. Furthermore, the proposed units would also be smaller and of a different style and design compared to other houses seen in the vicinity of the appeal site. This combination of a loss of openness, proximity to No 33, relatively small plot sizes and inconsistent building design would result in both Appeal A and Appeal B developments appearing as cramped and incongruous features in the area. As such, both appeal proposals would fail to respect the distinctive local character in terms of scale, height and pattern of surrounding buildings and spaces.
7. I note the current appeals proposed dwellings that are lower and set back further from the road compared to 2 previous schemes for the site, both of which were subject of planning appeals¹. Whilst the current schemes provide space for frontage planting, the appeal developments would still be visible from the road through the access point gaps and from adjacent properties and therefore the revisions made to the previously refused schemes would not address the harm identified above to the character and appearance of the area.
8. Reference is also made to a dwelling at 101 Friern Barnet Lane. This property is unable to be seen from Queenswell Avenue and therefore has no visual influence on the appeal site and its immediate surroundings. It stands out in the area as being the only house positioned on former back garden, markedly at odds with the established pattern and local form of development. This

¹ Appeal reference numbers APP/N5090/A/11/2166243 and APP/N5090/A/12/2182740

dwelling fails to respect the character of the area and so is unworthy of replication and as justification to allow the appeals.

9. The appellant contends that, by their presence, the Appeal A and Appeal B proposals would deter littering and fly-tipping and so improve the character and appearance of the area. Even if accepted, any benefit in this regard would not address nor outweigh the more significant harm caused by the appeal proposals in terms of incongruity.
10. For the reasons outlined above, I conclude that the developments proposed under Appeal A and under Appeal B would cause significant harm to the character and appearance of the area. Consequently, and in this regard, they would both be contrary to policies 3.5, 7.4 and 7.6 of the London Plan 2016 (LP), policy CS5 of the Barnet Local Plan Core Strategy 2012 (BLPCS), policies DM01 and DM02 of the Barnet Local Plan Development Management Policies 2012 (BLPDMP) and the provisions of the Barnet Local Plan Supplementary Planning Document Residential Design Guidance 2016 (RDG). All of these aim, amongst other things, to ensure development proposals are of high quality design and to avoid harm to the character and appearance of an area.

Living Conditions of Occupiers of No 31 and No 33

11. The windows in the rear elevation of No 31 and No 33 look out over their back gardens. Given their openness and presence of trees and bushes, these gardens provide No 31 and No 33 with an attractive outlook from rear facing ground and first floor windows.
12. The dwellings proposed under Appeal A and Appeal B would be positioned about half way along the back garden and so, whilst seen, would be some distance away from the rear windows of No 31 and No 33. The proposed units would also be set off from the newly formed boundary, thereby providing scope for additional landscaping and boundary features to soften any visual intrusion caused by the appeal proposals onto the adjoining back gardens. As such, I am satisfied the proposed developments would not cause unacceptable levels of visual intrusion.
13. For the reasons outlined above, I conclude that the developments proposed under Appeal A and Appeal B would not significantly harm the living conditions of the occupiers of No 31 and No 33 by reason of visual intrusion. Consequently, and in this regard, both the Appeal A and the Appeal B developments would be in accordance with policy CS5 of the BLPCS, policies DM01 and DM02 of the BLPDMP as well as the provisions of RDG and Barnet Local Plan Supplementary Planning Document: Sustainable Design and Construction October 2016 (SPDSDC). These all aim amongst other things, to create places with a high standard of amenity for existing and future occupiers of property.

Living Conditions for Future Occupants

14. Policy DM02 of the BLPDMP states that, where appropriate, development will be expected to demonstrate compliance with, amongst other standards, minimum floor space requirements set out under policy 3.5 of the LP. Table 3.3 under LP policy 3.5 sets out the minimum requirements.
15. It is evident from the appellant's submissions that this dwelling is designed to meet the minimum requirements of a 1 person, 1-bedroom dwelling. As the

total floorspace provided is spread over two floors, the proposed dwelling fails to fall neatly into any of the categories set out in table 3.3. However, looking at the table as a whole it can be seen that an additional storey to a unit increases minimum floor space requirements by a maximum of 9 sqm. As such, a minimum floor space requirement of around 48 sqm can be derived from table 3.3 for a 1 person, 1 bedroom dwelling over 2 storeys.

16. The dwelling proposed under Appeal A would provide a gross internal area of some 51 sqm and therefore in excess of the derived minimum requirement. This figure is reliant upon the inclusion of first-floor accommodation (at some 16.5 sqm) in addition to the ground floor area (34.5 sqm). Whilst partly affected by low head room and being served by no windows, the upper floor would be accessed by a formal staircase and therefore capable of easy use by occupiers of the proposed dwelling. As such, I am satisfied the first-floor accommodation would contribute to the useable gross internal area and consequently, the Appeal A proposal is of sufficient size and quality to ensure acceptable living conditions for future occupiers.
17. The dwelling proposed under Appeal B is larger than the Appeal A scheme and therefore also provides an acceptable amount and quality of internal floorspace. Concern is raised by the Council over the outlook from the main living area/sun room. However, this room would have more than one window and an external door, so an extensive outlook from the main window is not essential in ensuring a satisfactory quality of accommodation.
18. For the reasons outlined above, I conclude that the developments proposed under Appeal A and under Appeal B would both provide acceptable living conditions for the future occupiers of each of the proposed dwellings in terms of the amount and quality of internal space. Consequently, and in this regard, they would both be in accordance with policies CS1 and CS5 of the BLPCS, policies DM01 and DM02 of the BLPDMP (and therefore policy 3.5 of the LP), as well as the RDG and the SPDSDC. All of these aim, amongst other things, to ensure that new residential development provides sufficient high quality internal floor space. Policy CS NPPF of the BLPCS is referred to in the Council's refusal reason but has no specific implications with respect to this main issue of the appeal.

Other Matters

19. Both appeal proposals would provide economic benefits in terms of creating employment opportunities during construction and occupiers supporting local facilities and businesses. The proposals would also each add a unit to the local housing stock in an urban location with reasonable access to public transport links and services. The proposals would represent housing development on a small site and so, as noted at paragraph 68 of the Framework, could contribute to the housing requirement of the area with a relatively quick build-out. I give these factors moderate weight in my consideration of the appeals.
20. The appellant contends the Council is unable to demonstrate a deliverable 5-year supply of housing land as the latest Monitoring Report is out of date and based on strategic policy that is more than 5 years old. On this basis, the appellant suggests the tilted balance in favour of granting planning permission for development as set out under paragraph 11(d) of the Framework applies. This means granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

21. The latest Monitoring Report submitted to me indicates a 5-year housing land supply can be demonstrated, although I note that this is now over 2 years old. Even if paragraph 11(d) is applicable in the determination of these appeals, the benefits of the proposed developments are limited given that they would both only result in a single additional dwelling. In contrast, the harm caused by the proposals to the character and appearance of the area would be considerable and so would significantly and demonstrably outweigh the limited benefits of the schemes.

Conclusion

22. I have found no harm in relation to the effects upon the living conditions of occupiers of No 31 and No 33 and that the proposed dwellings would both provide sufficient high quality internal floor space to serve future occupiers. However, the developments proposed under Appeal A and Appeal B would result in significant harm to the character and appearance of the area. That harm is the overriding consideration. The proposed developments conflict with the development plan when read as a whole, and material considerations do not lead me to decisions otherwise.
23. For the reasons given above, and taking into account all other matters raised, I conclude both Appeal A and Appeal B should be dismissed.

Jonathan Edwards

INSPECTOR