



Appeal Decision

Site visit made on 21 May 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2019

Appeal Ref: APP/N5090/W/19/3224122

23a Cricklewood Lane, Cricklewood, London NW2 1HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Bazaar Investments Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/6475/S73, dated 27 October 2018, was refused by notice dated 24 December 2018.
 - The application sought planning permission for erection of garage to replace original garage, located adjacent to the boundary with Thorverton Court. Existing access and dropped kerb to be utilised and remain unaltered without complying with a condition attached to planning permission Ref: APP/N5090/A/14/2214491 dated 3 June 2014.
 - The condition in dispute is No 3 which states that: The use of the garage hereby permitted shall be at all times ancillary to and occupied in conjunction with the main building and shall not at any time be occupied as a separate unit.
 - The reason given for the condition is : In the interests of the character of the area and the amenity of neighbouring residents.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the disputed condition is reasonable and necessary, having regard to the character of the area and the amenity of neighbouring residents.

Reasons

3. No 23 Cricklewood Lane is located within a largely residential area, and is a two-storey building, sub-divided into four flats. The appeal site is located closed to the flat addressed as 23b.
4. The appellant is seeking to remove the disputed condition, contending that as no occupier of the host building requires the garage, the condition prevents use by other parties. The appellant is willing to accept a replacement condition that would restrict the use to the parking of a motor vehicle, but not secure the use of the garage to an occupier of the host building.
5. Representations from local residents have suggested that the appeal building is in residential use. From my site visit, it would appear that there would be some difficulty in accessing the garage by a motor vehicle. However, this matter does not form part of the Council's statement or reason for refusal.

6. Whilst the Council's reason for refusal refers to the character of the area, the physical aspect of this can be separated, in that the building is already in existence and as there are no alterations proposed, then there would be no additional impact in relation to the physical presence of the building.
7. Nonetheless, the overall character of the area is urban in nature, with a mix of single dwellings and flat conversions. A garage building of the nature of the appeal proposal is traditionally seen as an ancillary addition to a residential property. When the Inspector allowed the original appeal to construct the garage, the condition was added to ensure that the garage would remain ancillary to the existing building that had been converted to flats. I find that the removal of the condition would open up the possibility of alternative uses for the building, including business or residential uses that would have the potential to alter the wider character of the area.
8. The change of emphasis of the building to that of a primary use would affect the character of the locality, with the potential to cause noise and disturbance to the closest residents to the building, from the associated comings and goings that would come with the use of the building that would not be associated with the main dwelling.
9. The appellant has stated that the building is redundant, as no current occupant of No 23 wishes to make use of the garage. However, I find that this is not sufficient justification to allow the building to potentially fall into alternative uses that would neither respect the character of the area, or protect the living conditions of the closest residents, by means of noise and disturbance, ostensibly by users of the building that may well not be part of the day to day occupation of the main flats.
10. The suggestion of the appellant to re-word the condition would still remove the ancillary nature of the building, and as stated previously, would have the potential to cause noise and disturbance to the closest residents from the alternative uses that could prevail. The Inspector, in allowing the previous appeal, sought to protect residents with the imposition of the condition.
11. I therefore conclude that Condition 3 is reasonable and necessary in its current form in order to protect the character of the area and the living conditions of neighbouring occupiers, having particular regard to noise and disturbance. There would be conflict with policies CS1 and CS5 of Barnet's Adopted Core Strategy (2012), Policy DM01 of the Development Management Policies DPD (2012) and the guidance set out in the Residential Design Guidance Supplementary Planning Document (2016) which collectively state that proposals should respect local context and local character and protect the amenities of residents. It is also drafted in a precise manner and is enforceable. The condition was reasonably imposed and is consistent in respect of guidance in the Framework.

Conclusion

12. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR