



Appeal Decisions

Site visit made on 14 August 2019

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Appeal A: APP/N5090/C/18/3214147

Land at 62 Crescent Road, Barnet, London EN4 9RJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Yianni Andreas Zertalis against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 24 September 2018.
- The breach of planning control as alleged in the notice is Without planning permission the installation of 3 no. air conditioning units on the rear elevation facing 74 St Margaret's Road.
- The requirements of the notice are 1. Remove the 3 no. air conditioning units and associated fixtures and fittings from the rear of the property.
- The period for compliance with the requirements is 1 month.
- The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice, as corrected, is upheld.

Appeal B: APP/N5090/W/18/3214152

62 Crescent Road, London EN4 9RJ

- 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 Yianni Andreas Zertalis against the decision of the Council of the London Borough of Barnet.
- The application Ref 18/3095/HSE, dated 15 May 2018, was refused by notice dated 9 August 2018.
- The development proposed is "Resite existing Air Con units which have already been installed. Retrospective planning for re-siting as shown on drawings dated 01/06/2018".

Summary of Decision: The appeal is dismissed.

Preliminary Matters

1. For clarification the ground (a) appeal associated with Appeal A is that planning permission should be granted for the air conditioning units in their current position on the rear elevation of the dwelling. Appeal B is concerned with the re-siting of the same units on the same elevation of the dwelling. In relation to this appeal I have taken the description of development from the planning application form which more adequately describes the proposal.

2. With regard to Appeal A the Council has referred in paragraph 3 of the enforcement notice to "St Margaret's Road". The name of this road is "Margaret Road". I am satisfied that the notice can be corrected accordingly without resulting in injustice to the appellant.

Main Issues

3. The main issues with regard to both appeals are the effect of the development on i) the character and appearance of the dwelling and the surrounding area and ii) the living conditions of adjoining residents with particular regard to noise disturbance.

Appeal A

Reasons

Character and Appearance

4. The appeal property is a detached dwelling, situated at the junction of The Crescent and Margaret Road, within an area characterised by predominantly two storey residential properties. Dwellings tend to vary in design, and the white rendered finish of the appeal property stands out in what is a prominent corner location.
5. Despite the air conditioning units being assimilated to a degree by the white colouring of the dwelling, their metal construction, boxy design and raised position on the rear wall gives the units an industrial and functional appearance that is obtrusive and incongruous with their residential surroundings. The boundary fence to the side elevation of the property does not serve to provide any screening benefits to the units, which appear prominent in relation to views from Margaret Road.
6. Although there is no direct visual impact on the adjacent dwelling due to the units being sited adjacent to the side elevation of that property, this does not overcome the harm I have identified above.
7. I conclude that the development results in harm to the character and appearance of the dwelling and the wider area and that accordingly there is conflict with Policy 7.6 of the London Plan 2016; Policy CS5 of Barnet's Core Strategy 2012; Policy DM01 of the Barnet Development Management Policies Development Plan Document 2012 (DPD) and the Council's Residential Design Guidance Supplementary Planning Document 2016 insofar as they seek to secure high quality design that preserves or enhances local character.

Noise disturbance

8. I have not been provided with a noise assessment, only the manufacturer's technical data in relation to the units. During my visit the units were switched on allowing me to observe them in operation. The units did not seem to be particularly noisy when observed standing immediately next to them, and also from the adjacent street (Margaret Road). However whilst this is a relatively quiet residential area, my observation took place during the day, when background noise levels are likely to be higher. The impact at night could be greater, despite a neighbouring resident saying that they are not personally adversely affected in this regard.

9. I find that in the absence of a noise assessment it is not possible to reach a definitive conclusion regarding noise impact. I cannot therefore rule out conflict with Policies DM01 and DM04 of the DPD insofar as they require development to demonstrate high levels of environmental awareness and seek to protect residents from noise disturbance. This therefore adds to the reasons set out above for not allowing the appeal.

Appeal B

Reasons

Character and Appearance

10. The appellant's case is that the air conditioning units could be relocated to a less obtrusive new position on the rear elevation of the dwelling. This proposal would involve lowering and recessing the units so that they would be further from Margaret Road.
11. However it was apparent, from my visit, that the units would continue to remain very prominent despite such modifications to their siting. I am in no doubt that this proposal would not serve to overcome the harm that I have identified and that the conflict with the aforementioned development plan policies would remain.

Noise disturbance

12. There has been no evidence provided to persuade me that the relocation of the air conditioning units would not result in noise disturbance to residents, such that there would not be conflict with the aforementioned Policies DM01 and DM04 of the DPD.

Other Matters

13. The appellant has set out that the purpose of the units is to provide habitable conditions within bedroom areas, notably to benefit his two young children. However in the absence of any evidence to persuade me that a more acceptable design solution cannot be found, this consideration carries very limited weight and does not therefore outweigh the above findings.

Conclusion

Appeal A

14. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice, with a correction, and refuse to grant planning permission on the deemed application.

Appeal B

15. For the reasons given above I conclude that the appeal should be dismissed.

Formal Decisions

Appeal A

16. It is directed that the enforcement notice be corrected by deleting the words "St. Margaret's Road" in paragraph 3 and substituting the words "Margaret Road" instead.

17. Subject to this correction, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

18. The appeal is dismissed.

Roy Merrett

INSPECTOR