
Appeal Decision

Site visit made on 13 August 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/N5090/W/19/3223929
78 Hendon Way, London NW2 2NG

- 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 Ms Melania Tudor Ilieff against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/4074/FUL, dated 29 June 2018, was refused by notice dated 28 August 2018.
 - The development proposed is single storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 78 Hendon Way, London NW2 2NG in accordance with the terms of the application, Ref 18/4074/FUL, dated 29 June 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: KD/EXT/PP/118/16/H-195.1; KD/EXT/PP/118/16/H-195.2; KD/EXT/PP/118/16/H-195.3; KD/EXT/PP/118/16/H-195.4; and KD/EXT/PP/118/16/H-195.5;

Preliminary Matters

2. The submitted planning application provides the description of the development as 'Single Storey Rear Extension' (Question 3) and describes the use of the property as 'Residential' (Question 14). Additionally, the question about the number of residential units (Question 17) is blank. In terms of the submitted drawings, drawing number KD/EXT/PP/118/16/H-195.1 shows the existing ground floor as one residential unit, with the existing first floor being a separate unit of accommodation with an independent access. However, drawing number KD/EXT/PP/118/16/H-195.3 shows the ground floor being sub-divided into three separate units of accommodation.
3. The Council's decision notice, at Informative 3, states: "*The plans appear to show the creation of additional flats in the property which would require planning permission but is not part of this application. The applicant is advised to submit a planning application for the change of the ground floor into additional flats.*" The Council has been clear in terms of their description of the development and how they have proceeded in their consideration of the submission before them. As such I am also clear that the application is not

seeking a change of use in relation to the ground floor and is only proposing a single storey rear extension. Bearing the above in mind, I have considered the appeal on the basis it is only seeking a single storey rear extension to the existing ground floor property.

4. My attention has been drawn to a previous appeal decision¹ related to this property, which dismissed an appeal for a proposed double storey rear extension. However, although the main parties have provided me with a copy of that appeal decision, I have not been provided with any details of the planning submission to which it relates or any other substantive evidence related to that appeal. Irrespective of this, and whilst planning history can be a material consideration, it is clear that the development proposal before me is of a different nature to the development subject to the previous appeal and the two are not directly comparable. In any event, I am required to determine the appeal as currently before me.
5. The Council within its ground of refusal refers to its Residential Design Guidance, Supplementary Planning Document, 2016 (SPD) which aims to help architects and developers to formulate design proposals which are appropriate to the Borough's suburban context, advising consideration should be given to the application at the standards alongside delivery of the Council's core strategy objectives. As such the SPD is guidance only and I shall proceed to consider the appeal on this basis.

Main Issue

6. The main issue is the effect of the development on character and appearance of the host building and surrounding area.

Reasons

Character and appearance of the host building and surrounding area.

7. No.78 Hendon Way is a semi-detached property which is located on the corner of Garth Road, in a predominantly residential area. The property has been converted into separate units of accommodation, with the ground floor being a flat and the upper floor appearing to be a 'house of multiple occupation'. The property, as a whole, has been previously extended to the rear by a part single and part two-storey addition. The single storey addition lies adjacent to the site's common boundary with the adjoining property, No.80 Hendon Way, and its roof area is used as a terrace. No.80 Hendon Way also has a single storey rear addition of a similar depth to the existing single storey rear extension on the appeal property.
8. The boundary of the appeal site along Garth Way is formed by a concrete block wall, that has been painted white and is approximately 2 metres in height. Vegetation from within the rear garden of the property has overgrown parts of the wall and when viewed from the road, combined with the trees within the garden of the property and in Garth Road, the character of the area is generally verdant. To the south of the appeal site, on the opposite side of Garth Road, is a hotel that has a flat roof rear addition that has a similar depth to that proposed on the extension sought on the appeal site.

¹ APP/N5090/W/17/3188632

9. The proposed development would extend the ground floor property with a single storey rear addition that projects from the existing rear elevation by some 3 metres and spans the majority of the width of its rear elevation, being set in slightly to deal with the tapering boundary. The proposed extension would be flat roofed with the highest point tying into the rear elevation of the property at some 3 metres in height.
10. When viewed from Garth Road, views over the open back gardens and of the rear elevations of neighbouring properties in Hendon Way is possible and these contribute to and reinforce the existing suburban pattern of development in this residential neighbourhood. In terms of the appeal property, the existing extensions, although relatively large, respect the character and proportions of the host property and appear as subordinate to it. Whilst the proposed single storey rear addition would be seen in contrast to this, due to the extension's proximity to the boundary wall located to the side of the site, its depth, height and flat roof design, its visibility and impact in the wider streetscene would be reduced and limited to such a degree that it would have a negligible impact on the wider character of the area and the surrounding streetscene, especially when viewed from Garth Road.
11. As such the development would not be seen as out of context with the surrounding area, when bearing in mind the flat roof addition to the rear of the hotel, located on the opposite side of Garth Road to the appeal site, which is clearly visible in the wider streetscene. Therefore, the proposal would not, either individually or cumulatively, result in a development that due to its bulk, scale, size and design would be overbearing in terms of its impact on the surrounding area or be read as a subsuming or disproportionate addition to the host property, especially bearing in mind its limited visibility in the wider area and surrounding streets.

Other Matters

12. Should the appeal be allowed the Council, in accordance with good practice, has recommended conditions it would seek to be imposed. These include: a condition requiring implementation of the development within as specified period, in accordance with Section 91 of the Town and Country Planning Act 1990 (as amended); a condition detailing the approved plans to avoid doubt and in the interests of proper planning; and a condition seeking external materials used to match those of the external surfaces of the existing building.
13. An implementation condition and approved plans condition would meet the 6 tests related to the imposition of planning conditions² and therefore should be imposed. However, in terms of a condition requiring matching materials the submitted application form specifies that brick/blockwork will match the existing and drawing number KD/EXT/PP/118/16/H-195.3 states "Proposed materials to match with the existing." As this is specified on the plans, as clarified in the submitted planning application form, and an approved plans condition is being imposed, a matching materials condition would not be necessary or reasonable and therefore it would fail to meet all of the 6 tests mentioned above.

² See: Planning Practice Guidance: Use of planning conditions Paragraph: 003 Reference ID: 21a-003-20190723

Conclusion

14. The proposed development would not have a harmful effect on the character and appearance of the host property and surrounding area. It would not conflict with the development plan, in particular Policy CS5 of Barnet's Core Strategy, 2012 or Policy DM01 of Barnet's Development Management Plan, Development Plan Document, 2012 that seeks to ensure, amongst other things, that new development preserves or enhances local characteristics and respects the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.
15. I therefore conclude this appeal for a single storey rear extension should be allowed and planning permission granted, subject to the conditions detailed in Paragraph 1 above.

Christopher Butler

INSPECTOR