



Appeal Decision

Site visit made on 13 August 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2019

Appeal Ref: APP/N5090/W/19/3229791

Cotswold Lodge, Stapylton Road, Barnet, EN5 4JD

- 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 Stephen Day and John Moody against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 19/0586/FUL dated 29 January 2019 was refused by notice dated 10 April 2019.
 - The development proposed is the demolition and rebuilding of a 2-storey side extension and conversion of 2 flats into 4-bedroom HMO flats and excavation of a new basement flat.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposed development on the character and appearance of the area
 - ii) the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings and
 - iii) whether the proposed development would provide satisfactory living conditions for the occupiers of the proposed basement flat.

Reasons

Character and appearance

3. The appeal property is located within a predominantly residential area with a mix of detached, semi-detached and terraced dwellings. The majority of the dwellings are 2-storey although the properties immediately to the west of the appeal property are taller, with the top floor within the roof space.
4. The appeal property is prominent on the corner of Stapylton Road and Salisbury Road. The existing side extension to the property is clearly visible from Stapylton Road. However, the substantially lower ridge height and set back from the front elevation of the original dwelling result in its being subservient to the original dwelling. The style of fenestration does not match that of the original dwelling, but I do not consider the existing extension to be harmful to the character and appearance of the area.

5. The proposed extension would be approximately 1.87 m wider than the existing extension reducing the set back from the front elevation of the original dwelling to approximately 0.75 m. The proposed gable to the front elevation would increase the bulk of the roofscape. Although at ground floor level the overall length of the proposed extension would be no greater than that of the existing extension, at second storey level it would extend approximately 3.0 m further. The proposed extension would thus be of a significantly greater bulk than the existing extension and fill part of the gap between the appeal property and its counterpart to the south, Esquina, which is located on the corner of Stapylton Road and The Drive.
6. However, notwithstanding a slight increase in the ridge height, the proposed extension would still be significantly lower than the original dwelling. The design, finish and fenestration of the proposed extension would harmonise more closely with the original dwelling. I note that both the Barnet Society and the Barnet Residents' Association consider that the proposed extension would represent an improvement on the existing situation. A substantial gap would still remain between the rear elevation of the proposed extension and the rear elevation of Esquina. Notwithstanding the increase in bulk, on balance I consider that the proposed extension would have an acceptable effect on the character and appearance of the area.
7. Accordingly, I conclude that the proposed development would not conflict with Policies CS NPPF, CS1 and CS5 of the Local Plan Core Strategy (2012) (LPCS) or Policies DM01 and DM02 of the Barnet Local Plan Development Management Policies DPD (2012) (DMP) insofar as they seek to protect character and appearance.

Living conditions of the occupiers of neighbouring properties

8. The existing extension to the appeal property runs along the side boundary of the neighbouring property, 55 Salisbury Road, for approximately 10.4 m of which approximately 6.4 m is 2-storey. The proposed extension would extend that 2-storey form along the boundary by a further approximate 3 m, which would result in 2-storey form along almost the full extent of rear garden of that property.
9. The height and length of the ridge of the proposed extension would not be significantly increased compared to the ridge of the existing extension and the eaves height would not be increased along this boundary. A small section of the single storey element of the existing extension would be reduced in height. Nevertheless, I consider that the additional 3 m of 2-storey form in the proposed development would materially increase the bulk of built form relative to No. 55 and that this would be overbearing for the occupiers of that property.
10. No Daylight / Sunlight Reports or other evidence have been submitted by the appellants, Council or the occupiers of No. 55, who have objected to the proposed development, to demonstrate the effect of the proposed development in terms of overshadowing. However, due to the orientation of the appeal property and No. 55, I believe that the proposed extension would result in additional overshadowing of the rear garden of No. 55 during the morning and possibly early afternoon.
11. I consider that in combination these effects would unacceptably exacerbate an already less than ideal situation and that the proposed extension would cause

material harm to the living conditions of the occupiers of No. 55. However, given the separation of the rear gardens of the properties to the other side of No. 55 from the appeal site, I do not consider that the proposed development would be materially harmful to the living conditions of the occupiers of those properties.

12. Nevertheless, I conclude that the proposed development would be contrary to criterion e) of Policy DM01 of the DMP which seeks to protect character and amenity, including the living conditions of the occupiers of adjoining properties, and with the advice in the Residential Design Guidance SPD (2016) on maximising sunlight. I find no conflict with Policy CS5 of the LPCS which seeks to protect and enhance Barnet's character.

Living conditions of the occupiers of the proposed basement flat

13. The proposed basement flat would have windows in the side elevation serving the kitchen area and bedroom and a pair of glazed doors serving the living room / kitchen area opening on to a small courtyard. The windows would receive light via a light well, but the retaining wall would be in such close proximity to these windows as to severely restrict their outlook.
14. The proposed courtyard would be approximately 2.8 m deep between the rear elevation of the proposed basement flat and the retaining wall and approximately the same distance below ground level. I consider that the proximity and height of the retaining walls to the rear elevation of the proposed flat would be oppressive. The means of enclosure along the boundaries with adjoining properties and to the rear of the proposed wheelie bin storage area above the retaining walls would exacerbate the sense of enclosure and oppression.
15. I accept that two of the windows in the side elevation would serve the bedroom, but whether looking to the side or the rear, the outlook would be substantially constrained, and there would be no relief from this constraint in any direction. I consider that the living conditions of the future occupiers of the proposed basement flat would be unsatisfactory.
16. I conclude that the proposed development would be contrary to Policy CS1 of the LPCS which seeks to create attractive environments for people living in Barnet and to criterion e) of Policy DM01 of the DMP which seeks to protect character and amenity, including the living conditions of the potential occupiers. It would also conflict with the advice in the Residential Design Guidance SPD (2016) and the Sustainable Design and Construction SPD (2016) on outlook.
17. I find no conflict with Policy CS NPPF of the LPCS, which is a generic policy setting out the presumption in favour of sustainable development, nor with Policy CS5 of the LPCS which seeks to protect and enhance Barnet's character. I am not persuaded that the proposed development would conflict with Policy DM02 of the DMP on development standards.

Other matters

18. The appellants contend that the Council cannot demonstrate a 5-year supply of housing land. This position is not refuted by the Council. In accordance with footnote 7 to paragraph 11 of the National Planning Policy Framework (the Framework), the policies which are most important for the determination of the

- application should therefore considered to be out of date. In such situations, under paragraph 11 d), planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
19. The appellant suggests that the proposed development would deliver environmental benefits in the form of a better-designed extension and reducing the need to travel and reliance on private transport. The appellant suggests that the proposed development would deliver a social benefit in assisting in the provision of sufficient homes and an economic benefit from the build process and spending by future occupiers.
20. However, as stated above, I do not consider the existing extension to be harmful to the character and appearance of the area, and so do not consider its replacement to be a benefit. I accept that the proposed development would result in an increase of 6 units of accommodation. However, as the occupancy of the additional and remaining units in the proposed extension would be restricted by their small size, the Council suggests that the proposed development would only result in an increase in accommodation for one additional person. The appellant has not disputed this. Accordingly, the benefits of the proposed development in reducing the need to travel and reliance on private transport, in assisting in the provision of sufficient homes and in future spending by the occupiers of the proposed accommodation are limited. The build process would only provide a temporary benefit.
21. I have identified above that the proposed development would result in harm to the living conditions of the occupiers of No. 55 and of the proposed basement flat. Accordingly, the development would be contrary to paragraphs 124 and 127 of the Framework in respect of creating better places in which to live and ensuring that developments create places that have a high standard of amenity for existing and future users. I conclude that these adverse impacts significantly and demonstrably outweigh the limited benefits that would result from the proposed development as identified above.

Planning balance and conclusion

22. Being considered out of date does not mean that the policies of the development plan have no weight. The approach of Policies CS1 and DM01 as regards creating attractive environments for people living in Barnet and protecting character and amenity is in accordance with paragraphs 124 and 127 of the Framework. Accordingly, I give them full weight in the determination of this appeal.
23. I have concluded above that the proposed development would conflict with these adopted policies and there are no material considerations of sufficient weight before me to outweigh the totality of the harm arising nor the conflict with the development plan as a whole.
24. Accordingly, for the reasons given above and having had regard to the other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR