
Appeal Decision

Site visit made on 10 October 2019

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/N5090/W/19/3233907

67 Highfield Gardens, London NW11 9HA

- 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 Samuel & Odelia Maierovits & Fink against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3065/FUL, dated 30 May 2019, was refused by notice dated 23 July 2019.
 - The development proposed is demolition of existing dwelling and erection of a two-storey dwelling with basement level and room in the roof-space. Associated refuse/recycling, parking and cycle store.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form incorrectly gives the appeal site as 57 Highfield Gardens. I have therefore taken the site address from the Council's decision notice and the appeal form.
3. For clarity I have added to the description of development that the proposal is for a dwelling.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 65 Highfield Gardens.

Reasons

5. The appeal site comprises an existing two-storey detached dwelling. It is located in a residential area that is primarily made up of other two storey detached and semi-detached dwellings.
6. The proposal involves the demolition of the existing dwelling and its replacement with a two-storey detached dwelling with basement and roof-level accommodation resulting in development over four levels.
7. The proposed dwelling sits between two existing two-storey detached dwellings namely nos. 65 and 69 Highfield Gardens. Due to the siting and design of the proposed dwelling relative to the siting and orientation of 69 Highfield Gardens,

the proposal would not have an unacceptable impact on the living conditions of this property.

8. In relation to 65 Highfield Gardens, the proposal would extend beyond the rear of this property at the first-floor level. The proposed dwelling would sit towards the south/south-west of the neighbouring property (no. 65) and combined with the massing and height of the development at this point it would cause an unacceptable loss of daylight and sunlight to the closest room in the first floor. Also due to the massing and height of the development and its siting, it would have a detrimental impact on the outlook from this room.
9. The proposal would therefore have an unacceptable impact on the living conditions of 65 Highfield Gardens, in terms of loss of daylight, sunlight and outlook. It would be contrary to Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012). This policy seeks to ensure, amongst other things, that development proposals should be designed to allow for adequate daylight, sunlight, and outlook for adjoining occupiers.
10. The proposal would also be contrary to the Barnet Residential Design Guidance Supplementary Planning Document (2016) which outlines that careful orientation and design of buildings can ensure daylight and sunlight levels are maximised, without compromising or reducing daylight and sunlight levels of adjoining properties.

Other Matters

11. I have had regard to the extant planning consent for a similar form of development at the appeal property that would result in the proposed dwelling being sited further away from 65 Highfield Gardens. The planning merits of the extant consent are not for me to consider, suffice due to its siting, it will have less impact on the living conditions of the neighbouring property than the appeal proposal. I have considered the appeal on its own individual merits and the extant consent does not override the harm I have identified with the proposal.
12. The appellant and the Council have commented on the use of what is often referred to as the '45-degree rule'. This approach involves drawing an imaginary line from the centre of the closest habitable room window to assess the impact of a development. The Council consider that the scheme would breach a 45-degree line when drawn from the closest window in the neighbouring property although information submitted by the appellant appears to show it would not. The Council do not however have a policy that incorporates this methodology and therefore it has little weight in the appeal. Whether the development does, or does not, breach a 45-degree line from the centre of the closest habitable room window does not override the harm I have identified with the proposal.
13. The appellant considers that the proposal represents a betterment in design terms from the extant planning permission by removing a step in the building. This arrangement is to the rear of the premises and would not serve to heavily impact on the appearance from the street-scene. I do not find that the proposal has any clear benefit in terms of design over the extant consent that would override the harm I have identified.

Conclusion

14. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR