
Appeal Decision

Site visit made on 14 October 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/N5090/W/19/3234494

68 The Ridgeway, Golders Green, London NW11 8PG

- 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 BY Developments Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/1646/FUL, dated 15 March 2019, was refused by notice dated 22 May 2019.
 - The development proposed is: Conversion of the existing dwelling into 7no self-contained flats. Roof extension including dormer windows to front rear and side elevations. Single storey rear extension. Associated refuse and recycling, parking, cycle store and amenity space.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant company (the appellant) submitted a draft Unilateral Undertaking (UU) with the appeal in relation to the parking of vehicles within the controlled parking zone. The undertaking seeks to prevent the occupation of any unit within the development by a person holding a residents' parking permit. I have considered this matter below.
3. As part of the appeal amended plans have been submitted which seek to address concerns raised on the gross internal area of one unit and the arrangement of rooms to avoid stacking. Given the changes are minor, I have accepted the amended plans and determine the appeal on the basis of them. I am satisfied that no interested party has been prejudiced by my approach.

Main Issues

4. These are whether the proposal would cause harm to:
 - the character and appearance of the area;
 - the living conditions of the occupiers of neighbouring residential properties with particular regard to noise and disturbance
 - the living conditions of the occupiers of the proposed flats, having regard to the levels of floorspace and the layout of the units and the provision made for external open space.

- Highway safety due to increased demand for on street parking and the associated traffic movements.

Reasons

The character and appearance of the area

5. The appeal property lies in a mature residential area, mainly composed of large 2 storey detached houses, some of which have been converted to flats. There are some sites in the area which have been redeveloped for flats, including a large 3 storey development at No 76 and a more recent development at No 87.
6. The property is attached to the neighbouring house, No 70, and is 2 storey in height with a pitched roof with dormer and rooflights. The main frontage of the property faces onto The Ridgeway, where there are two drives and a small area of garden. To the rear, there is a garden with a narrow frontage onto Gresham Gardens, containing an access gate.
7. The Council's first reason for refusal could be interpreted as an objection in principle to the proposed conversion. The Council has clarified that this is not the case, given the number of other properties on The Ridgeway that have been converted to flats. The appeal property also has planning permission for conversion to 2 flats granted in February 2019.
8. The proposal would have some effect on the appearance of the property as viewed from the street, due to the formation of 4 parking spaces and a bin store. Most other properties in this section of the street retain some areas of planting adjacent to the street and have discreet storage for bins. Some replacement planting is proposed, although located behind the parking and bin store, and therefore would not fully compensate for the loss of the existing planting which contributes to the character of the street. However, the area is not a designated conservation area, nor is it covered by an Article 4 Direction¹ which would prevent such changes being made by the owner without consent.
9. The other external alterations, including an additional pitched roof dormer to the front and small flat roof dormers to the side and rear, would have very little effect on the character or appearance of the area, although to a limited extent they would add to the accretion of roof extensions on the property. At ground floor, there would be an extension to the rear to provide increased space within flat 2. Although flat roofed, this would have little effect on the character or appearance of the area due to the height of the existing boundary fence/wall with Gresham Gardens which would provide some screening.
10. The Council refers in reason no 1 to Policy CS1 of the Core Strategy Development Plan Document² (the CSDPD). This is an overarching policy, which amongst other things seeks to promote the highest standards of urban design, therefore I do not see it as directly relevant to the proposal.
11. I therefore conclude that the proposal would not cause harm to the character and appearance of the area and would comply with Policy DM01 of the Barnet Local Plan Development Management Policies Development Plan Document³ (the DM-DPD) and Policies CS5 of the CSDPD and the related guidance

¹ The Town and Country Planning (General Permitted Development)(England) Order 2015 – Article 4, Directions Restricting Permitted Development

² Adopted September 2012

³ Adopted September 2012

contained in the Barnet Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (the RD-SPD) which, amongst other things, require that proposals should preserve and enhance local character.

Living conditions of the occupiers of neighbouring properties

12. The parties agree that the existing dwelling could accommodate up to 16 persons. The proposed flats, based on the appellant's schedule of accommodation, could accommodate up to 19 persons.
13. However, there would be an increase in households from 1 to 7. Given that persons in separate households are more likely to have different work and social patterns than those living in a single household the proposal would be likely to result in a significant increase in the comings and goings from the property.
14. It is possible that a single 'multi-generational' household may also have some variation in work and social patterns, however the likelihood is that this would not be comparable with 7 separate households. Given the close proximity of the houses to either side of No 68 I am satisfied that such an increase in the number of dwellings would be harmful to the living conditions of the occupiers of these properties due to increased noise and disturbance.
15. The proposal would therefore conflict with Policy CSNPPF and CS5 of the CSDPD and Policy DM01 of the DM-DPD, and the related guidance in the RD-SPD and Council's Sustainable Design and Construction Supplementary Planning Document 2016 (the SDC-SPD). These policies require, amongst other things, that development should respect the local context and should contribute to people's sense of place, safety and security. Policy CSNPPF requires that proposals should conform with specific policies in the Framework, which is clear that new development should not compromise the living conditions of existing users.

Living conditions of the occupiers of the proposed flats

16. Following the submission of amended plans, I am satisfied that the London Plan Space standards are met and built in storage has been incorporated. With respect to stacking, the apparent problems with the original floor plans have largely been overcome. Under the original plans, bedrooms in Flats 1 and 4 would have been located above or below living areas. The amended plans resolve these problems through a repositioning of some bedroom and living areas, although one bedroom in Flat 7 would appear to remain above a living area in Flat 5⁴. Flat 2 remains single aspect, however given the orientation, the size of the windows openings and the limited depth of the unit I am satisfied that it would provide an acceptable living environment for future occupants.
17. However, the bedrooms to Flats 1 and 3 would be overlooked by persons entering and leaving via the main entrance. In addition, cars entering the parking spaces at night would shine headlights directly into these rooms. There would also be the potential for persons in the bedrooms to be disturbed by noise and disturbance from people entering and leaving via the main door.
18. The existing rear garden would be more than sufficient to satisfy the Council's standard of 5m² per habitable room, and would be well located in relation to

⁴ On the amended plans submitted with the appeal, first floor flats are numbered 3 and 4 not 4 and 5.

Flats 1, 2 and 3. However, the occupiers of the other, above ground floor flats, would have to exit the building via the front entrance and walk round into Gresham Gardens and enter the amenity space area via the back gate. This would not achieve an acceptable level of accessibility for the residents of those units due to the length of the route, and in this respect the proposal would not provide acceptable living conditions for all residents.

19. I therefore conclude that due to the lack of accessibility to external open space for all occupiers and the internal layout which would lead to problems of noise and disturbance for the occupiers of some flats, the proposal would not be acceptable in terms of the living conditions which would be experienced by the future occupiers of the proposed flats. In this regard it would not be in conformity with Policy CS5 of the CSDPD and Policies DM01 and DM02 of the DM-DPDP and, and the related guidance contained in the and the RD-SPD and SDC-SPD which require, amongst other things, that new development should represent high quality design and provide satisfactory living conditions for residents including access to open space.

Highway and pedestrian safety and competition for on street parking spaces

20. Four off-street parking spaces are proposed and the Council is satisfied that subject to a Section 106 agreement preventing future occupiers of the flats being able to obtain residents parking permits, the proposal would not result in increased competition for on street spaces.
21. The obligations which the draft UU seeks to impose would require the owner of the property to inform each new occupier of a flat that they will not be entitled to be granted a residents parking permit, or to buy a contract for a space within a Council owned car park; and not to occupy, or permit the occupation of, any flat by persons in possession of a residents' parking permit, or be permitted to park in a Council car park unless holding a disabled badge.
22. I have concerns that the terms of the UU that has been provided may not be enforceable. A previous Court of Appeal⁵ ruling provides that Section 106 alone is not an appropriate mechanism under which to restrict access to parking permits by residents, however where section 16 of the Greater London Council (General Powers) Act 1974 (the other Act) is also used, obligations in relation to the issue of parking permits can be legally imposed.
23. The UU does not make reference to the power under Section 16 of the other Act. In the absence of this citation I am unable to say conclusively that the UU would be effective in preventing the use of parking spaces within the controlled parking zone and the proposal could therefore give rise to additional pressure on residents parking spaces in the local area. Given that I am dismissing the appeal it is not necessary for me to go further on this point.
24. I therefore conclude on this main issue, based solely on the above point about the enforceability of the UU, that the proposal would be likely to result in increased parking pressure in the area, and the associated vehicle movements would create additional risks to highway and pedestrian safety, contrary to Policy DM17 of the DM-DPDP, which seeks to ensure that new development makes satisfactory provision for parking.

⁵ R (oao Khodari) v Royal Borough of Kensington and Chelsea & Cedarpark Holdings Inc [2017] EWCA Civ 333.

Conclusion

25. For the above reasons, I have found harm to the character and appearance of the area and living conditions of residents living nearby and future occupiers. Irrespective of any harm arising from highway safety and taking account of other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR