



Appeal Decision

Site visit made on 16 September 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2019

Appeal Ref: APP/N5090/W/19/3232775

16 Plantagenet Road, Barnet EN5 5JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Howarth Homes PLC against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/2473/S73, dated 25 April 2019, was refused by notice dated 30 April 2019.
- The application sought planning permission for variation of conditions from the previously amended planning permission B/04398/13 dated 10 December 2013 for demolition of existing buildings and erection of 1 No. 2 storey building, with rooms in roof-space to provide 9 flats and office floor space without complying with 2 conditions attached to planning permission Ref 15/07269/S73, dated 25 January 2016.
- The conditions in dispute are:
 - i. No. 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 22053A/10 T2 Drawing No. 22053A/21 C4 Drawing No. 22053A/22 C4 Drawing No. 22053A/23 C4 Drawing No. 22053A/24 C2 Drawing No. 22053A/25 C2 Drawing No. 22053A/26 C1.
 - ii. No 16 which states that: Before the building hereby permitted is occupied the proposed windows at first floor level and above in the south elevation facing the properties which front Leicester Road shall be glazed with obscure glass and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.
- The reasons given for the conditions are:
 - i. No. 1: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012). And: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).
 - ii. No. 16: To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks variation of the wording of extant condition 16 set out above to:
The windows in the first floor level and above in the south elevation facing the properties which front Leicester Road shall be glazed in accordance with the details shown on drawings 22053A/10 Rev T3, 22053A/21 Rev C5, 22053A/22 Rev D4, 22053A/23 Rev C5, 22053A/24 Rev C3 and 22053A/26 Rev C2 and shall be permanently retained as such thereafter.
3. The description of the development has changed from that on the application form but the appellant has used the version on the decision notice in their appeal statement and has indicated the revised description is acceptable to them.
4. The application sought changes to the type of glazing to 9 windows in total. The Council have accepted that 8 of these are suitable in a parallel planning application (granted planning permission on 25 June 2019, Ref: 19/2474/S73) which leaves one window, opening WF16 to bedroom 2 of Unit 5 on the first floor, as the particular focus of this appeal.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of neighbouring residents.

Reasons

6. The appeal relates to a 3-storey building that has been completed. This comprises offices on the Plantagenet Road frontage with 9 flats to the rear. The southern elevation faces onto 14 Plantagenet Road which is currently under construction and the rear gardens of properties which front onto Leicester Road. 2 Leicester Road is the closest property. The adjacent wall at No 14 will be blank once completed and therefore will not lead to concerns about overlooking and privacy.
7. The internal layout of the appeal building has been changed from that previously proposed. The effect is that some rooms have switched from non-habitable to habitable and vice-versa. I understand that no express permission was given for changing the internal layout although revised plans showing the current layout were attached to the previous planning permission to vary conditions (Ref: 15/07269/S73). While the appeal for changing condition 16 relates to nine windows the outstanding matter of contention is whether clear glazing to opening WF16 which serves as bedroom No 2 to Unit 5 should or should not be permitted. This bedroom directly overlooks the gardens of dwellings fronting onto Leicester Road via window WF16.
8. I was able to view the southern elevation from outside but only from ground level. There is a boundary wall between the appeal site and adjacent properties and also some significant mature vegetation in the rear gardens of the houses on Leicester Road. These features do not, however, prevent views from the first-floor bedroom window of Unit 5 as the photographs in Appendix 4 of the appellant's evidence demonstrate.
9. Consequently, the clear glazing to bedroom No 2 of Unit 5 gives rise to harm to living conditions of the residents of the occupiers of dwellings on Leicester Road

through the clear and close overlooking of gardens and a resultant loss of privacy. I have considered if other measures – such as additional planting as suggested by appellant – could overcome the problem but conclude this would be unsatisfactory as this could lead to insufficient screening to protect neighbour privacy.

10. I appreciate that habitable rooms are fitted with clear glazing in most circumstances, but it is apparent in this case that the privacy of residents in properties that existed for many years prior to the construction of 16 Plantagenet Road should take precedence as they predate the appeal development.
11. For the foregoing reasons, the proposal would have a harmful effect on the living conditions of neighbouring residents. Consequently, the proposed change in condition would be contrary to Policy CS5 of Barnet's Adopted Core Strategy (2012), Policy DM01 of the Adopted Development Management Policies DPD (2012) as well as guidance in the Adopted Residential Design Guidance SPD (2016) all of which seek to encourage a high standard of design including protection of residential living conditions.

Conclusion

12. For the reasons stated above I dismiss this appeal.

David Carter

INSPECTOR