



Appeal Decisions

Site visit made on 7 October 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2019

Appeal A: APP/N5090/C/19/3219653

Land at 2 Park Road, Barnet EN4 9QA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr P Nicolas against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 29 November 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission the construction of a double storey rear extension with bay feature.
 - The requirements of the notice are: Either 1 Demolish the rear extensions including the double storey bay feature and restore the land back to the state that it was prior to the breach as shown in 'Existing North Elevation' and 'Existing West Elevation' on drawing number 80217 of planning permission reference 17/3307/HSE dated 08.09.2017 or 2 Amend the development to match the 'Proposed North Elevation and 'Proposed West Elevation' as shown on drawing number 80217 of planning permission reference 17/3307/HSE dated 08.09.2017 and 3 Permanently remove all constituent materials resulting from the works 1. or 2. above from the property.
 - The period for compliance with the requirements is 2 Months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeal been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B: APP/N5090/C/19/3219648

Land at 2 Park Road, Barnet EN4 9QA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr P Nicolas against an enforcement notice issued by the Council of the London Borough of Barnet.
 - The enforcement notice was issued on 29 November 2018.
 - The breach of planning control as alleged in the notice is: Without planning permission the construction of a porch.
 - The requirements of the notice are: 1 Demolish the porch and restore the land back to the state that it was prior to the breach as shown in 'Existing North Elevation' and 'Existing West Elevation' on drawing number 80217 of planning permission reference 17/3307/HSE dated 08.09.2017. 2 Permanently remove all constituent materials resulting from the works in 1. above from the property.
 - The period for compliance with the requirements is 2 Months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeal been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal C: APP/N5090/W/18/3219416
2 Park Road, New Barnet, Barnet EN4 9QA

- 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 Mr P Nicolas against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/4772/RCU, dated 31 July 2018, was refused by notice dated 23 November 2018.
 - The development proposed is: Conversion of single dwellinghouse into 2no. self-contained residential units. Associated amenity space, refuse store, off-street parking and new bay and porch.
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Summary of Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B

2. The appeal is dismissed and the enforcement notice is upheld with a variation.

Appeal C

3. The appeal is allowed in part and dismissed in part, as set out below in the Formal Decision.

Preliminary Matter

4. The parties have used different descriptions for the development proposed in respect of Appeal C. I have consequently adopted a version proposed by the appellant which I consider accurately reflects the development sought. This is detailed in the banner heading above and I have accordingly determined the appeal on this basis.

Appeal A

The ground (a) appeal

5. The main issue is the effect of the double storey extension on the character and appearance of the area.

Reasons

6. The site is located on a reasonably generous corner plot set back slightly from Crescent and Park roads. It accommodates an end of terrace building. The area is predominantly residential in character.
7. The rear extension is constructed from matching materials, albeit the entire building has been rendered. It consists of a two-storey bay feature which replicates an existing feature on the other corner of the building. The extension however remains subservient to the original building, with a lower ridge height, and is neither prominent nor incongruous given its scale, proportion, massing and that it is set back from the road.

8. The extension does not result in the infilling of an important gap between other properties as a garden area is retained between the extension and the property to the rear. It therefore does not adversely affect the rhythm, pattern or grain of the street-scene. Whilst a bay feature is not a characteristic of Park Road, it is nevertheless a feature of the appeal property. It therefore represents high quality design and is not detrimental to the character and appearance of the host building or wider street-scene.
9. I conclude that the double storey extension is not harmful to the character and appearance of the area and so accords with Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document, 2012 (the CS), and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document, 2012 (the DMP). These policies, amongst other things, seek to protect and enhance Barnet's character and for development to represent high quality design. For the same reasons it accords with Policies 7.4 and 7.6 of the London Plan¹, the Barnet Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (the SPD) and the good design objectives of the National Planning Policy Framework (the Framework).

Conclusion on Appeal A

10. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Appeal B

The ground (a) appeal

11. The main issue is the effect of the porch on the character and appearance of the area.

Reasons

12. The porch is located so that it fronts onto Park Road. It is of gable-ended design, which does not reflect the predominantly hipped roof form of the remainder of the building. Given its width and the steep pitch of the roof, the porch is not subordinate and appears as an overly large and high addition.
13. I have little evidence to persuade me how the porch represents a high quality design. Given the open frontage in this location, it is consequently a prominent and incongruous addition to the host building. It is also conspicuous within the street-scene owing to its height and form.
14. I conclude that the porch is harmful to the character and appearance of the area and so fails to accord with Policies CS1 and CS5 of the CS and Policy DM01 of the DMP. For the same reasons it fails to accord with Policies 7.4 and 7.6 of the London Plan, the SPD and the good design objectives of the Framework.

The ground (g) appeal

15. I appreciate that two months is unlikely to amount to a sufficient period to enable the appellant to instruct contractors and for the required works to be

¹ The London Plan, The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016

completed. I have however not been persuaded that a substantially longer period is required and so I consider a period of 3 months strikes an appropriate balance. To this extent the appeal on ground (g) succeeds.

Conclusion on Appeal B

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Appeal C

17. The appeal application relates to the subdivision of the property to create one 2-bedroom flat and one 1-bedroom flat as well as the provision of two car parking spaces, refuse stores and outside garden space. It also seeks the retention of the extension, that is the subject of Appeal A, but proposes a different porch to that the subject of Appeal B. As I have already found that the extension is not harmful to the character and appearance of the area, the main issues are:

- i. whether the development would provide acceptable living conditions for occupants, having particular regard to the adequacy of private outside space;
- ii. whether the development would provide acceptable living conditions for occupants, having particular regard to the provision of internal space in respect of the southern flat; and,
- iii. the effect of the proposed porch on the character and appearance of the area;

Reasons

Private outside space

18. The plans submitted with the appeal application indicate a garden area for each flat which are in excess of the minimum space requirements of the SPD. I am also satisfied, that owing to the position of the garden for the northern flat, that this space would provide for adequate private outside space for occupiers.
19. The area proposed for the southern flat is located at the front corner of the site and enclosed by a 1m fence, albeit some planting is behind. This area however remains open to views from users of the footway and highway at the junction with Crescent and Park Roads and so would not result in a private outside area for occupiers. Whilst I accept that the site is located in close proximity of a public park, and this would meet some of the needs of occupiers, it does not provide an adequate substitute for outside space that is private.
20. On the basis that I did not find the front garden area adequate, the appellant has requested that I consider an amended plan that would subdivide the proposed garden of the northern flat so that it provides an area for each flat. I am not clear on the evidence before me whether the space provided would still be sufficient to comply with the SPD, but, notwithstanding this, the subdivision would result in a comparatively small area for the southern flat in close proximity of the footway. Furthermore, it would be directly overlooked by the bay window which is intended to serve the northern flat.

21. I have not been persuaded on the evidence before me, particularly as this area of garden is at a lower level, that screening or other measures, that could otherwise be controlled by planning conditions, would adequately restrict the overlooking of this area such that it would result in an adequate area of private outside space.
22. I conclude that the development would not provide acceptable living conditions for occupants, having particular regard to the adequacy of private outside space for the southern flat. It therefore fails to accord with Policy CS5 of the CS and Policies DM01 and DM02 of the DMP. For the same reasons it fails to accord with the SPD and the achieving well-designed places objectives of the Framework.

Internal space

23. The plans submitted with the appeal application indicated that the southern flat had two bedrooms. On this basis the Council calculated that it did not meet the space standards detailed within the SPD, as it had a Gross Internal Area (GIA) of 64sqm.
24. The appellant however advises that the second bedroom was not accurately shown on the submitted plans and has provided a corrected plan showing the true layout of the flat. On this basis it is contended that the second bedroom, given its reduced size, should only be classed as a study and accordingly the proposal in this regard is for a one bedroom two person flat.
25. I have little evidence from the Council to dispute the appellants contention. A planning condition could also be used to restrict the use of the room concerned so that it does not provide sleeping accommodation. The southern flat would therefore result in a GIA in excess of that required by the SPD for a one bedroom two person flat.
26. I conclude that the development would provide acceptable living conditions for occupants, having particular regard to the provision of internal space in respect of the southern flat. It therefore accords with Policies CS1 and CS5 of the CS and Policies DM01 and DM02 of the DMP. For the same reasons it accords with the SPD and the achieving well-designed places objectives of the Framework.

Porch

27. The scale and design of the proposed porch closely resembles the original porch and is suitably subordinate to the original building. A submitted photograph/screen shot of the original porch also indicates that it contained two doors. Even if I am wrong, and whilst I appreciate the desire of the Council for only one door, the presence of two doors would not in itself be unacceptable or otherwise have an unacceptable impact on the appearance of the building or upon the surrounding area.
28. I conclude that the proposed porch would not be harmful to the character and appearance of the area and so accords with Policies CS1 and CS5 of the CS and Policy DM01 of the DMP. For the same reasons it accords with Policies 7.4 and 7.6 of the London Plan, the SPD and the good design objectives of the Framework.

Conclusion on Appeal C

29. I have found that the development results in inadequate private outside space for the southern flat. This harm is not outweighed by my findings in respect of the adequacy of internal space and that the proposed porch, as well as the extension that I considered under Appeal A, are not harmful to the character and appearance of the area. As I have already allowed Appeal A, I will therefore only grant planning permission in respect of Appeal C insofar as it relates to the porch.
30. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Overall Conclusion

31. I have found the extension the subject of Appeal A to not be harmful to the character and appearance of the area. Given the development has been completed and raises no other planning issues that need to be ameliorated, planning conditions are not necessary.
32. I have found the porch the subject of Appeal B to be harmful to the character and appearance of the area, but that one additional month is required in order to provide sufficient time for compliance with the enforcement notice.
33. In light of my findings in respect of Appeal C, I will only grant planning permission insofar as it relates to the porch. In respect of planning conditions, and in addition to the standard time limit condition, it is necessary to specify the plans in the interests of certainty. A condition requiring the use of matching materials is also necessary in the interests of protecting the character and appearance of the area. I have not been persuaded on the evidence before me that other planning conditions are necessary or relevant to the development to be permitted.

Formal Decision

Appeal A

34. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a double storey rear extension with bay feature on land at 2 Park Road, Barnet EN4 9QA referred to in the notice.

Appeal B

35. It is directed that the enforcement notice be varied by substituting "Three months" as the period for compliance.
36. Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C

37. The appeal is dismissed insofar as it relates to the Conversion of single dwellinghouse into 2no. self-contained residential units. Associated amenity space, refuse store, off-street parking and new bay and planning permission is

refused. The appeal is allowed insofar as it relates to a porch and planning permission is granted for a porch at 2 Park Road, New Barnet, Barnet EN4 9QA in accordance with the terms of the application, Ref 18/4772/RCU, dated 31 July 2018 so far as relevant to that part of the development hereby permitted and 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: Location and site plan Drawing No. 30317; Elevations Drawing No. 70218; Floor-plans Drawing No. 70018.
- 3) The materials to be used in the construction of the external finishes of the development hereby permitted shall match those used on the existing building.

Paul T Hocking

INSPECTOR