



Appeal Decision

Site visit made on 12 November 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2019

Appeal Ref: APP/N5090/W/19/3235927

2 Fitzalan Road, Finchley, London N3 3PD

- 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 & Mrs Barashi against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/7624/FUL, dated 20 December 2018, was refused by notice dated 17 May 2019.
 - The development proposed is demolition of existing dwelling and redevelopment to provide 1 x six bedroom dwellinghouse, excavation of basement level for ancillary residential accommodation together with off-street car parking, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) The effect of the development on the living conditions of the occupants of 175 – 179 Regents Park Road and 4 Fitzalan Road with regard to privacy and outlook; and,
 - b) The effect of the development on the character and appearance of the area.

Reasons

Living conditions

3. The appeal property is a substantial detached house, at the south-eastern end of a straight row of detached and semi-detached houses that front Fitzalan Road. The neighbouring property to the northwest, 4 Fitzalan Road, is also a detached house, and is set back from the road on a similar building line. Both houses are close to the property boundary, so there is only a narrow gap between them. The south-eastern boundary of the appeal site runs along the back gardens of houses that front Regents Park Road. The appeal property has a long rear garden that backs onto the even longer back garden of 1 Arden Road to the northeast. Land on the opposite side of Fitzalan Road is undeveloped parkland. Consequently, any proposal to build a replacement dwelling would only be likely to affect the living conditions of the occupants of 4 Fitzalan Road and 175 – 179 Regents Park Road.

4. The proposed replacement dwelling would largely occupy the same footprint as the existing house. The first and second floor accommodation would, however, extend much closer to the south-eastern boundary. As a result, there would be an increase in the mass of the building close to the rear garden boundaries of 175 – 179 Regents Park Road. The eaves height of the new building would, however, only be of standard two-storey height, because the second-floor accommodation would be contained within a roof that would slope away from the boundary. Furthermore, there are large outbuildings at the end of the rear gardens of 175 – 179 Regents Park Road, so the parts of the gardens nearest to the boundary are not used for amenity purposes. These factors would limit any overbearing impact of the proposals from the rear gardens of the Regents Park Road houses.
5. The Council has referred to its Residential Design Guidance Supplementary Planning Document (2016) (the RDG SPD) and its Sustainable Design and Construction Supplementary Planning Document (2016) (the SDC SPD) in its reason for refusal. My attention has not been drawn to any particular sections of these SPDs, and I find that they contain little guidance on determining the acceptability of the proposal in terms of the outlook from neighbouring properties. The SDC SPD advises, at Table 2.4, that bedrooms and living rooms/kitchens should have a reasonable outlook with clear glazed windows. As the houses fronting Regents Park Road have long back gardens, the windows in the rear elevations of these houses would continue to provide the occupants with a largely open outlook. I therefore find that the proposed development would not result in a harmful loss of outlook for the occupants of the houses in Regents Park Road.
6. The existing house has one first floor window in its southeast elevation. This is a landing window and does not therefore serve a habitable room. Views from this window towards the ground floor windows in the rear elevations of the Regents Park Road houses are obscured by the outbuildings in the rear gardens. There are also three second floor dormer windows facing southeast, but these are a considerable distance from the boundary, and views down to the opposing ground floor windows are obscured, to some extent, by the projection of the flat roof over the first-floor accommodation below. Consequently, there is little overlooking of the Regents Park Road properties from the existing house.
7. The proposed dwelling would, however, include three second-floor dormer windows in the southeast elevation that would be close to the rear garden boundaries. These windows would serve a bedroom, and they would be at such a height that there would be a clear view down into the back gardens and the ground floor windows in the rear elevations of the Regents Park Road houses. The RDG SPD and the SDC SPD both advise that there should be a minimum distance of 21 metres between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 metres to a neighbouring garden. In this case the proposed windows would be about 2 – 3 metres from the garden boundary and the window to window distance would be well below 21 metres.
8. As these would be the only windows serving the bedroom, it would be unreasonable to require them to be obscure glazed. I therefore find that, due to their height and proximity to the boundary, these windows would result in a loss of privacy to the occupants of 175 – 179 Regents Park Road.

9. The ground and first floor elements of the proposed dwelling would be no closer to 4 Fitzalan Road than the existing house. In fact, at the rear, the proposed house would step away from the boundary. The eaves height would be marginally higher, and the sloping roof and dormers would be a little closer to the boundary. However, there are no windows in the side elevation of No 4 facing the appeal site, so there would be no harm to the outlook of the occupants. As there would be a front-facing window to serve the bedroom on this side of the proposed house, the side-facing dormer windows could be obscure-glazed to maintain privacy. I therefore find that the proposals would not result in harm to the living conditions of the occupants of 4 Fitzalan Road.
10. Notwithstanding my conclusions regarding 4 Fitzalan Road, there would be harm to the living conditions of the occupants of 175 – 179 Regents Park Road due to loss of privacy. In this respect, therefore, the proposals would be contrary to Policies CS NPPF, CS1 and CS5 of Barnet's Local Plan (Core Strategy) (2012) (the Core Strategy) and Policy DM01 of Barnet's Local Plan (Development Management Policies) (2012) (the Local Plan). These policies seek, amongst other things, to create an attractive environment for people to live in, to protect the gardens of residential properties, and to ensure that development proposals are designed to allow for adequate privacy for adjoining occupiers.
11. The Council also refers to Policy DM02 of the Local Plan in its reason for refusal, however, I have not been provided with evidence to demonstrate that the development would not comply with the national and London wide standards referred to in that policy.

Character and appearance

12. The appeal site lies in a residential block that is characterised by large, closely-spaced, detached and semi-detached houses of various designs. The houses are set back from the roads, on rigid building lines, behind front gardens that are often enclosed by walls or hedges. The houses all have long rear gardens that back onto each other. Although the houses are largely of traditional design, there is no overriding architectural character. However, 2, 4 and 6 Fitzalan Road form a distinctive group, as they are similar in scale, materials and design and share architectural details, such as curved bays, decorative hipped roof details and vertically proportioned windows. The contribution that the appeal property makes to this group has been diminished by a range of extensions and alterations that have little regard to the original character of the building.
13. The proposed replacement dwelling would provide a significant increase in internal accommodation, but much of this would be below ground level. The ground floor footprint of the house would be similar to the existing dwelling, and its ridge height would only be a little higher. The proposed house would, however, be significantly wider at first-floor and roof level, resulting in an increase in the mass of the building on its south-eastern side. However, this part of the building lies adjacent to the long rear gardens of the houses that front Regents Park Road, so a large gap between the buildings would be retained.
14. The south-eastern side of the proposed house would be visible through this gap when entering Fitzalan Road from Regents Park Road. Although this part of the building would be larger than the existing house, its height and form would not

be out of keeping with its surroundings. In contrast, the extensions to the existing dwelling, that can currently be seen from this viewpoint, do not sit comfortably with the existing dwelling or the character of the surrounding area. The proposed dwelling would have a more coherent design that would improve the appearance of the street scene from this viewpoint.

15. Although the roof of the proposed house would be more expansive than existing, it would have an eaves height, ridge height and pitch that would be in keeping with surrounding development, so it would not appear out of character. The proposed house would be much larger than the neighbouring dwelling at 4 Fitzalan Road. However, it would occupy a significantly wider plot, and it is not unusual for houses in the area to be constructed close to both side boundaries. The proposed house would be set on the same building line as No 4, and its eaves and ridge height would only be marginally higher. In an area that is characterised by a diversity of house types, the juxtaposition of the two houses would not appear incongruous.
16. Although the basement of the proposed dwelling would be larger than the ground floor footprint, this would not be readily apparent. The only evidence at the front of the house would be a grill over a light well, which would often be hidden by cars parked on the forecourt. The rooflights in the rear garden would not be visible from outside the site and would be set within a patio area. The available garden space would be little different to that which exists for the existing dwelling. In terms of the ratio of built development to plot size, therefore, the proposals do not result in an overdevelopment of the site.
17. To conclude on this issue, the siting and footprint of the dwelling proposed would respect the pattern of development in the area. Although larger than the existing dwelling, it would not be out of scale with the size of the plot and it would have a more cohesive appearance than the existing house. The proposals would not, therefore, have a harmful effect on the character and appearance of the area. In this regard the development would comply with Policies CS NPPF, CS1 and CS5 of the Core Strategy and Policy DM01 of the Local Plan. These policies seek, amongst other things, to create an attractive environment for people to live in, and to protect and enhance Barnet's character.
18. The Council also refers to the RDG SPD and the SDC SPD in its reason for refusal. My attention has not been drawn to any particular sections of these SPDs and I have found nothing in them that alters my conclusions on this issue.

Conclusion

19. I have found that the proposal would not harm the character and appearance of the area. However, this does not outweigh the harm I have found with regard to the living conditions of neighbouring residential occupants.
20. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR