



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: 4th December 2019

Appeal Ref: APP/N5090/W/19/3235633

228 Regents Park Road, Finchley, London N3 3HP

- 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 Mrs Anisha Patel against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/1831/FUL, dated 26 March 2019, was refused by notice dated 24 May 2019.
 - The development proposed is erection of first, second and third floor levels and extension and conversion of existing basement to provide self-contained flats, A1 retail shop and office space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) Whether the development would provide satisfactory living conditions for future occupants, with regard to the standard of accommodation; and,
 - b) Whether the development would lead to an increase in on-street parking and, if so, whether this would be harmful to highway safety and the free flow of traffic.

Reasons

Living conditions

3. The appeal property fronts Regents Park Road, and from this aspect it appears as a single storey shop unit. The building lies in the centre of a continuous built frontage, with rear access gained through a gap between buildings to the south. There is a basement under the rear part of the building that has an external door to the service area behind. From this aspect, the property appears as a two-storey flat-roofed building. The appeal building, and those immediately adjoining it, are considerably lower than the other buildings in the row, which generally comprise ground floor commercial uses with two or three floors of residential accommodation above. The buildings to the north are traditional, with decorative facades and gables, whereas those to the south are more contemporary, with flat roofs.
4. The proposal to construct three floors of residential accommodation above the shop would be compatible with the scale and design of the more contemporary

development to the south. The evidence before me indicates that a similar proposal has been approved on the adjoining site at Nos 224 – 226. The drawings submitted with the appeal include a proposed street view, showing a similar development at No 230, on the other side of the site, but I have not been provided with any details to demonstrate that planning permission exists. Nevertheless, the Council has not raised any objections to the principle of the scale or external design of the building.

5. In keeping with surrounding development, a commercial use would be retained in the ground floor frontage. However, the rear part of the ground floor, and the basement, would be converted to a flat. A further four flats would be provided in the three floors to be constructed above. One of the flats would occupy the entire Regents Park Road frontage at first, second and third floor level. The other three would therefore be reliant on windows in the rear of the building for natural light and ventilation. This, together with the limited floorspace of two of the flats, gives rise to the Council's concerns on this issue.
6. Policy DM02 of Barnet's Local Plan (Development Management Policies) (2012) (the Local Plan) says that new residential development will be expected to meet the minimum floorspace standards set out in Policy 3.5 of the London Plan. The London Plan adopts the Nationally Described Space Standard¹ (the NDSS) and the floorspace requirements are set out in Table 3.3. The proposed flats numbered 2, 4 and 5 would be open plan, single-storey dwellings, with a shower room, so would comply with the NDSS of 37 sq m. The appellant says that, as Flats 1 and 3 are designed as 1bed 1person units, they would also comply with the NDSS.
7. Flat 1 would, however, occupy two storeys. It would also have a separate bedroom, with a floor area well in excess of the NDSS minimum of 11.5m² for a double bedroom. With reference to Table 3.3 and the NDSS, I therefore find that a minimum floorspace of 58 sq m is applicable. At 43.35 sq m, Flat 1 is therefore well below the minimum standard. As well as the limited floorspace, the only outlook from this flat would be onto a rear service yard, with a high brick wall beyond. The proposed outdoor amenity space would be surrounded by the parking and servicing areas for the adjacent ground floor commercial uses, and would not therefore provide an attractive, quiet or private area for occupants to relax. I therefore find that this flat would not provide satisfactory living conditions for future occupants.
8. Flat 3 would occupy three storeys, and it would also have a separate bedroom that is large enough to be a double. Table 3.3 and the NDSS do not envisage a one bed roomed dwelling extending over three storeys, as the minimum 90 sq m floorspace for a three-storey dwelling allows for three bedrooms. However, at 46.8 sq m, the flat would be well below the minimum standard of 58 sq m for a two-storey dwelling. The layout, over three floors with a spiral staircase, also means that much of the limited floorspace is not usable, and there is limited scope for built-in storage. Whilst this flat would enjoy an open outlook and a private balcony, the lack of internal space leads me to conclude that it would not provide satisfactory living conditions for future occupants.
9. The Council adopted two Supplementary Planning Documents in 2016, one covering Residential Design Guidance (the RDG SPD) and the other covering Sustainable Design and Construction (the SDC SPD). Section 2.2 of the SDC

¹ <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

SPD advises that, as a package of measures to deliver the Mayor's aspiration that homes are fit for purpose, single aspect dwellings should be avoided. It goes on to advise that, where single aspect flats are considered acceptable, they should demonstrate that all habitable rooms and the kitchen can provide adequate ventilation, privacy and daylight, and that the orientation enhances amenity, including views.

10. Flats 2, 4 and 5 would be single aspect, and would therefore rely on windows in the rear (east) elevation of the building for their outlook. Although these windows would look out over the service area, they would be elevated above it, with private terraces, and would have an open outlook over the high wall beyond. Residents of these flats would not therefore experience the same feeling of enclosure as the occupants of Flat 1. However, except for Flat 5, which would have the benefit of rooflights, these flats would also be solely reliant on the east-facing windows for natural daylight.
11. Although large windows are proposed, the flats would be long and narrow, so at most times of the day sunlight would not penetrate far into the building. As the windows would face east, no sunlight would reach the accommodation after midday. Whilst the flats would still receive daylight, the amount would be reduced by the overhanging terraces of the flats above. As a result, the parts of the flats furthest from the windows would be likely to be gloomy, and occupants would be dependent on artificial lighting, for most of the day.
12. The appellant argues that, as the flats are not north-facing, there would be no conflict with the SDC SPD. I appreciate that Table 2.2 particularly refers to north-facing single aspect dwellings, but the supporting text provides guidance on the general drawbacks of single aspect dwellings. It also highlights the benefits of dual aspect dwellings, in terms of achieving better daylight, a greater chance of direct sunlight for longer periods, natural cross ventilation, mitigating pollution, offering a choice of views, access to a quiet side of a building, greater flexibility in the use of rooms, and more potential for future adaptability by altering the use of rooms.
13. The appellant also says that the RDG SPD allows for single aspect dwellings in high density developments. However, I note that this is only advocated as part of an innovative package to avoid overlooking. No such constraints apply to the appeal proposals. My attention is drawn to a decision where an Inspector allowed an appeal involving a single aspect dwelling. The development proposed, in that case, differed very significantly from that before me, and I note that a daylight assessment had been submitted to demonstrate that each room was expected to receive adequate daylight. I have not been presented with similar evidence in this case.
14. I am aware that there have been relatively recent developments close to the appeal site, and it is stated that these include single aspect flats. I was not able to determine whether that is the case at my site visit, so was not able to draw comparisons. I have, however, been provided with the approved plans for the proposed development at No 224 – 226, which show that one of the flats would be single aspect. However, that flat would not be as deep as those proposed under the scheme before me, and it would not have an overhanging terrace above. I also note that all the flats in that development would exceed the minimum floor areas specified in the NDSS. That approval does not therefore

set a precedent for the scheme before me which, in any event, I must determine on its own merits.

15. I have had regard to paragraph 123 of the National Planning Policy Framework, which advises that a flexible approach is taken in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site. However, this advice only applies where there is an existing or anticipated shortage of housing land, and where the resulting scheme would provide acceptable living standards. I have found that the development would not provide suitable living conditions for future occupants. Furthermore, it has not been demonstrated that the efficient use of the site could not be achieved in a way that provides acceptable living standards.
16. For the reasons given above, I conclude that the proposals would fail to provide satisfactory living conditions for future occupants. The development would therefore be contrary to Policies CS1 and CS4 of Barnet's Local Plan (Core Strategy) (2012) (the Core Strategy) and Policies DM01 and DM02 of the Local Plan. These Policies seek, amongst other things, to create an attractive environment for people to live in; to provide quality homes; to ensure that development proposals allow for adequate daylight, sunlight and outlook for future occupiers; and to ensure that new housing meets the space standards set out in London Plan Policy 3.5.

Parking

17. The appeal site lies in a Controlled Parking Zone (CPZ), with only metred short-stay parking available at the front of the premises. I saw, at the time of my visit, that surrounding residential streets were heavily parked, with little or no available on-street parking availability. The site lies in an area which has a high Public Transport Accessibility Level (PTAL) rating of 4. It is, therefore, sustainably located, with readily available public transport opportunities nearby. No off-street car-parking is proposed to serve the flats.
18. Policy DM17 of the Local Plan sets maximum parking standards for residential development. In the case of development comprising mainly of one bedroomed flats, the maximum standard is one, to less than one space, per dwelling. Therefore, the maximum number of spaces that should be provided would be five. No minimum provision is specified. In CPZs, limited or no parking is acceptable, but where there is insufficient capacity on the street, applicants are required to enter into a legal agreement to restrict future occupiers from obtaining on-street parking permits.
19. As no such legal agreement has been completed, it is necessary to consider the potential impacts of the development on kerbside parking, the free flow of traffic, and highway and pedestrian safety. Occupants of the flats would not be able to park a car outside the premises for more than 90 minutes on any day other than Sunday. Surrounding roads are already heavily parked, so any occupant owning a car would be likely to have to park some distance from their flat. In view of these factors, the size of the flats, and their sustainable location, it is unlikely that they would be attractive to residents who own a car. I therefore find that the development would be unlikely to generate any discernible increase in competition for parking spaces in the locality.
20. Even if a small number of occupants did own a car, the on-street car-parking situation in the locality would not noticeably change. I observed that the

metred spaces on the road frontage already have a high turnover of cars coming and going, whereas surrounding roads are fully parked. The only likely impact of a small increase in parking demand would, therefore, be a slight increase in drivers searching for a parking space. There is no evidence before me to suggest that this minimal increase in the demand for parking spaces would have a consequent impact on the free flow of traffic or highway and pedestrian safety.

21. For the above reasons, I do not therefore consider that the proposals would result in a measurable increase in the demand for car parking in the immediate area, or on highway safety. I therefore find that a legal agreement restricting future occupiers from obtaining on-street parking permits would not be necessary to make the development acceptable. Therefore, I conclude that there would be no conflict with Policies CS9 of the Core Strategy, or Policy DM17 of the Local Plan. These policies seek to manage local parking demand and ensure that the safety of all road users is taken into account when considering development proposals.

Conclusion

22. Although I have concluded that the development would not result in harm to highway safety, this does not outweigh the harm that I have found to the living conditions of future occupants. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR