

Appeal Decision

Site visit made on 14 January 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2020.

Appeal Ref: APP/N5090/W/19/3238874

Land Adjoining Dolis Court, Grid Ref E:524902; N:190933

- 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 Q Cama against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3295/RCU, dated 11 June 2019, was refused by notice dated 16 August 2019.
 - The development is described as: retrospective application to retain 1 bedroom flat with basement and loft storage space.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Section E of the appeal form indicates a different description of development to that which was used on the planning application form. I have used the original description in my determination of this appeal as that was the description for which planning permission was sought.
3. The application form did not provide a site address with a postcode, therefore I have used the site description and grid reference coordinates that were provided in the banner heading above.
4. The appellant's development description refers to the appeal scheme as a 1 bedroom flat, however, based on my assessment of the submitted drawings and observations from my site inspection, I consider that the development is more akin to a detached dwelling. I have assessed the appeal on this basis.
5. The appeal development has already been erected and was occupied during my site visit, whilst the appeal building's appearance and internal layout are consistent with the submitted plans. The appellant is therefore seeking the retention for what has been built and for the residential use of the building. I have therefore determined the appeal on that basis.

Main Issues

6. The main issues are;
 - The effect of the development on the character and appearance of the area;
 - Whether or not occupiers of the appeal building will experience acceptable living conditions with particular reference to external amenity space; and
 - The effect of parking arrangements on highway safety.

Reasons

Character and Appearance

7. The appeal building comprises a detached single storey structure sited within a small plot of land situated on the south side of Crescent Road, a residential street that contains a mix of architectural styles. These include 3 storey traditional semi-detached properties with basements, detached dwellings and the large two storey Dolis Court apartment block. Properties are largely set back from the road with either forecourt parking or gardens occupying the intervening space. The rear gardens of some properties that front Dolis Road back onto Crescent Road, creating a short gap in the residential frontage. This is occupied by a small number of domestic single storey outbuildings.
8. The appeal site's extensive planning history indicates that planning permission¹ was approved for the erection of 2 garages at the site in 2012. Although I have not been presented with any drawings of the previously approved garages, the Council's officer report and the previous Inspector's decision² each refer to this development having a very simple design with garage doors and a front door, while occupying the full width of the plot. I have no reason to disagree with this description.
9. When viewed from the street the front elevation of the appeal building has a door and a single window, while two side windows on each flank wall are also visible. These features combined with the appeal building's modest scale and height present a utilitarian and bland structure, that contrasts with the prevailing appearance of adjacent residential properties in the street. These largely incorporate a greater height, mass and level of architectural detailing in the form of porches, bay windows and traditional sash style windows. Within this residential milieu, the appeal building will appear as an incongruous dwelling in the street scene and in doing so will have a harmful presence.
10. Whilst I accept that permission has been given for garages at the site, this had a more 'simple design' as described in previous assessments and would have been deemed acceptable for its intended purpose. In contrast, the development of a residential use will be expected to have regard to the prevailing character of the area in respect of the residential design. I also acknowledge that there are a small number of domestic outbuildings visible in the street, however, these have a much-reduced scale and it was clear to me, during my site visit, that these are ancillary to the dwellings fronting Dolis Road, rather than detached dwellings in their own right. Therefore, I do not consider that these present themselves as a direct comparison with the appeal development.
11. Consequently, I, conclude that the appeal scheme will harm the character and appearance of the area. It will therefore be contrary to Core Strategy³ Policy CS5 and Development Management Policies Document⁴ (the DMPD) Policy DM01. These require, amongst other things that developments respond to the local character of an area in respect of appearance, scale, mass, height and pattern of surrounding buildings. The development will also be contrary to the Supplementary Planning Document: Residential Design Guidance, October 2016⁵ (the RDG SPD). This states that new residential development should respond to the distinctive local building

¹ Planning application reference F/01806/12

² Appeal Decision Ref APP/N5090/W/16/3156355

³ Barnet's Local Plan, Core Strategy, Development Plan Document, September 2012

⁴ Barnet's Local Plan, Development Management Policies, Development Plan Document, September 2012

⁵ Supplementary Planning Document - Residential Design Guidance, October 2016

forms and patterns of development and respect the scale, massing and height of the surrounding physical context.

Living Conditions

12. The private outdoor amenity space to the rear of the appeal building, comprises a shallow area of 9m² that is enclosed by a masonry wall with steel railings positioned above. A neighbouring garden shed at an elevated land level and belonging to a property at Dolis Court straddles the rear boundary where it encloses the appeal property's amenity space, while part of the western flank elevation of Dolis Court is seen in close proximity. During my site visit the Northern railway line could be observed from the amenity space through a landscaped embankment that is close to and elevated above the appeal site.
13. The RDG SPD states that the fundamental design considerations for amenity space should be its quality and usability. And when designing amenity space, it advises that consideration should be given to privacy, outlook, noise, sunlight, trees and planting, materials, lighting and boundary treatment.
14. Policy DM02 of the Core Strategy and the RDG SPD state that developments will be expected to demonstrate compliance with the Sustainable Design and Construction Supplementary Planning Document (the SDC SPD). This prescribes outdoor amenity space standards for new residential development. For houses with up to four habitable rooms there is a requirement for 40m², while for flats 5m² of space is required per habitable room. Even if I were to classify the appeal development as a flat rather than a dwelling, its three habitable rooms will require 15m² of external amenity space. Therefore, the appeal scheme falls short of this requirement.
15. The dimensions of the amenity area serving the appeal scheme result in a restricted space with limited functionality. Moreover, due to the area's shallow depth, the boundary walls and steel fencing enclosing the space will appear imposing upon users resulting in an austere outdoor living environment. This harm will be accentuated by the physical scale and elevated siting of the railway embankment, Dolis Court and the associated garden shed, which combine to unduly enclose the amenity space resulting in a loss of outlook to residents of the appeal building.
16. On this matter, I conclude that the appeal scheme will harm the living conditions of occupiers of the appeal building on account of the unacceptable external amenity space. It will therefore be contrary to Policy DM02 of the DMPD, which requires developments to comply with specific guidance relating to outdoor amenity space. The development will also be contrary to the RDG SPD and the SDC SPD.
17. The Council's decision notice did not include reference to the RDG SPD in refusing planning permission on external amenity space. Nevertheless, I consider it relevant and have therefore referred to it in concluding on this main issue.

Parking

18. Crescent Road and the surrounding streets are in a Controlled Parking Zone (CPZ) where permits are required to park. The appeal site is located in an area with a public transport accessibility level rating of 4, and I observed during my site visit that an underground station is located a short walk away.
19. The appeal development does not have any off-street parking spaces, although based on the scale of the development Policy DM17 of the DMPD refers to the requirement of 1 to less than 1 parking space. However, the policy indicates that

residential development may be acceptable with limited or no parking within a CPZ. In instances where it can be demonstrated that there is insufficient capacity on street the applicant will be required to enter into a legal agreement to restrict future occupiers from obtaining on street parking permits.

20. At my site visit, which I appreciate is only a snapshot in time, I saw that many parking spaces on Crescent Road and surrounding streets were occupied. With no parking spaces provided the appeal development, in my view, is likely to lead to an increased demand for on street parking. Any further parking demand will only serve to exacerbate the existing situation. Furthermore, no case has been made that it will not result in unacceptable parking stress and lead to additional congestion as drivers seek a parking space, or park illegally.
21. On the basis of the available evidence, I therefore consider that the appeal scheme will have a detrimental impact on parking stress in the local area if it were not a car free development. The Council has suggested that they would be willing to enter into a legal agreement with the Appellant to prevent future residents from applying for a parking permit within the CPZ, but there is no signed and executed agreement before me to bring this restriction into effect. I have also considered whether a condition could be imposed to require future occupants to enter into a legal agreement to restrict them from obtaining parking permits, but the Planning Practice Guidance advises that such negatively worded conditions requiring a planning obligation should only be imposed in exceptional circumstances in the case of more complex and strategically important development where there is clear evidence the development would otherwise be at risk. I do not consider these particular circumstances to be exceptional so that such a condition will be justified.
22. I acknowledge that residents of the appeal building may not own a car and could utilise the nearby public transport provision. However, I cannot be certain that this would always be the case.
23. Consequently, the effect of parking arrangements associated with the appeal scheme will have a harmful effect on highway safety in the area. Therefore, the scheme will fail to accord with Policies CS9 and CS15 of the Core Strategy and Policy DMD17 of the DMPD, in particular where they require to restrict eligibility for on street parking permits in controlled parking zones through a planning obligation and to have regard to highway safety. The appeal development will also be contrary to the Planning Obligations Supplementary Planning Document (2013), which amongst other considerations suggests that planning obligations may be required to address localised impacts specific to transport.

Other Matters

24. I note that the appellant has referred to the low number of local objections to the scheme, relative to the number of properties consulted. However, this does not overcome my concerns. There is also reference to the Council's procedures in relation to making decisions where there are a specific number of objections. This is a procedural matter that does not form part of my assessment.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

R. E. Jones
INSPECTOR