
Appeal Decision

Site visit made on 10 October 2019

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2020

Appeal Ref: APP/N5090/W/19/3231958

Avalon, Rowley Lane, Barnet EN5 3HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Sanghani against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0496/FUL, dated 23 January 2019, was refused by notice dated 26 March 2019.
 - The development proposed is the demolition of the existing dwelling house and outhouses and the erection of a single building which will contain 8 apartments in total.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relevant to this appeal are:
 - The effect of the scheme on the character and appearance of the area; and
 - The effect of the scheme on the living conditions of neighbours and current and future occupants in regard to outlook and privacy.

Reasons

Character and Appearance

3. The appeal site is occupied by a large dwelling, most of which appeared to be single storey. It is bounded by the busy Barnet Road to the south, by Rowley Lane to the east, by a narrow private road (Windmill Lane) to the north and by two residential properties to the west / south-west. The neighbourhood has several large 1 and 2 storey residential properties occupying large plots. Many are screened by large trees and high hedges.
4. The appeal proposal comprises an L-shaped 2-storey building with accommodation in the roof, incorporating 8-three bedroomed flats with car parking at basement level. The 2 flats on the top floor would have dormer-windows and skylights. The property would face onto Barnet Road and vehicular access to the basement car park would be taken from Rowley Lane. The development would be partially screened from neighbouring properties by hedging and high coniferous trees.

5. During my visit to the appeal site I formed the view that the neighbourhood was predominantly comprised of large, single-family dwellings set in quite generously sized plots. Whilst I agree that there are a variety of dwelling designs including modest sized bungalows and larger 2-storey houses I nevertheless find that the appeal proposal would be very different in style to its neighbours. Notwithstanding that its footprint would not be significantly larger than the existing dwelling I find that because of its bulk the development would be unsympathetic to the grain of local development. The building would be very close to each of its 4 boundaries, leaving relatively little space for any meaningful landscaping and conveying the impression that it would be too large for the plot.
6. I accept the appellant's argument that the building would be only marginally taller than some other 2-storey properties. However, the dormer windows on 3 sides of the top floor would give the appearance of a 3-storey building. I consider therefore that the extra floor would convey a very strong impression of dominance over surrounding properties. I note that there have been other tall, flatted developments recently constructed within the area. Nevertheless, each proposal is determined on its merits and thus I do not consider these other schemes relevant to my decision on the proposal before me.
7. For the above reasons I find that the proposal would harm the character and appearance of the area. It therefore fails to comply with Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) which seeks to protect the Borough's character and amenity. I also find that it conflicts with policies CS NPPF, CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) which seek to promote sustainable development in line with the Framework, provide a strategy for place shaping and to protect and enhance the environment through promoting high quality design. Furthermore, I find that the proposal conflicts with the advice laid down in the chapter 'Enhancing Local Character' of the Local Plan Supplementary Planning Document: Residential Design Guidance 2016 (SPD). Finally, I find that the proposal is inconsistent with the guidance laid down in paragraph 127c) of the Framework which encourages development to respect the character of the local area.

Living Conditions

8. The western elevation of the proposed development will face the gable end of the neighbouring property called Honeysuckle and the side elevation of Mill Lodge. A high, mature hedge within the curtilage of Mill Lodge will provide some degree of privacy in the garden and inside the house from the windows and balconies on the first floor of the proposed development. The occupants of Honeysuckle will not lose any significant degree of privacy due to the two buildings being approximately at a right angle to one another. There are no dormer windows on the second floor of the west facing elevation and the skylight windows will be angled at around 45 degrees. Consequently, I do not find that the proposed development would cause any significant loss of privacy to occupants of Honeysuckle or Mill Lodge.
9. Windmill Lodge is orientated such that it is gable end on to the proposed development. The dormer windows on the second floor of the proposal will overlook the driveway of Windmill Lodge, but the front and rear garden areas appear to be well screened by high mature hedging and a brick wall

respectively. Consequently, I do not find that there will be any significant loss of privacy to occupants of Windmill Lodge.

10. Nevertheless, I believe that because of the height and bulk of the proposed development the occupants of Honeysuckle and Mill Lodge would lose outlook. In arriving at this position, I reject the appellant's contention that loss of outlook is not a planning consideration. The appellant incorrectly conflates outlook with view, stating that nobody has a right to a view. Loss of outlook refers to the sense of enclosure created by very large, surrounding buildings, preventing middle distance views.
11. The floor plans (drawing no. 293/12 PP-002) show that the balcony in the kitchen-diner of Apartment 4 on the first floor will be immediately adjacent to the window of bedroom no. 3 in Apartment no. 6. This will lead to a loss of privacy for the occupant of bedroom no. 3 and a loss of privacy for occupants of Apartment no. 4.
12. I disagree with the appellant's contention that a bedroom is not a habitable room. A habitable room is conventionally regarded as being one in which you spend significant amounts of time, which could include a bedroom. Furthermore, time spent in a bedroom is not restricted solely to sleeping. I also disagree that what is an acceptable living condition standard is a matter of subjective judgement. These standards are applied in many development plans and local guidelines and are consistent with the aims of the Framework. Further, whilst it is not uncommon for occupants in one dwelling to have views of occupants on a balcony of another, what is proposed in this case is a balcony that is immediately adjacent to a bedroom window. Mitigating any harm that might result from this cannot be dealt with by condition since it would result in a fundamental change to the design of the scheme.
13. As advised by the Council it would not be acceptable to use glazed windows to mitigate any harm since this would diminish the living conditions of the occupant of the bedroom. Further, it is important to note that the Framework makes it clear that planning decisions must have regard to the living conditions of future as well as current occupants. Reference to drawing no. 293/12 PE does not show the location of the bedroom and so is not relevant to considering the issue of potential harm to the living conditions of future occupants caused by its location adjacent to the balcony.
14. Finally, I do not accept that the development proposal would harm the living conditions of future occupants of bedroom no. 3 of Apartment no. 7 or bedroom no.2 of Apartment no.8. Both bedrooms would include a skylight window (see drawing no. 293/12 PP-002) which would provide satisfactory outlook, and the same as that provided to occupants of bedroom no. 1 of apartments nos. 7 and 8.
15. Based upon my findings above, I conclude that the development proposal would cause harm to the living conditions of occupants of Honeysuckle and Mill Lodge through loss of outlook. The proposal would also cause harm to the living conditions of future occupants of Apartment 4 and Apartment 6 through loss of privacy. I find, therefore, that it conflicts with CS NPPF, CS CS1, CS CS5, DMP DM01 and DMP DM02 which require, amongst other things, new development to reflect principles laid down in the Framework and incorporate high qualities of design. It also conflicts with the advice laid down in the SPD and in the Sustainable Design and Construction Guide 2016 that new buildings

respect the needs for privacy. Finally, it conflicts with the advice laid down in paragraph 127f) of the Framework encouraging new development to respect the needs of privacy of future occupants.

Planning Balance and Conclusion

16. According to the appellant, because the local plan is older than 5 years old it, and its associated supplementary planning documents, is out of date and should not be given much weight. The appellant also contends that the Council does not have a 5-year supply of housing land and that this should be reflected in the approach to the determination of this appeal which would result in a net addition of 7 dwellings if allowed.
17. Even if there is a shortfall in 5-year supply as suggested by the appellant and that the most important policies for determining the proposal should be considered out-of-date, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
18. The appeal is dismissed.

William Walton

INSPECTOR

