
Appeal Decision

Site visit made on 23 June 2020

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2020

Appeal Ref: APP/N5090/W/19/3243961

1A Albert Road, New Barnet, Barnet, EN4 9SH

- 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 Aron Halpem against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3432/FUL, dated 18 June 2019, was refused by notice dated 15 August 2019.
 - The development proposed is use of existing two storey building with a rear single storey outrigger as a three bedroom residential dwellinghouse with associated internal/external alterations. Associated cycle store, amenity space, refuse and recycling store.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposed development on the living conditions of both surrounding occupiers and future occupiers with particular regard to privacy;
 - ii) the effect of the proposed development on the living conditions of future occupiers with particular regard to private outdoor amenity space;
 - iii) the effect of the proposal on on-street parking.

Reasons

Privacy

3. The appeal site, 1A Albert Road, is located to the rear of 1 Albert Road, a two-storey dwelling on the western side of Albert Road. There is an existing vehicular access alongside the southern elevation of no 1 that provides access to the appeal site and to the rear garden area of no 1. The existing building at no 1A is two-storey facing onto the rear of no 1. The building includes a single storey flat-roof element to the rear that gives the building an L-shaped footprint. An existing yard area is contained within the L-shaped footprint. Public houses are located adjacent to northern and southern boundaries of the site, and a railway line is located to the west.

4. The Council advises that the appeal building was granted a certificate of lawful development in November 2018¹ but that the certificate related to operational development only rather than to the use of the building. The Council's submitted officer report also advises that planning permission² relating to the site was granted in 1988 for a 'first floor extension to existing garage/workshop to provide office and store'. Whilst the planning history details before me are limited, they suggest a history of lawful commercial use at the appeal site, and that the commercial use has included an element at first floor level. As such, given no additional windows facing no 1 are proposed, there would be no additional loss of privacy for existing occupiers of no 1 by virtue of overlooking of the garden area. Furthermore, the angle of sight lines from the garden of no 1 to the first floor windows of no 1A would be such that views into the rooms, and consequently any loss of privacy, would be substantially limited.
5. I note that the Council's Sustainable Design and Construction Supplementary Planning Document 2016 (SD-SPD) and the Council's Residential Design Guidance Supplementary Planning Document 2016 (RDG-SPD) advise that there should be a minimum distance of 21 m between properties with facing windows to habitable rooms to avoid overlooking. The Council advises that there are no clear glazed habitable room windows in the rear elevation of no 1 facing no 1A. The Council does not, therefore, object to the effect on privacy of the limited separation distance between the facing windows of no 1 and no 1A. I see no reason to disagree. I also note that the proposal would not provide the 10.5 m separation distance to a neighbouring garden required by the SD-SPD and the RDG-SPD. Nevertheless, for the reasons stated above, the proposal would not result in a deterioration in levels of privacy for the occupants of no 1.
6. As such, the effect of the proposed development on the living conditions of both the occupiers of no 1 and the future occupiers of no 1A, with specific regard to privacy, would not conflict with Policy CS5 of Barnet's Local Plan Core Strategy 2012 (BLPCS) or with Policies DM01 and DM02 of Barnet's Local Plan Development Management Policies Development Plan Document 2012 (LP). Taken together, these policies require, amongst other things, development proposals to be designed to allow for adequate privacy for adjoining and potential occupiers.

Private Outdoor Amenity Space

7. The proposal would result in a large 3-bedroom dwelling. Table 2.3 of the SD-SPD sets out outdoor amenity space requirements for houses based on the number of habitable rooms. Appendix 2 of the SD-SPD provides a definition for habitable rooms and states that rooms exceeding 20 sq m will be counted as two. As such, the proposed living room and the kitchen / dining room each count as two habitable rooms. This results in an outdoor amenity space requirement of 85 sq m as set out in Table 2.3. The SD-SPD advises that, for houses, amenity space should be provided in the form of individual rear gardens and that driveways, vehicle parking areas, cycle storage areas and refuse storage areas are not counted as usable amenity space.
8. The appellant advises that the proposed dwelling would have a rear garden with an area of 47.6sqm and a private area to the front measuring 51.7 sq m. The appellant further calculates that deducting the area for car parking, cycle

¹ LPA ref: 18/6585/191

² LPA ref: N01200F

and bin storage, would leave an area of 30.3 sq m usable amenity space to the front of the dwelling, giving a total of 77.9 sq m of usable garden space. Whilst the area to the front of the dwelling would afford residents a good degree of privacy, the space would be squeezed between the car parking, refuse storage, the two-storey front elevation and high boundary fencing. These combined factors would result in a harmfully constrained space that would not provide high quality, usable outdoor amenity space for activities commonly associated with family dwellings, such as being used as a children's play area.

9. For the reasons above, the proposal would not provide sufficient quantity and quality of private outdoor amenity space, resulting in unacceptable living conditions for future occupiers contrary to the relevant aims of BLPCS Policies CS1 and CS5, and LP Policies DM01 and DM02. Taken together, amongst other things, these policies require development to create an attractive environment for people to live in and, where appropriate, development to comply with the Council's Supplementary Planning Documents. The proposal would fail to comply with the relevant aims of SD-SPD and RDG-SPD in so far as they require developments to have access to high quality and usable amenity space. Nor would the proposal accord with paragraph 124 of the National Planning Policy Framework (the Framework) to the extent that it seeks good design which creates better places to live.

Car Parking

10. The submitted plans show a single car parked to the front of the proposed dwelling. LP Policy DM17 sets a maximum parking standard and the Council's Highway Officer advises that a single off-street parking space is acceptable to serve the proposed dwelling. An aerial image within the appellant's statement clearly shows the historic use of the proposed parking space for a car. In the near vicinity of the appeal site, Albert Road is subject to parking restrictions in the form of double yellow lines on both sides of the road. Shops, facilities and public transport stops are all located within easy walking distance of both no 1 and no 1A.
11. The appellant advises that the side driveway currently serves no 1A and that parking for no 1 occurs to the front of the property. No details have been provided, however, of the parking space for no 1. On my site visit, I noted that no dropped kerb parking space existed to the front of no 1. As previously noted, however, the limited planning history before me suggests a history of lawful commercial use at the appeal site. Such a commercial use would generate an existing on-site parking requirement. As such, given the small scale of the development, the existing on-street parking restrictions, and the good local access by sustainable transport means to shops and services, the proposal would not harmfully increase the demand for on-street parking in the local area.
12. The proposal would, therefore, be in accordance with LP policy DM17 which requires development to be located to make use of public transport and to meet maximum parking standards. It would also meet the relevant aims of SD-SPD and RDG-SPD in so far as they advise car parking should not dominate or overburden residential areas.

Planning balance and overall conclusion

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. As such, substantial weight is given to the identified conflict with the adopted development plan with regards to the effect of the proposal on the living conditions of future occupants of the development.
14. The proposal would make a contribution to the Government's objective of significantly boosting the supply of homes and would be in a location with good access to facilities and services. I also acknowledge the importance of windfall housing on previously developed land. However, as the proposal is for a single dwelling, I give the benefits identified only limited weight.
15. Overall, there are no material considerations, either individually or in combination, of sufficient weight to outweigh the identified conflict with the development plan, nor do they indicate that the proposal should be determined other than in accordance with the development plan.
16. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR