
Appeal Decision

Site visit made on 3 September 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/N5090/W/20/3248013

Bays Court, 245 Hale Lane, London HA8 9QS

- 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 Mitmas Developments Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5765/FUL, dated 18 October 2019, was refused by notice dated 13 January 2020.
 - The development proposed is construction of additional storey to provide 4no. self-contained flats at third floor level with associated amenity space, car and cycle parking, installation of two lifts and a vehicle security gate.
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Decision

1. The appeal is allowed and planning permission is granted for construction of an additional storey to provide 4no. self-contained flats at third floor level with associated amenity space, car and cycle parking, installation of two lifts and a vehicle security gate at Bays Court, 245 Hale Lane, London HA8 9QS, in accordance with the terms of the application, Ref 19/5765/FUL, dated 18 October 2019, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the building and surrounding area in respect to its height, massing and design.

Reasons

3. Bays Court is a 3 storey building of 18 flats constructed in red bricks with white rendered areas above and below the windows; it has a flat roof. There are associated garages and open parking spaces to the rear of the site and landscaped gardens to the front and the rear. The surrounding area is largely residential in character comprising mainly 2 storey houses, detached and semi-detached in form. Land levels fall gently across the site towards the western boundary beyond which is a stream within a belt of trees.
4. The additional storey would be set back from the main front building line to enable provision of private outdoor terraces about 2.5m deep enclosed by glass balustrading and screening along the frontage. It would be of modern design with full length glazed windows, timber cladding, and grey and white render. A new flat roof stepped in design would rise about 3.4m above the existing roof.

5. The proposal would result in additional height and massing across much of the length of Bays Court and would contrast with its established appearance. Notwithstanding the wall set-backs to the front and side, the roof extension's massing would be visible in close and longer range views along Hale Lane to the front and from Golders Court and Penshurst Gardens to the west and south of the site. Whilst this would be a large extension resulting in four new flats, Bays Court already is a large building and the addition would not appear disproportionate to the size of the existing building.
6. In closer front views, the proposal would not appear as a full storey, set behind the existing parapet line, reducing the perception of bulk and height. The recessed elements would reduce the proposal's overall massing; it would not appear unduly dominant but would have a subservient appearance. The regular changes in materials across the length of the main elevations would align with the rhythm of vertical bands of windows and walls on the existing building. The stepped roof would reflect changes in levels on the existing building. The design and use of materials would be sympathetic to whilst not replicating the existing building. In these respects, the proposal would not fail to respect the scale, character, appearance or design of the host property.
7. Bays Court already contrasts with the massing and form of neighbouring properties. The proposal would not change this. The adjacent house to the east, 243 Hale Lane is the closest dwelling, but is separated by the driveway to the rear parking area and is also set on higher ground. The proposal's height and massing would not appear disproportionate in relation to this house given the separation and the house's hipped pitched roof. The trees alongside the stream to the west act as a visual barrier in views from this direction. Bays Court and the houses opposite have large front gardens. The proposal would not therefore appear overbearing in relation to neighbouring properties or in the street scene. In the wider locality, the character of Hale Lane is mainly of 2 storey housing, but this is punctuated by several wider buildings of flats rising to 3 or 4 storeys.
8. The proposal would not therefore be out of keeping with the character or appearance of the host building, the immediate area or with the wider locality. It would be in accordance with Policies 3.5, 7.4 and 7.6 of the London Plan (2016), Policies CS NPPF, CS1 and CS5 of Barnet's Local Plan (Core Strategy) (2012), with Policy DM01 of the Local Plan Development Management Policies DPD (2012) and the Residential Design Guide (2012). These collectively require proposals to protect and enhance local character in relation to factors including the grain of streets, and for details and materials to complement, but not necessarily replicate, the local architectural character.

Other matters

9. I have examined representations against the proposal from local residents. The separation from dwellings surrounding the site would be sufficient for the proposal not to result in material overlooking, loss of outlook or loss of light. The Council has not objected to the proposal in relation to parking provision and I see no reason to disagree with their finding. Noise or disturbance during building operations would be for only a temporary period and the Council has powers to tackle nuisance at unsociable hours. Structural considerations for the existing building would be examined under the Building Regulations.

10. New permitted development allowances introduced in August 2020 to enable the upward extension of blocks of flats could be applicable to Bays Court. These would have to be subject to a separate 'Prior Approval' application in which the external appearance of the development would be examined. But it is a material consideration that the height and massing of the current proposal could be replicated in such a submission.
11. The Council has submitted evidence that it can demonstrate a five year supply of deliverable housing sites. Nonetheless, the proposal would have the benefit of making a small contribution towards overall housing need. It would be in accordance with objectives in the National Planning Policy Framework to make effective use of land whilst achieving well-designed places.

Conclusion

12. The proposal would not have an adverse effect on the character and appearance of the building or surrounding area in respect to its height, massing and design. For the reasons given and having regard to all other matters raised, the appeal is allowed subject to conditions.
13. In addition to the standard 3 year commencement condition, I have included a condition requiring the development to be carried out in accordance with the approved plans for certainty and to enable the approval of minor material amendments should this be expedient. To ensure a satisfactory appearance, conditions are needed to approve external materials and details of hard and soft landscape measures and to ensure their implementation. Trees on site also need to be protected during building works. To protect the amenities of occupiers of adjoining dwellings, conditions are necessary to control the use of the new roof and to approve details of privacy screens and glazing to the flank walls. Parking spaces, cycle storage and areas for refuse and recycling, need to be laid out appropriately to ensure the effective operation of the site. The Council's suggested condition on sound insulation is appropriate and a construction management and logistics plan condition is necessary to safeguard the living conditions of existing and future occupiers. I have included but adapted the Council's suggested conditions on a green roof, water supply and carbon dioxide emissions; these are necessary in the interests of sustainability.

Rory MacLeod

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1046/P01A, 1046/P02; 1046/P03; 1046/P04; 1046/P05; 1046/P06; 1046/P011A; 1046/P012; 1046/P013; 1046/P014; 1046/P015; 1046/P016; 1046/P017.
- 3) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the extension, including terrace surrounds, hard surfaced areas and the proposed gates shall have been submitted to and approved in writing by the local planning authority.

- 4) A scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) details of interim car parking management arrangements for the duration of construction;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours
 - ix) details of a community liaison contact for the duration of all works associated with the development.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) The roof of the extension hereby permitted and the roof of the original building other than in the areas indicated as private terraces on hereby approved drawing no. 1046/P14, shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

- 8) Before the development hereby permitted is first occupied, details of privacy screens/ etched glass balustrades to be installed shall be submitted to and approved in writing by the local planning authority. The screens shall be installed in accordance with the details approved under this condition before first occupation and retained as such thereafter.
- 9) Before the building hereby permitted is first occupied, the proposed windows in the side elevations shall be glazed only with obscure glass, shall be permanently fixed shut with only a fanlight opening and shall be permanently retained as such thereafter.
- 10) Before the development hereby permitted is occupied, parking spaces shall be provided in accordance with drawing no. 1046/P11A hereby approved and that area shall not thereafter be used for any purpose other than for the parking and turning of vehicles associated with the development.
- 11) Before the development hereby permitted is first occupied (a) cycle parking spaces and cycle storage facilities and (b) enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers, shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The measures shall be implemented in full accordance with the approved details prior to the first occupation and retained as such thereafter.
- 12) Prior to first occupation of the development hereby approved, details of the proposed green roof shall be submitted to and approved in writing by the local planning authority. The green roof shall be implemented in accordance with the approved details prior to first occupation of the development and retained as such thereafter. Should part of the approved green roof be removed, die, become severely damaged or diseased within five years of the completion of development, it shall be replaced in accordance with the details approved by this condition.
- 13) Prior to the first occupation of the units, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the local planning authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).
- 14) Prior to the first occupation of the flats, 100% of the water supplied shall be by the mains water infrastructure provided through a water meter. This shall include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
- 15) Prior to the first occupation, the flats hereby approved shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 6 % in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.