
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/20/3246992
220-222 Hendon Way, London NW4 3NE

- 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 222 Hendon Way Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3772/FUL, dated 5 July 2019, was refused by notice dated 11 February 2020.
 - The development proposed is conversion of existing gymnasium and cycle storage into 2no. self-contained flats, removal of external staircase and introduction of soft landscaping to front, provision of lightwells to rear, associated internal alterations and relocation of cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of the existing gymnasium and cycle storage into 2no. self-contained flats, removal of the external staircase and introduction of soft landscaping to the front, provision of lightwells to the rear, associated internal alterations and relocation of cycle storage at 220-222 Hendon Way, London NW4 3NE in accordance with the terms of the application, Ref 19/3772/FUL, dated 5 July 2019, subject to the conditions in the attached schedule.

Procedural matter

2. The description is taken from the Council's decision notice as this captures the scope of development more completely than that on the application form.

Main Issue

3. The main issue is whether the proposed conversion would result in flats having satisfactory living conditions for future occupiers in relation to privacy, outlook and levels of daylight and sunlight.

Reasons

4. The appeal concerns a recently constructed building with either front or rear facing flats arranged over four floors. Areas set aside for a gym and a cycle store in the front half of the building at lower ground floor level would be converted to two flats. Removal of the external staircase leading to an entrance at upper ground floor level would mean that all flats would be accessed via the existing door at lower ground floor level. The door is served by a level path from the footway in Hendon Way. There are parking areas to both sides of this central path.

5. The proposed flats would be single aspect and front facing. There would be a sunken terrace in front varying in depth between 2.25m and 4m, according to the appellant's figures, terminating with a wall to the parking areas. Users of the parking areas would be afforded views of the flats' front windows over the wall. The appellant proposes to mitigate any issues of privacy through the construction of railings and planting at the back edge of the parking areas, details of which would need to be approved through a planning condition.
6. Given the limited depth of land available for the railings and planting, it is unlikely that these would completely address overlooking concerns but would help to filter some views. However, pedestrian use of the parking areas would tend to be intermittent and fleeting. Levels of overlooking would not be significantly different from those presently existing towards the front upper ground floor flats from the top of the external staircase, and towards the rear light wells serving the rear lower ground floor flats from the communal access to the rear garden. Privacy levels within the proposed flats would not be so compromised to result in sub-standard accommodation.
7. Outlook from the flats would be compromised by degree the higher the railings and planting are arranged to mitigate privacy concerns. However, having regard to the size of the front windows and to the depth of the sunken terrace beyond which the railings would be erected, I am satisfied that it would be possible to approve details via a planning condition that would result in both satisfactory outlook and amelioration of privacy concerns. Removal of the external staircase would also improve outlook from the right-hand unit.
8. The appellant has submitted a daylight and sunlight study which confirms that the proposal would satisfy all requirements set out in the British Research Establishment guide 'Site Layout Planning for Daylight and Sunlight'. The parking of cars, the provision of railings and planting and the siting of bin and cycle enclosures alongside the central access path would have only a marginal diminishing effect on natural daylight received. The extent to which each of the front facing rooms would exceed the average daylight factor target in the study indicates that the flats would benefit from satisfactory natural lighting levels.
9. The proposal would be compatible with Policy 3.5 of the London Plan (2016), Policy CS5 of Barnet's Local Plan (Core Strategy) (2012) and with Policies DM01 and DM02 of the Barnet Local Plan Development Management Policies DPD (2012) which require development to be designed to allow for adequate daylight, sunlight, privacy and outlook for potential occupiers and demonstrate compliance with London-wide and national standards. The proposal would also be compatible with the Council's Sustainable Design and Construction and Residential Design Guide SPDs (2016) and the Mayor of London's Housing SPD (2016) which provide more detailed guidance on these matters.

Other matters

10. The proposal would provide two additional dwellings which would make a small contribution towards the general housing need. I have noted the representations of interested parties but do not consider that the proposal would amount to an overdevelopment of the site, or that it should be resisted on parking or road safety grounds. There would be no change to the previously approved access arrangements or to parking levels on site. The proposal would make effective use of the land in a sustainable location with good access to services and public transport options.

Conclusion

11. The proposed conversion would result in flats having satisfactory living conditions for future occupiers in relation to privacy, outlook and levels of daylight and sunlight. For the reasons given, and having regard to all other matters raised, the appeal is allowed subject to conditions.
12. 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. A condition is necessary to ensure satisfactory replacement provision for cycle storage for all flats in the building. The Council's suggested conditions on air pollution mitigation and noise mitigation measures are necessary to safeguard living conditions for occupiers. I have adapted but included the Council's suggested conditions on water usage, accessibility and carbon dioxide emissions in the interests of sustainability. However, I do not consider the Council's suggested conditions on external materials and a construction logistics plan to be necessary as the proposal is largely for the conversion of existing space within the building and should not involve large scale construction. The Council's suggested landscape condition is excessive and more appropriate to the original permission for the building; I have substituted a condition to require approval and implementation of details of suitable railings and planting adjacent to the parking areas to balance privacy and amenity considerations.

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: Site Location Plan, 6118 S 001, 6118 S 10, 6188 S 11 A, 6118 S 12 A, 6118 S 13 A, 6118 S 110 A, 6118 S 111 A, 6118 S 112 B, 6118 S 113 6118 P 400 A, 6118 P 410 B, 6118 P 411 A, 6118 P 412 B, 6118 P 413, 6118 P 420 A, 6118 P 421 B, 6118 P 422 A and 6118 P 432 B.
- 3) No development other than demolition works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of railings and planting between the sunken terrace and the parking areas. The approved railings shall be provided prior to first occupation of the flats. All planting comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the occupation of the flats or the completion of the development, whichever is the sooner. Any planting which is removed, dies, becomes severely damaged or diseased within five years of the completion of the development shall be replaced in the next planting season with plants of appropriate size and species.

- 4) Details of cycle parking including the type of stands, gaps between stands, location and type of cycle store proposed shall be submitted to and approved in writing by the local planning authority. Thereafter, before the development hereby permitted is occupied, 23 (long stay) cycle parking spaces in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be provided, and shall not be used for any purpose other than parking of cycles in connection with the approved development.
- 5) Before development commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved in writing by the local planning authority. The approved mitigation scheme shall be implemented in its entirety in accordance with details approved under this condition before either of the flats is first occupied and shall be retained as such thereafter.
- 6) Before development commences, a scheme of proposed noise mitigation measures against externally generated traffic/mixed use noise shall be submitted to and approved in writing by the local planning authority. The mitigation measures as approved under this condition shall be implemented in their entirety prior to first occupation of the development and shall be retained as such thereafter.
- 7) 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.
- 8) Notwithstanding the details shown in the drawings submitted, prior to first occupation, the flats shall have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.
- 9) 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.