



Appeal Decision

Site visit made on 13 October 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/N5090/W/19/3243309

77 Milespit Hill, Mill Hill, London NW7 2RS

- 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 and Mrs Philip Reichman against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5336/FUL, dated 29 September 2019, was refused by notice dated 29 November 2019.
 - The development proposed is the demolition and replacement of dwelling house with associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the adjacent dwellings, with particular regard to overlooking.

Reasons

Character and appearance

3. The area surrounding the appeal site is characterised by a number of different styles and ages of dwellings. Therefore, there is not one prevailing type of dwelling found in this locality. Nonetheless, there is a general coherence along the part of the Milespit Hill street scene in which the appeal dwelling sits, in terms of the appearance of the dwellings, their materials and the presence of pitched roofs. As a result, the dwellings assimilate well in relation to one another, and there is not a dominant form of development within the street scene.
4. The proposed dwelling would be markedly different in terms of its contemporary appearance and in that it would have a flat roof. It would not relate well to the existing street scene in which it would be sited and its flat roof would be visually at odds with the roof structures of existing dwellings. It would form a dominant feature within the locality and one that would appear incongruous and out of place within its surroundings. This would cause significant harm to the character and appearance of the area.
5. The appellant has drawn attention to a number of other sites where contemporary dwellings have been permitted in the borough and I was able to view these from the public highway during my visit to the area. However, each

site sits within its own context and I must consider the appeal proposal primarily on its own merits. Furthermore, the other examples do not form part of the character and appearance of the area in which the proposed dwelling would be located, and the fact that they have been permitted by the Council does not justify the harm that would be caused by the proposal that is before me. Reference is also made to other appeal decisions, however these relate to sites in other parts of the country and they do not alter my findings on this main issue.

6. For these reasons, I conclude that the proposed development would fail to accord with Policies 3.5, 7.4 and 7.6 of the London Plan 2016 (LP), Policy CS5 of the Core Strategy 2012 (CS) and Policies DM01 and DM02 of the Development Management Policies 2012 (DMP), where they seek to protect character and appearance. There would also be conflict with the Residential Design Guidance Supplementary Planning Document 2016 (SPD) which seeks to achieve the same aims, and with The National Planning Policy Framework (The Framework) where it seeks to achieve well-designed places.

Living conditions

7. Due to its substantially higher ground level, the appeal dwelling and in particular its rear garden area already have views onto the garden of 75 Milespit Hill. The trees referred to in the reason for refusal have mostly been removed. The windows and Juliet balcony in the rear elevation of the proposed dwelling would face down the garden of the appeal property. Any views possible from these openings onto other properties would be at an oblique angle, and such a relationship is reasonable in an urban location.
8. The proposed first floor balcony would be angled towards No 75, but it would be a reasonable distance from the common boundary. Given this and the existing relationship of the two dwellings, its use would not cause comparative harm to the living conditions of the occupiers of No 75. The balcony would be screened to the side closest to 79 Milespit Hill, and the development would not otherwise cause harm to the living conditions of the occupiers of that property through overlooking.
9. Accordingly, I find that there would not be harm to the living conditions of the occupiers of the adjacent dwellings as a result of overlooking, and therefore no conflict with Policy 7.6 of the LP, Policies CS NPPF, CS1 and CS5 of the CS and Policy DM01 of the DMP, where they seek to protect living conditions. There would also not be conflict with the SPD or the Sustainable Design and Construction Supplementary Planning Document 2016 in this respect.

Other Matters

10. The appellant refers to the benefits of replacing the existing dwelling, which they consider to be in a poor condition with a poor layout, and in terms of addressing existing structural issues. Reference is also made to energy efficiencies and accessibility benefits arising from a new build dwelling. Whilst there may be some benefits occurring in these respects, they do not outweigh the significant harm to character and appearance that I have found and, in any event, the proposed development is unlikely to be the only way that such benefits could be achieved.

Conclusion

11. Whilst I have not found harm to living conditions, I have found significant harm to the character and appearance of the area and subsequent conflict with the development plan. For this reason, I conclude that the appeal should be dismissed.

Graham Wright

INSPECTOR