



Appeal Decision

Site visit made on 7 December 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2020

Appeal Ref: APP/N5090/D/20/3257721

97 Chandos Avenue, Whetstone, London N20 9EG

- 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 Clark against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/2273/HSE, dated 20 May 2020, was refused by notice dated 16 July 2020.
 - The development proposed is described as 'House extensions and alternation including basement extension'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area
 - The living conditions of nearby occupiers, with particular regard to natural light, outlook and overlooking.

Reasons

Character and appearance

3. The appeal property is a traditional, 2-storey detached dwelling on the northern side of Chandos Avenue, within a residential area. There are passageways on either side of the dwelling leading to a large rear garden, which slopes downwards away from the rear of the building.
4. The rear of the appeal dwelling contains a flat-roofed extension on its western side, closest to No 95. Whilst a single storey extension, the sloping terrain means that it is a substantial structure, accessed from the garden by a flight of steps and with separate storage space beneath. The design and materials of the existing rear extension do not relate well to the host dwelling.
5. The proposed development would include a full-width, 'basement' extension with an associated patio area at the end, to the rear of the dwelling. However, given the slope of the terrain, the upper part of the basement would protrude above the ground.
6. At ground floor level, a full-width, flat-roofed extension would be constructed above the basement. It would project a shorter distance from the rear

elevation of the host dwelling and so leave a full-width patio area atop the flat basement roof. Both patios, and the garden beyond, would be accessed by bi-fold doors at the end of the extensions.

7. At first floor level, a part-width rear extension with a pitched roof would be constructed on the western side, with both the eaves and ridgeline below those respective features of the host building.
8. The proposed development, which would also include new fenestration to the side elevations, would represent a significant change to the host dwelling. A rear, ground level bay feature would be removed, as well as the incongruous existing extension and there would be a significant increase in the scale and massing of the property.
9. However, the proposed development would remain subservient to the host building and would not be readily visible from Chandos Avenue, or from other public vantage points. I note that many of the dwellings in the area are said to have been extended and altered and that substantial, albeit quite different, changes to the rear could be allowed as permitted development¹.
10. For these reasons, the proposal would not detract from the character and appearance of the area. It would not, therefore, conflict with Policy DM01 (character and amenity) of the Barnet Local Plan Development Management Policies Development Plan Document 2012 (BLPDMPDPD) and with Policy CS5 (creation of high quality places) of the Barnet Local Plan Core Strategy 2012 (BLPCS), in this regard.

Living Conditions

11. Chandos Avenue slopes downwards from southwest to northeast in this vicinity, meaning that No 95 is at a somewhat higher elevation than the appeal property and No 99 somewhat lower.
12. The appeal property is located at the point where Chandos Avenue begins to turn towards the junction with Oakleigh Park North. This means that the appeal dwelling has a somewhat different orientation to the street than the next door dwellings. This creates a greater separation distance towards the rear of the dwellings than would otherwise be the case, and which is particularly noticeable with regard to Nos 95 and 97.
13. The next door properties also have large rear gardens which slope downwards away from the dwellings. The appeal property garden is bounded by timber panel fences to the sides, supplemented by various bushes and shrubs on either side.
14. Whilst the basement extension would project some 6.3m from the principal rear elevation of the host building and would protrude above ground level due to the sloping terrain, its scale means that it would not adversely affect outlook or natural light to neighbouring properties.
15. The full-width ground floor extension would project some 4.0m from the principal rear elevation of the host building and for much of this distance it would be some 3.8m above ground level.

¹ Town and Country Planning (General Permitted Development)(England)Order 2015 (as amended).

16. However, the ground floor extension would be set back from both next door side boundaries, and together with the splayed orientations of Nos 95 and 99, this would mean that outlook from these properties would not be significantly affected by the proposed ground floor extension.
17. The first floor extension would project some 3.0m from the principal rear elevation of the host building on its western side, closest to No 95. However, it would be set back from the side boundary with No 95, and together with the splayed orientations of Nos 95 and 97, its scale and massing would not significantly detract from the outlook of No 95.
18. No substantive evidence has been provided in relation to the impact of the proposal on natural light at Nos 95 and 99. However, the relative position of the buildings means that it is unlikely that No 95 would be significantly affected. However, from mid-late afternoon onwards, the scale, massing and position of the proposed ground and first floor extensions would mean there would be a significant risk that natural light to the rear of No 99 would be reduced, to the detriment of the occupiers.
19. In residential areas such as this, a degree of reciprocal overlooking is to be expected and the sloping terrain makes this somewhat more pronounced than would be the case in a flat area. However, the height and position of the proposed ground floor rear patio area on the basement roof, and the fenestration at the end of the proposed ground floor extension, would significantly increase opportunities for overlooking of the next door properties.
20. Furthermore, the proposed first floor window on the western side of the host dwelling, which serves a habitable room, would significantly increase the scope for overlooking of No 95.
21. Notwithstanding the splayed orientations of the dwellings and the gaps to the sides of the proposed development, or what would be allowed as permitted development, the proposal would significantly increase opportunities for overlooking of neighbouring properties, with a consequent reduction in privacy for their occupiers.
22. The appellant makes reference to requesting 'appropriate glazing' for the patio area and that the Council has proposed something of this sort in its list of suggested conditions. It is not entirely clear to me what this would entail and whether it would adequately address the risk of overlooking.
23. The appellant also makes reference to requiring the proposed first floor windows to be obscure glazed, but not, as would typically be the case to prevent overlooking, non-opening below a certain height. In any event, the obscure glazing of the first floor window to a habitable room would remove any meaningful outlook from that room. It would thereby cause unacceptable harm to the living conditions of future occupiers, in this regard.
24. Government guidance is clear that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the local planning authority, and on which interested people's views were sought².

² Paragraph M.2.1, Annex M, Procedural Guide Planning Appeals – England November 2020.

25. The suggested amendments would significantly change the proposed scheme. Furthermore, I am not satisfied that they would adequately address the identified harm and they would certainly cause further harm. Irrespective of the Council's suggested conditions, there is also no justification for why such amendments should exceptionally be considered in this case.
26. For these reasons, the proposed development would adversely affect the living conditions of nearby occupiers with particular regard to natural light and overlooking. It would, therefore, conflict with Policy DM01 of the BLPDMPDPD and with Policy CS5 of the BLPCS, in this regard.

Conclusion

27. Notwithstanding the acceptable impact of the proposal on the character and appearance of the area, this would be outweighed by the harm caused to the living conditions of nearby occupiers, with particular regard to natural light and overlooking.
28. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR