



Appeal Decision

Site visit made on 10 February 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2021.

Appeal Ref: APP/N5090/W/20/3257463
337 Hendon Way, London NW4 3NB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr A Cohen against the decision of the Council of the London Borough of Barnet
 - The application Ref 20/2514/S73, dated 4 June 2020, was refused by notice dated 31 July 2020.
 - The application sought planning permission for the change of use of the property from a single family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for 6 persons (Retrospective Application) without complying with a condition attached to planning permission Ref 20/1733/RCU, dated 27 May 2020.
 - The condition in dispute is No 6 which states that: a) Within 1 month of the date of this permission hereby granted, a scheme of hard and soft landscaping to the front forecourt area, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority. ^[L1]_[SEP] b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following the date of approval of part a) noted above. ^[L1]_[SEP] c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
 - The reason given for the condition is: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2019. ^[L1]_[SEP]
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the property from a single family dwelling (Class C3) to a House in Multiple Occupation (HMO) (Class C4) for 6 persons (Retrospective Application) at 337 Hendon Way, London NW4 3NB in accordance with the application Ref 20/2514/S73, dated 4 June 2020 without complying with condition No 6 attached to planning permission Ref 20/1733/RCU, dated 27 May 2020, granted by the Council of the London Borough of Barnet, but otherwise subject to the conditions set out in the schedule to this decision.

Procedural matter

2. In March 2021, after the main parties had submitted their statements, the Mayor published The London Plan 2021 (the London Plan). It comprises the spatial development strategy for London and forms part of the development plan. The London Plan replaces all earlier versions.
3. Policy G7 of the London Plan, which deals with trees and woodland, is similar to Policy 7.21 of its predecessor. As this policy has not significantly altered through the plan making process, I have proceeded to determine this appeal on the basis of the submitted evidence.

Background

4. The appeal property is in use as a House in Multiple Occupation (HMO), for which planning permission has been granted. Condition 6 of that planning permission requires the Council's approval of a landscaping scheme to the front forecourt area of No 337 and for that scheme to be implemented in the first planting season thereafter. The condition also requires any landscaping that is removed, dies, becomes severely damaged or diseased within 5 years of the completion of development to be replaced.

Main issue

5. The main issue is the effect of removing condition No 6 on the character and appearance of the appeal building and the local area.

Reasons

6. The appeal property is a semi-detached house that faces Hendon Road (A41), which is a busy 3-lane highway as it passes the site. At the front of the appeal property is a hard paved area that is primarily used for vehicle parking. At the site visit, there was an open sided cycle store with a curved roof to one side of the front forecourt and bins left for waste collection on the other. I saw no obvious evidence of soft landscaping within the site at the front of the building.
7. New planting within the front forecourt of No 337 has the potential to partly screen and visually soften the main building and the bins and cycle store when seen from the road. Additional greenery might also provide some welcome relief from the highly urban context of the site, which is dominated by the busy road and its associated traffic and infrastructure. However, to achieve these outcomes, it is likely that any new frontage planting within the site would need to be significant in coverage and prominent to have any meaningful presence.
8. That option is heavily constrained by the modest size of the front forecourt of No 337 and its use for vehicle parking, storage and in providing the main access to the building. I note that other conditions imposed on the planning permission require the area for vehicle parking and the cycle and bin stores to be provided and retained as such. The introduction of soft landscaping would also sit uneasily with the importance of keeping the forecourt generally free from obstruction that might otherwise hinder motorists safely exiting the site and could obstruct the visibility of oncoming road users. For all of these reasons, I am not convinced that there is sufficient space available within the front forecourt to achieve a soft landscaping scheme to the extent that it would achieve the stated reason for the condition.

9. From what I saw, the forecourt of the property attached to No 337 is laid out and used for vehicle parking and also lacks any soft landscaping, as does the property beyond it save for a small area of planting enclosed by a low-level brick wall. The use of paving to the frontage areas is a common feature of these and other nearby properties. To that extent, the appeal building does not draw the eye when seen from the road because it blends in with other properties close to it. While the short front gardens of other properties in the same row as No 337 include some boundary hedges, small trees and shrubs, the vast majority also include hard surfaces and are used for vehicle parking. In that context, the absence of soft landscaping at the front of No 337 and the use of paving as hard landscaping does not detract from the appearance of the building nor is it obtrusive or uncharacteristic of the local area.
10. On the main issue, I conclude that the proposal would not significantly harm the character and appearance of the host building or the local area. As such, it does not conflict with Policies CS5 and CS7 of Barnet's Local Plan (Core Strategy), Policy DM01 of Barnet's Local Plan (Development Management Policies), the Council's Supplementary Planning Document, *Design and Construction* and Policy G7 of the London Plan. Together, these policies and guidance aim to support green infrastructure, protect and enhance the gardens of residential properties and seek to ensure that, wherever possible, the planting of new trees is generally included in new developments.
11. For the reasons given, the disputed condition is unnecessary. As such, it does not meet one of the tests of conditions set out in the National Planning Policy Framework (the Framework). Therefore, I shall grant a new planning permission that removes the disputed condition.
12. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. If some conditions have in fact been discharged, that is a matter that can be addressed by the main parties.
13. The conditions are numbered differently to those that were originally imposed to reflect the outcome of this appeal and because the standard time limit to start the development is no longer relevant.

Conclusion

14. For the reasons given, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

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Schedule of conditions

- 1) The development hereby approved shall be carried out in accordance with the details shown on the following approved plans: Refs HW.337.PR.01 - Proposed Floor Plan Ground Floor^[1]HW.337.PR.02 - Proposed First, Second and Roof Floor Plan. ^[1]^[SEP]
- 2) Within 2 months of the date of the permission hereby granted, the parking spaces shown on drawing no. HW.337.PR.01 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development. ^[1]^[SEP]
- 3) a) Within 1 month of the date of the permission hereby granted, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority. ^[1]^[SEP]b) The development shall be implemented in full accordance with the details as approved under this condition within 1 month of the date of the approval of part a) noted above, and retained as such thereafter.
- 4) Within 2 months of the date of the permission hereby granted, the cycle parking and cycle storage facilities shall have been provided in accordance with approved drawing no. HW.337.PR.01, and retained as such thereafter.
- 5) The roof of the extension hereby permitted 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.
- 6) The House of Multiple Occupation hereby approved must be occupied by no more than 6no. persons at any time.