

Appeal Decision

Site visit made on 16 April 2021

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2021

Appeal Ref: APP/N5090/W/20/3246831

Rear of 21 Torrington Park, North Finchley, London, N12 9TA

- 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 M Haddad against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5635/FUL, dated 17 October 2019, was refused by notice dated 22 January 2020.
 - The development proposed is the demolition of existing lock-up storage and the construction of a single storey dwelling with pitched roof, including amenity space, refuse storage and associated site works.
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Application for Costs

1. An application for costs was made by Mr M Haddad against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issues

3. There are three main issues. Firstly, the effect of the proposed dwelling on the character and appearance of the area with respect to siting and design; secondly, the effect of the proposed development on the living conditions of existing and future occupiers with respect to outlook, privacy, noise and disturbance; and thirdly, the effect of the proposed development on on-street parking demand and highway safety in the area.

Procedural matter

4. The appellant has submitted a revised plan ref 21TP-PP4-02A with the appeal. This shows one of the four parking spaces to the front of Danescroft as being allocated to the proposed dwelling. This would reduce the number of spaces available to residents of the existing nine flats from four to three. Although seen by the Council, I have no evidence that third parties, including occupiers of the existing flats, have been consulted on this plan which would directly affect them. It would therefore prejudice their interests and be contrary to natural
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justice if I were to accept this plan. In consequence I shall not do so. I shall instead have regard to the plan submitted with the application ref 21TP-PP4 02.

Reasons

5. The appeal site comprises land at Danescroft, a modern, five storey block of flats. To the rear of the site there are two rows of lock up garages. It is understood that these are used for storage. The garages are accessed from Torrington Park via a vehicular drive to the side of the block of flats.
6. Torrington Park is a predominantly residential street close to the busy commercial and retail High Road. The character of the street has undergone noticeable change, especially at the western end. On the southern side where the appeal site is located a significant number of the original dwellings have been replaced by modern flats set on a building line commensurate with the remaining traditional dwellings. The flats in the vicinity of the appeal site appear, like the appeal site, to have a garden area immediately to the rear with garages and parking courts beyond. Hard standings and garages are therefore characteristic of this hinterland. They are modest in scale and have a clear ancillary relationship with the flats that they were built to serve, even where they are no longer used for car parking. They therefore appear as functionally connected with the flats. Despite the changes there thus remains a strong and consistent pattern of development which reflects the original pattern of dwellings and gardens.
7. The appeal site and its neighbours back onto properties in Friern Park, most of which are set well away from the shared boundaries. By contrast, Park Lodge which lies to the rear of the appeal site, comprises three blocks of two storey flats set in a U-shaped pattern with the central block located close to the shared boundary with Danescroft and its neighbour, Cornelius Court.
8. Policy CS5 of Barnet's Local Plan, Core Strategy (CS), 2012 and Policy DM01 of Barnet's Local Plan, Development Management Policies (DMP), 2012, taken together expect new development to respect local context and distinctive local character so as to ensure high quality design which, amongst other things, preserves or enhances local character and respects the scale, mass height and pattern of surrounding buildings, spaces and streets. This chimes with national planning policy set out in the National Planning Policy Framework (NPPF) which expects developments to add to the overall quality of the area through, amongst other things, being sympathetic to local character and history and visually attractive as a result of good layout.
9. The Council's Supplementary Planning Document – Residential Design Guidance (RDG), 2016, expands on this in chapter 6, setting out the vital role pattern of development plays not only in defining the character of the street but in the relationships between dwellings which influence the living conditions of existing and future occupiers, such as outlook and privacy.
10. The proposed development would result in the removal of the garages and their replacement with a single storey dwelling with a pitched roof. Although the footprint of development at the site would be less than at present and an area of garden with soft landscaping would be created, the proposed bungalow, owing to its height and position on the plot, would have a noticeably greater

presence. It would be visible from Torrington Park and clearly seen from flats in Danescroft, Park Lodge and neighbouring properties.

11. Its position on the plot would be contrived in order to retain the communal garden at Danescroft, maximise separation distances between the dwelling and existing properties and provide for a garden. As a result, the bungalow would be squeezed onto one side of the plot, close to the boundary with Gable Lodge and Danescroft and not much further from the rear boundary. This, coupled with the proposed 1.8m fences on all boundaries would result in a cramped appearance, out of keeping with the spacious, open gardens and parking areas nearby.
12. Although it is suggested that the proposed bungalow would be a subordinate structure when compared with surrounding buildings and that Park Lodge sets a precedent for dwellings at the rear of the plot, I consider that the markedly greater height and mass of the bungalow, compared with the existing garages, and in consequence its significantly greater degree of visual intrusion would result in it being a conspicuous and incongruous development, unsympathetic to its surroundings. Although the rear block at Park Lodge is close to the rear boundary it forms part of a planned development where each block has a clear relationship with the others and with the street. It is therefore not readily comparable with the tandem arrangement proposed at the appeal site.
13. It is concluded on the first main issue that the proposed dwelling would have a materially detrimental effect on the character and appearance of the area with respect to siting and design. In consequence, it would conflict with CS Policy CS5, DMP Policy DM01, the NPPF and supplementary planning guidance set out in the RDG.
14. Turning to the living conditions of occupiers of Park Lodge, the rear wall of that two storey block of flats is between 6m and 7m from the shared boundary with the appeal site. There is a significant fall in ground levels between the appeal site and Park Lodge, meaning that the existing ground floor flat facing the shared boundary looks onto the dividing fence and rear wall of the garages. However, a large window, understood to serve a bedroom, in the closest upper floor flat directly overlooks the appeal site. There is also intervisibility between the site and the adjacent flat. The distance between the closest flat and the proposed bungalow would be some 9.6m with a lesser distance to the garden, including patio areas. There would be a full height, wrap around window, serving the living room, in the closest corner of the proposed dwelling. A 1.8m boundary fence is proposed which would be insufficient to prevent intervisibility.
15. Although not raised by the Council, third parties in Park Lodge are concerned about loss of privacy. Both the RDG and the Council's Supplementary Planning Document – Sustainable Design and Construction (SDC), 2016, emphasise the importance of privacy and expect a minimum distance of 21m between properties with facing windows to habitable rooms and 10.5m to a neighbouring garden. Although at the appeal site the bungalow would be offset from the flats, the angle would be minimal between the worst affected windows and the garden would be in direct line of sight. Coupled with the significant shortfall below the desirable minimum distance between facing windows and gardens this would lead to a material loss of privacy for the occupiers of the upper flats at Park Lodge from both the window and the garden of the proposed dwelling.

16. Equally, occupiers of the upper flats would significantly overlook the corner window and the garden (including the patio area) of the proposed dwelling. This would lead to a material loss of privacy for occupiers of the proposed dwelling which would be compounded by overlooking of the garden from flats in Danescroft. Although windows would be about 10m from the garden of the bungalow, the number of windows and their elevation above the site would result in a noticeable loss of privacy.
17. The appeal site lies to the north of Park Lodge and therefore the proposed development would not lead to a loss of sunlight. Moreover, despite the height of the proposed bungalow, I am satisfied that its offset from the closest flats in Park Lodge and the distance from the shared boundary would ensure that there was no material reduction in daylight. From the closest ground floor flat, the proposed bungalow would be conspicuous and reduce openness to the north-west, above the boundary. Nevertheless, outlook and openness above the boundary would be maintained to the north and north-east and I am satisfied that the effect would not therefore be unduly overbearing.
18. The Council and third parties in Park Lodge refer to increased noise and disturbance. However, although the shared boundary would be close to the flats the distance would be commensurate with that between adjacent neighbours where adjoining patios and gardens are commonly separated by a fence of about 1.8m. Whilst the garages currently give greater protection from noise to the north, I am not persuaded that the noise or activity from one dwelling would result in an unacceptable level of disturbance.
19. It is concluded on the second main issue that although there would be no material loss of outlook or undue noise and disturbance for occupiers of flats in Park Lodge, there would be a harmful loss of privacy to the upper floor flats and in addition significant overlooking of the proposed dwelling and its garden. This loss of privacy would materially detract from the living conditions of existing and future occupiers. In consequence, the proposed development would conflict with CS Policy CS1, DMP Policies DM01 and DM02, the NPPF and the Council's guidance set out in the RDG and SDC which, taken together, expect new development to create an attractive environment for people to live with a high standard of amenity for existing and future users which, in particular and amongst other things, allows for adequate privacy for adjoining and potential occupiers.
20. Turning to parking provision, the proposed dwelling lies within a Controlled Parking Zone (CPZ) and would have no off-street parking. The Council considered that in this location, close to shops, amenities and public transport links and in accordance with DMP Policy DM17 g:2.ii. this would be acceptable provided the occupiers of the dwelling were restricted from obtaining an on street parking permit. This could be secured via a s106 undertaking. A draft s106 Unilateral Undertaking (UU) has been submitted in evidence but this is incomplete being undated and unsigned, the details of the appellant and the land are missing and there is no plan. I am therefore unable to take this draft undertaking into account as a material consideration.
21. The evidence, including that of third parties and from my site visit, suggests that there is significant demand for the limited on street parking which, in the vicinity of the appeal site, appeared to be restricted to resident permit holders.

The appellant has not demonstrated through a parking survey, as required under paragraph 18.8.5 of the DMP, that sufficient capacity is available. A legal undertaking is therefore required to limit parking congestion which may lead to harm to highway safety.

22. In the absence of a completed s106 UU, I conclude on the third main issue that the proposed development would have a materially detrimental effect on on-street parking demand and highway safety in the area. In consequence it would conflict with DMP Policy DM17.
23. The appellant points out that the appeal site is lawfully permitted for commercial storage and can be considered a brownfield site. Nevertheless, these matters do not alter or outweigh the harm identified to the character and appearance of the area, the living conditions of existing and future occupiers or the detrimental effect on demand for on-street parking and highway safety.

Conclusions

24. For the reasons set out above and having regard to all other matters raised, including the fact that informal pre-application discussions took place with a Council Officer, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR