



Appeal Decision

Site Visit made on 19 May 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2021

Appeal Ref: APP/N5090/W/21/3266225

44-46 Victoria Road, New Barnet, Barnet EN4 9PF

- 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 Ascot Bristol Company Ltd against the decision of London Borough of Barnet.
 - The application Ref 20/3403/FUL, dated 14 July 2020, was refused by notice dated 21 September 2020.
 - The development proposed is conversion of existing offices Class B1(a) to 5no self-contained flats Class C3. Roof extension including 3no rear dormer windows, front rooflights and raising of the ridge height. Single storey rear extension. First floor side and rear extensions. Alterations to front and rear fenestration including addition of balconies at first floor level and loft level. Associated refuse/recycle/cycle storage and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The new London Plan (LP) (2021) was adopted after the original decision on this application. The Council have addressed this in their appeal statement and have provided copies of policies they consider to be most relevant to this case. The appellant had the opportunity to comment on these as part of their final comments, but no further submissions were made. As I must, I have considered the appeal based on the most up-to-date policies.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of future occupants, with particular regard to outdoor amenity space, and;
 - the living conditions of neighbouring occupants, with particular regard to noise and disturbance.

Reasons

Character and appearance

4. The appeal relates to a two-storey building located in a predominantly residential area. As well as the change of use, the development would also include substantial alterations, including the raising of the roof, a single storey rear extension and first floor rear and side extensions. There would also be

extensive changes to the front and rear fenestration and the insertion of dormers at the rear, balconies to the front and a roof terrace. As well as four parking spaces on the forecourt, an additional space would be provided to the rear. This would be accessed by a driveway underneath the first-floor side extension.

5. Planning permission already exists for the conversion of the building into two dwellings, with associated alterations. Planning permission also exists for the redevelopment of buildings to the rear of the site to accommodate two semi-detached dwellings. The evidence suggests that access to these would be taken through the existing gap between No 42 and the appeal building.
6. The culmination of the alterations would be a significantly larger building that would close the existing gap to No 42. The gap to No 48 is already relatively narrow. Coupled with the increase in height and bulk, the reduction in the gap would result in an unduly cramped appearance. This would conflict with the Barnet Residential Design Guidance (RDG) (2016) which suggests there would normally be a gap of at least 2 metres between flank walls at first floor level. There is no uniformity in the gapping of buildings along the street. However, in most cases there is a discernible degree of separation, at least on one side of a building, which provides some sense of openness and a looser urban grain.
7. My attention has been drawn to No 34 and No 36 as an example where the space between buildings has effectively been filled. Rather than demonstrate that this is an acceptable trait, this stands out as a somewhat incongruous feature amongst the looser grain of buildings in the immediate vicinity. It also exhibits the same cramped appearance as would be evident with the appeal proposal. This example does not therefore help to justify the development. In my view, the other example given at No 2 to No 6 is not entirely comparable to the appeal proposal. Even if not consistent with the RDG, the gaps appear wider than would exist between the development and No 42. There are therefore no examples in the vicinity of the site that would alter my view that the development would appear unduly intensive and cramped.
8. The side extension would also not be setback from the existing building. There would also be no setting down of the ridge height of the roof. This would also conflict with the RDG. As such, the side extension would not appear as a subordinate addition. The resulting lack of articulation in the front elevation would therefore accentuate the cramped, asymmetrical and disproportionate appearance of the frontage. This would not constitute a good standard of design.
9. I find that the balconies in this case would exacerbate the incongruous nature of the alterations. Rather than complementing the original design of the building, which is the case with the examples drawn to my attention elsewhere in the street, they would emphasise the contrived nature of the development. This would be particularly the case for the roof terrace, which would be an alien feature in the street scene.
10. The rear extensions would add to the bulk of the built form. Although less prominent, the alterations at first floor and roof level would be visible from Alexander Close and the private views of nearby residents. The overall size and width of the first-floor extension, the number and spread of the dormers and the filling in of part of the gap to No 48 on the ground floor would also appear overly intensive and contribute to the cramped overall appearance.

11. While there is variety in the architecture of buildings in the vicinity of the site, the development would still appear as a contrived, unsympathetic and discordant addition to the street scene. It would therefore cause unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with LP policies D1, D3, D4 and D6, Barnet Core Strategy (CS) (2012) policies CS1 and CS5 and Barnet Local Plan (BLP) (2012) Policy DM01. It would also conflict with the RDG. Collectively, these seek to ensure development optimises site capacity through a design-led approach, is of a good quality design and respects local context.

Living conditions – future occupants

12. The Council's main concerns lie with the amount of outdoor amenity space provided for flats 3, 4 and 5. Each of these flats would have access to a balcony. These would each provide approximately 2.5 square metres (sqm) of space. The Council's Sustainable Design and Construction Supplementary Planning Document (SDC) (2016) highlights the importance of outdoor amenity space and suggests requirements for flats of 5 sqm of space per habitable room.
13. The Council has indicated that flats 3-5 would require between 10-15 sqm of amenity space to meet these standards. The appellant has not disputed these figures. The balconies would therefore provide far less space than what would normally be expected. While the SDC acknowledges that flats might not always be able to provide this level of space, some form of alternative provision would normally be sought. There is no indication what form of alternative solution might be suitable in this case or a mechanism before me to secure this.
14. The lack of available space would be compounded by the fact that flats 4 and 5 would both be two-bedroom units and thus might house families. The lack of accessible space would be particularly harmful to the living environment of future occupiers of these flats. In addition, the balcony for flat 4 would be accessed through one of the bedrooms. This would limit the functionality of the space, as it may not always be accessible to occupants of the second bedroom. Even if part of the same family, this arrangement may limit the ability of all occupants to use the space.
15. The Council has indicated that the balconies on other dwellings in the street are not their only form of amenity space. The appellant has also not disputed this. As such, these do not add weight in favour of this proposal.
16. Overall, I am not persuaded that the balconies would provide sufficient private outdoor amenity space to create a satisfactory living environment for future occupants. This would conflict with BLP Policy DM02 and the SDC. Amongst other things, these seek to ensure that development meets outdoor amenity space requirements and protects the living environment of residents. Although not referred to on the decision notice, the development would conflict with LP Policy D6 which seeks, amongst other things, to ensure the provision of useable outdoor amenity space. Paragraph 127f of the National Planning Policy Framework (the Framework) also expects development to secure high levels of amenity for future users.
17. The Council's decision notice refers to CS policies CS1 and CS5 and BLP Policy DM01. However, these policies do not specifically refer to the issue of outdoor amenity space and are thus of limited relevance. This does not

Living conditions – neighbours

18. The principle of residential conversion has already been established by the extant permission. The extant permissions accepted the principle of vehicles passing by the side of No 42. Vehicles can also already park on the forecourt area. As such, there is already the potential for noise coming from vehicles in the area. I also saw that many forecourts along the street are used for parking. These will generate a degree of noise.
19. Without substantive evidence to the contrary, it would be reasonable to assume that the intensive use of the building by numerous households would lead to a greater number of comings and goings than the extant permission. This would generate more noise associated with cars starting, doors opening and closing and manoeuvring near to the front windows of neighbouring properties. When coupled with the potential for noise and disturbance from vehicles using the driveway, the cumulative impact could be significant and materially worse than what has been permitted. There is also no clear evidence to suggest the intensity of the use on this small site would be normal in the area.
20. It would also be reasonable to assume that the frequency and timing of any noise would be different to that of the existing use, potentially going into the evening when there is a greater expectation of peace and quiet. On this basis, the intensity of the use could result in unacceptable levels of disturbance to neighbouring residents, particularly the occupants of No 42.
21. Furthermore, there would be three balconies on the front elevation, which would be the only opportunity for occupants of three separate flats to sit outside. Any noise emanating from these balconies would be at an elevated position and from a location where such noise would not normally be expected. In my view, this arrangement would serve only to exacerbate any potential impacts on occupants of nearby dwellings.
22. Therefore, irrespective of works meeting Building Regulations, I am concerned that the intensity of the use would give rise to an unacceptable risk of harm to the living conditions of neighbours. None of the policies referred to in the Council's decision notice refer specifically to the issue of noise and disturbance. Nevertheless, LP Policy D3 seeks, amongst other things, to ensure development provides adequate amenity and the SDC seeks to limit the effects of noise and disturbance. Paragraph 127f of the Framework also seeks to ensure development provides high standards of amenity for existing residents. The development would not achieve these objectives.

Other Matters

23. Permission already exists for the conversion of the building to housing and for some external alterations. However, these are very different to what is proposed here. While a similar increase in the height of the roof was permitted, there was no associated side extension. The developments are therefore not comparable in this regard. Similarly, no matter what the difference in overall floorspace between the proposed and permitted schemes, the effect on character and appearance would be very different. Accordingly, this fallback position would be less harmful than the proposal and thus does not weigh in its favour.

24. The development would make efficient use of an existing building and add to the supply of housing. This would generate moderate social, economic and environmental benefits. Nevertheless, these do not justify a form of development that would be harmful to the character and appearance of the area or the living conditions of existing and future residents.
25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that decisions should be made in accordance with the development plan unless there are material considerations that indicate otherwise. I have found conflict with the development plan and there are no material considerations in this case that would outweigh this conflict.

Conclusion

26. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR