



Appeal Decision

Site Visit made on 16 June 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/N5090/D/21/3269500

14 Hendon Avenue, Finchley, London N3 1UE

- 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 Mark Miller against the decision of London Borough of Barnet.
 - The application Ref 20/2992/HSE, dated 3 July 2020, was refused by notice dated 10 February 2021.
 - The development proposed is 1st floor side extension, re construction of garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's Decision Notice describes the proposal as "First floor side extension, alteration and extension to existing roof. Reconstruction of garage". As this more accurately reflects the proposed development I have dealt with the appeal on this basis.

Main Issues

3. The main issues are the effect of the proposed development on: -
 - the living conditions of the occupiers of 12 Hendon Avenue, with specific regard to outlook; and
 - the protected tree.

Reasons

4. The appeal concerns a detached house situated within a residential area, while the appearance and alignment of the houses varies, they are generally of a similar size and scale and arranged close together, with very little space between. In the case of the appeal property, it is set back from the street but forward of 12 Hendon Avenue.
5. The houses at Nos 8-12 are all arranged with an 'L-shape' plan form and roughly aligned with one another. They each incorporate a front projection to the southeast corner, next to the boundary of the neighbouring house. The western side of the frontage to No 12 is therefore enclosed by its projection.
6. The appellant has provided floor plans for No 12, which show the ground floor accommodation nearest to the proposed extension to be served by front and rear openings, but outlook to the front and rear is of equal importance, as the accommodation occupies the full depth of the house. The same space to the

front at first floor is served by one window. Outlook from these windows is therefore likely to be towards its frontage and No 14.

7. A gap between the proposed extension and No 12 would remain and outlook from No 12 would still encompass the trees between the two houses and the views available across its frontage. Nevertheless, the proposal would add considerably to the extent of built form in close proximity of No 12 and create an enclosing effect. I am also mindful that vegetation is subject to seasonal change, so there would be greater visibility of the proposal when the trees are not in leaf. The planting should therefore not be relied upon to hide the proposed development from view, particularly as it would still appear oppressive and imposing when viewed from No 12.
8. By contrast, the first-floor accommodation in the forward projection of No 12 appears to be served by a front and side window, so it has a wider and more appreciable extent of outlook. The side window would look out toward the proposal, but it would be some distance from it, so outlook from this particular part of No 12 would not be harmed to an unacceptable extent.
9. I acknowledge that the proposed two-storey extension would result in a similar arrangement to that currently found between Nos 8-12 and between various other houses in the street, including No 15. The occupiers of No 12 have also not objected to the proposed extension. However, the lack of objections and presence of similar relationships within the street are not considerations that outweigh the harm I have identified above. Similarly, although the main parties agree that there would not be a harm to the living conditions of the occupiers of No 12 in respect of sunlight, daylight, and privacy, the absence of such harms would weigh neither for nor against the appeal scheme.
10. In light of the above, I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of 12 Hendon Avenue, with specific regard to outlook. Hence, the proposal would not accord with Policies CS5 of the Council's Core Strategy¹ (the CS), Policy DM01 of the Council's Development Management Policies² (the DMP) and the Council's Residential Design Guidance³, in respect of this matter.

Protected tree

11. The proposed development would be positioned within close proximity of a wild cherry tree situated in the garden of No 12, which overhangs the boundary and flat roofed portion of the appellant's garage. The tree is protected through a Tree Preservation Order and is visible from Hendon Avenue across the front of Nos 12 and 14. It is not as prominent as the trees closer to the street as it lies behind them and between the houses but it, nevertheless, makes a positive contribution to the visual amenity of the area.
12. The appellant's Arboricultural Impact Assessment (AIA) suggests that the proposal would be positioned within and cover 5.4% of the Root Protection Area (RPA) of the tree, which would also need to be cut back to the boundary. The AIA suggests that tree roots would be likely to be small in the affected area, so could accommodate some loss. However, the RPA is theoretical and trial pits would first need to be opened to determine the location and extent of

¹ Barnet's Local Plan (Core Strategy) Development Plan Document September 2012.

² Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012.

³ Local Plan Supplementary Planning Document: Residential Design Guidance October 2016

roots, the design of foundations and other methods to prevent long-term harm to the tree.

13. No firm construction methodology has been established so the potential risk of damage to roots and the long-term effect on the health of the tree is uncertain. Based on the evidence before me, a precautionary approach is reasonable and appropriate where the life expectancy of a protected tree is at issue, so it would not be appropriate to secure such information by planning condition.
14. I acknowledge that the tree is in close proximity of the garage and may require some pruning to protect it and the garage from branch movement, but the proposed pruning would be so extensive that it would be likely to significantly affect the visual amenity of the tree.
15. The AIA suggests that compensatory planting could be carried out in the back garden to maintain local canopy coverage but there are no further details of this mitigation. In any event, given the location of the existing tree, I am not convinced that such an approach would address the harm to visual amenity.
16. Having regard to all of the above and the particular circumstances of this case, I must conclude that there is insufficient evidence before me to enable me to conclude that the proposed development would not have a harmful effect on the health of the tree. Furthermore, the proposed pruning works would have an unacceptably harmful effect on the visual amenity of the tree. Hence, the proposal would not accord with the aims in respect of tree protection expressed in Policy DM01 of the DMP.

Other Matters

17. I note that the main parties agree that the principle of development and the impact of the character and appearance of the existing house and its surroundings would be acceptable. However, the absence of harm in these matters would weigh neither for nor against the scheme.

Conclusion

18. For the reasons given above, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR