



Appeal Decision

Site Visit made on 21 September 2021

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 19th October 2021

Appeal Ref: APP/N5090/W/21/3270918

First Floor Flat, 42 Fortis Green, East Finchley, London N2 9EL

- 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 & Mrs Sebastien & Laureline Geroult & Verpiot against the decision of London Borough of Barnet.
 - The application Ref 20/5054/FUL, dated 25 October 2020, was refused by notice dated 21 December 2020.
 - The development proposed is retention of roof terrace with boundary enclosures, and proposed addition of fixed planters.
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Decision

1. The appeal is allowed and planning permission is granted for retention of roof terrace with boundary enclosures, and proposed addition of fixed planters at First Floor Flat, 42 Fortis Green, East Finchley, London N2 9EL in accordance with the terms of the application, Ref 20/5054/FUL, dated 25 October 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4D01OS and 4D02 Rev A.
 - 3) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the local planning authority. The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
 - 4) Details of trees and shrubs involving size, species, planting heights, densities and positions of any soft landscaping, has to be submitted and agreed in writing by the Local Planning Authority. All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. Any 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.

Preliminary Matters

2. A revised drawing was submitted as part of the appeal which shows a reduced proposed terrace area. Since the change is minor it would not prejudice those who should have been consulted on it and I have therefore had regard to the drawing in my assessment.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with regard to privacy and noise.

Reasons

Character and appearance

4. The rear of the properties along Fortis Green face the back gardens of the dwellings and the buildings to the rear. They generally have flat roofs over the second floor at regular intervals that gives the area a pleasant, unified character and appearance.
5. The proposed terrace and railings would not occupy the full depth of the flat roof. Therefore, they would not appear prominent when viewed from neighbouring terraces. The proposed planters would contain trees that are described as having medium height. While they would be visible from neighbouring terraces and windows, given the set back of the scheme from the far edge of the flat roof, the planting would not appear dominant and would provide a pleasant green aspect to the rear of the properties in the area. Furthermore, since the scheme would be sited over the second floor, it would not be prominent from the rear gardens. As the properties to the rear of the site are a significant distance away, the proposal would not appear discordant from that view.
6. Consequently, the proposed development would not harm the character and appearance of the area. Therefore, it would not conflict with Policies DM01 and DM02 of Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012 (DMP) which seeks high quality design and compliance with local and national standards among other things. It would also not conflict with the aims of Policies CS1 and CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS) which seek a quality environment and development that respect local context among other things. It would also not conflict with the aims of the Supplementary Planning Document: Residential Design Guidance October 2016 (SPD) in this respect.

Living conditions

7. Given the significant distance to the ground floor rear gardens of the host building and surrounding properties, as well as the set back from the edge of the flat roof, the proposal would not result in undue overlooking to those gardens.

8. The proposed terrace would be in close proximity to the windows and terraces of the neighbouring properties which could give rise to a degree of overlooking to the adjacent neighbours. While planting would partially mitigate the harm to privacy, given the close proximity to the neighbouring dwellings, and that the level of screening provided by planting cannot be guaranteed, I am not persuaded that it would fully mitigate the harm.
9. However, a suitably worded condition could be imposed to require privacy screens to be agreed with the Council and installed accordingly. While they may have a different effect on the character and appearance of the area, I see no reason why they could not be designed in a sympathetic manner given that they would not occupy the full depth of the flat roof.
10. The scheme would result in the flat roof being occupied at times. However, any resultant noise would not be dissimilar to that expected between neighbours at ground level.
11. Consequently, the proposed development would not harm the living conditions of neighbouring occupiers with regard to privacy and noise. Therefore, it would not conflict with DMP Policies DM01 and DM02 which seek development that allow for adequate privacy for adjoining occupiers and compliance with local and national standards among other things. It would also not conflict with the SPD in this respect.
12. Since CS Policies CS1 and CS5 do not relate to living conditions they are not directly relevant to this main issue.

Other Matters

13. I note the evidence regarding a condition of a previous planning permission for the site. However, it is for the parties to consider the status of the condition in light of my decision.
14. While I acknowledge the public parks in the area, given my findings above, this matter has not altered my overall decision.

Conditions

15. The conditions relating to time limits and specifying plans are necessary in the interests of certainty.
16. As the details of materials are stated in the approved plans, the condition regarding external surfaces is not necessary. The conditions regarding privacy screens and landscaping are necessary to safeguard the living conditions of neighbouring occupiers and the character and appearance of the area.

Conclusion

17. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR