
Appeal Decision

Site visit made on 18 January 2022

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 FEBRUARY 2022

Appeal Ref: APP/N5090/D/21/3287368

39 Harman Drive, Cricklewood, London, NW2 2ED

- 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 Dr Ayad Al-Shakarchi against the decision of the London Borough of Barnet Council.
 - The application Ref 21/4247/HSE, dated 28 July 2021, was refused by notice dated 4 October 2021.
 - The development proposed is new pool outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a new pool outbuilding at 39 Harman Drive, Cricklewood, London, NW2 2ED in accordance with the terms of the application, Ref 21/4247/HSE, dated 28 July 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: S/1 Rev A; S/2 Rev B; S/3 Rev B; F/4 Rev D; F/5 Rev C; F/6 Rev C; F/7 Rev C; and F/8 Rev C.
 - 2) The materials to be used in the construction of the development hereby permitted shall be carried out in accordance with the approved plans.

Procedural Matter

2. At my site visit I noted that the development had commenced with the hydro pool installed and the concrete plinth in place.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the living conditions of the occupiers of 2 Harman Close, with particular reference to outlook.

Reasons

Character and appearance

4. The appeal property is a large semi-detached dwelling located in a road comprising of detached and semi-detached houses of a similar design and appearance.
5. I am aware that the site has an extensive planning history. In particular, ground levels in the rear garden have been raised and I note that planning permission for this was granted on appeal in 2019¹.
6. The proposed pool outbuilding would be located towards the rear of the garden of the dwelling. It would have a length of about 9m and a depth of around 6.7m. In terms of its height, it would be 2.6m in height above the existing concrete slab and 2.8m in height above existing garden level. The pool building would also have a basement level.
7. The Council has produced a *Residential Design Guidance Supplementary Planning Document (2016)* (SPD) which, among other things, states that all development should protect and enhance the gardens of residential properties. In terms of the effect of such buildings on the character and appearance of an area, it advises that buildings should not be too large or significantly reduce the size of a garden to become out of character with the area and that their design and materials should be in harmony with the surrounding area.
8. The appellant acknowledges that the proposed building would not be permitted development² due to the basement and its height above 2.5 metres. I do however accept as a general point that it is commonplace for outbuildings to be constructed in residential gardens where permitted development rights have not been removed. Indeed, there is also a brick built outbuilding in the garden of the adjacent dwelling, 1 Harman Close, which is adjacent to the proposed building and forms part of the context of the appeal site.
9. The proposed building would have a flat roof design and given its height of 2.8m above the existing garden level, it would be subservient in appearance to the main dwelling on the site. Whilst relatively large, I do not consider that the building would dominate the plot or surrounding gardens to an unacceptable degree even having regard to the level changes with adjoining gardens. I am also satisfied that the size of the garden would not be so reduced as to be out of character with the area.
10. The proposed building would be constructed in materials to match the main dwelling which include stock bricks and grey aluminium windows. The building would incorporate large areas of glazing which would break up the expanses of brickwork and overall, I consider that the proposed materials would be acceptable in this garden setting.
11. The proposed pool building would also incorporate a basement level which would be beneath the footprint of the building. The SPD states that the Council seeks to ensure basement development does not harm the established

¹ Appeal References APP/N5090/C/18/3216246 and APP/N5090/W/18/3216990

² Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO)

architectural character of buildings and surrounding areas, including gardens. In this case, there would be no external manifestations of the basement and I am satisfied that the inclusion of a basement would not have any adverse effect on the character and appearance of the area.

12. I therefore consider that the proposal would not have a materially harmful effect on the character and appearance of the area. It would therefore be in accordance with Policies D4 of the London Plan (2021) (LP), Policy CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document 2012 (CS DPD), Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document 2012 (LP DPD) and the SPD. When taken together, these policies and guidance seek to protect and enhance the gardens of residential properties and to ensure that development is of a high quality design that respects the appearance, scale, height and mass of surrounding buildings and respects local context and distinctive local character. I am satisfied that there would be no conflict with Policy D10 of the LP which refers to large scale basement proposals.

Living conditions

13. Policy DM01 of the LP DPD states, amongst other things, that development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users. Policy CS5 of the CS DPD also seeks to protect and enhance the gardens of residential properties (among other matters). Guidance in the SPD also advises that back garden buildings should not unduly over-shadow neighbouring properties and should not unduly effect outlook from an adjoining property's habitable rooms or principal garden areas.
14. The proposed outbuilding would be adjacent to the side boundary of 2 Harman Close which comprises a close boarded fence topped with trellis. The elevation of 2 Harman Close facing the appeal site is a gabled side elevation which contains ground and first floor windows. The Council confirm that the ground floor windows are secondary windows. The Council's concern is that the proposal would be overbearing on the outlook from the property and garden of No 2.
15. The proposed building has an irregular footprint in relation to the boundary with 2 Harman Close which varies in distance from 0.5m at its closest point and 1.9 metres at its furthest position. It would have a flat roof with a height of 2.8 metres above existing ground level of the site.
16. The closest windows on the ground floor of 2 Harman Close are secondary windows. Whilst there are habitable room windows on the rear elevation of No 2, due to the distance of the dwelling from the side boundary and the angled nature of any views of the building, in my view the outlook from these windows would be largely unaffected by the proposal.
17. I acknowledge that the garden of No 2 is at a lower level than that of the appeal site. However, I do not consider the building would be excessively high and the flat roof design and staggered footprint of the proposal would help to minimise its impact. Furthermore, No 2 has a reasonably wide and spacious plot with shrubs and other planting adjacent to the boundary with the appeal site. Much of the rear garden amenity space is set far enough away from the proposed building such that it would be little affected.

18. I therefore conclude that the proposal would not have an unacceptable adverse effect on the living conditions of the occupiers of 2 Harman Close with particular reference to outlook. It would comply with Policy CS5 of the CS DPD, Policy DM01 of the LP DPD and the advice contained within the SPD which, amongst other matters, seeks to ensure that development is designed to allow for adequate outlook for adjoining occupiers and protects and enhances the gardens of residential properties.

Other Matters

19. The appellant has undertaken a noise assessment which concludes that the noise from plant associated with heating and cooling the basement and pool would be likely to be below the background levels during the day and night-time period of any adjacent property. Whilst I can only give the report limited weight as the householder appeal process does not provide an opportunity for the Council to comment on the assessment methods and results, I nonetheless conclude that the proposal is unlikely to have any serious adverse effects in terms of the noise generated.
20. With regard to concerns expressed by local residents regarding potential flooding, the appellant has clarified how the waterproofing system that has been installed is designed to manage and control water that penetrates the structure. Given the small scale of the development and the absence of any more substantive evidence, I conclude that the proposal would be unlikely to result in any significant issues regarding local flooding.
21. I also concur with the view of the Council that the proposal would not result in any material harm to the living conditions of any other neighbouring dwelling due to its siting and boundary treatments.

Conditions

22. The standard implementation condition is not necessary as the development has already commenced. I have imposed a condition controlling materials to ensure a satisfactory external appearance. The approved plans condition is imposed for clarity.

Conclusion

23. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be allowed.

J Davis

INSPECTOR