



Appeal Decision

Site visit made on 1 February 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2022

Appeal Ref: APP/N5090/W/21/3276721

Sunnyside House, Childs Hill, London NW2 2QL

- 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 City & Country Properties Limited against the decision of the London Borough of Barnet.
 - The application Ref 20/5880/FUL, dated 25 November 2020, was refused by notice dated 28 April 2021.
 - The development proposed is demolition of disused garages and construction of 2no. dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by City & Country Properties Limited against the London Borough of Barnet. This application is the subject of a separate decision.

Procedural Matter

3. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of nearby occupiers with regard to light.

Reasons

5. The appeal site is formed of garages sited between a residential terrace and a mixed use four storey building, known as Sunnyside House. The design of Sunnyside House includes outriggers and external walkways that extend across many habitable windows. It was clear from my visit to the site, which was a morning on a bright and sunny day, that the rear of Sunnyside House already experiences some overshadowing and restricted daylight to windows due to the form and orientation of the property.

6. The proposed development would be two storeys high and would largely occupy the footprint of the garages. I note the distance between existing windows and the proposed development. However, given the height of the proposed development and that habitable rooms in the rear of Sunnyside House are not dual aspect, the amount of daylight entering rooms would be diminished by the proposal.
7. The submitted Sunlight and Daylight Amenity (Neighbouring) Study concludes that the proposed development would meet the British Research Establishment (BRE) guidelines for Vertical Sky Component, Annual Probable Sunlight Hours and overshadowing. It would not, however, comply in respect of Daylight Distribution, which is a measure of daylight provision within a room.
8. The study shows that a living room window serving flat 3 and a kitchen window serving flat 5 would not meet the 0.8 Reduction Factor and would not pass the BRE guidelines. I acknowledge that a further analysis removing the external walkways has been carried out which shows that flat 5's kitchen window would remain affected by the proposed development.
9. Whilst a degree of flexibility in application of BRE guidance should be adopted, it is not planning policy. The numerical guidelines and technical advice in the document are purely advisory and should be considered in the context of other site layout constraints.
10. I note the Glossary in the Council's Supplementary Planning Document – 'Sustainable Design and Construction' (2016) (SPD) sets out a definition of a habitable room. Whilst the affected kitchen may not meet this definition, on account of its size, occupiers would still spend extended time in the room preparing meals and, in my judgement, the loss of daylight would be noticeable, irrespective of the internal layout.
11. Whilst the area is a dense urban environment the reduction in daylight to windows which already experience restricted daylight would, in this instance, exacerbate the situation, causing significant detriment to the living conditions of the occupants of flats 3 and 5.
12. Taking the above into consideration the proposed development would unacceptably harm the living conditions of existing occupants of Sunnyside House. I conclude that the proposal would be contrary to Policy CS5 of Barnet's Local Plan (Core Strategy) (2012), Policy DM01 of Barnet's Local Plan (Development Management Policies) (2012) and Policy D6 of the London Plan (2021) which, amongst other things, require new development proposals to provide adequate daylight for adjoining occupiers and users.
13. It would also be contrary to the SPD, Supplementary Planning Document 'Residential Design Guidance' (2016) and The Mayors Housing Supplementary Planning Guidance (2016) which, amongst other things, seek to ensure that design takes into account daylight and developments provide good levels to create a more pleasant living environment.

Other Matters

14. The appellant has drawn my attention to examples in the borough where daylight and sunlight studies have taken account of balconies and adopted an alternative approach to light in context of the BRE guidance. However, based on the limited information before me there is nothing to indicate that their

context is comparable to the appeal site. In any case, I have considered the appeal on its own merits and give this aspect of the appellant's argument little weight.

15. I have been provided with an alternative scheme indicating that to achieve full compliance with BRE guidance there would have to be a significant reduction in the accommodation proposed, which would potentially make the scheme unviable. In the interests of fairness, I must ensure that what is considered at appeal is what was considered by the Council. Furthermore, I have not been provided with any evidence to demonstrate that any such alternative would be unviable. As such, I have not taken these arguments into account in coming to my decision.
16. I acknowledge that the National Planning Policy Framework encourages the efficient use of land and the proposed development would involve the redevelopment of previously developed land in an accessible location. However, this would not outweigh the harm that I have identified in relation to living conditions.
17. I accept that the proposal would add to the general availability of local housing. However, I have not been made aware of any pressing housing need that would justify a different overall conclusion that the appeal should be dismissed.

Conclusion

18. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR