
Appeal Decision

Site visit made on 12 April 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/N5090/W/21/3281730

7 Shakespeare Road, London N3 1XE

- 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 Hayashi Developments Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/3570/FUL, dated 28 June 2021, was refused by notice dated 9 August 2021.
 - The development proposed is change of use of part of ground floor from existing class B8 (warehouse and storage) to class C3 (residential use).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part of ground floor from existing class B8 (warehouse and storage) to class C3 (residential use) at 7 Shakespeare Road, London, N3 1XE, in accordance with the terms of the application Ref 21/3570/FUL, dated 28 June 2021, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The change of use and alterations have already taken place. I am therefore considering the proposal on a retrospective basis.

Main Issues

2. The main issue is (i) the effect of the development on the living conditions of the occupiers of the proposed studio flat in respect of outlook and (ii) whether the proposal would lead to on-street car parking stress.

Reasons

Living conditions - outlook

3. The appeal relates to the formation of a studio flat comprising a bedroom, bathroom and open plan kitchen, diner and lounge. Most of the remainder of appeal building has already been converted to flats or has planning permission for flats. The building was previously used for warehouse and storage purposes and the appeal site was until recently a disused corner part of the building, with Unitec House to the rear, and the car park of Alan Lodge to one side. The appeal site falls within the Finchley Church End town centre boundary.
4. The studio flat is single aspect and includes two glazed doors onto an enclosed outside amenity space. There are five rooflights and the appellant's undisputed evidence is that these had been previously approved. The outside amenity

space includes a brick boundary wall measuring about 2.8 metres in height and at a distance of about 2.4 metres from the glazed doors. I acknowledge that the wall does, to a limited extent, have an enclosing impact when seen from the flat. However, the existence of the wall also has the effect of creating a private and sheltered outside amenity space for future occupants. In this regard, there is to some extent a harm trade-off. I also noticed on my site visit that there appeared to be other flats facing the same boundary wall and at a similar separation distance.

5. As part of the site visit, I was able to appreciate the wall when standing in close proximity to the glazed doors. At this point, it was possible to see sky and so it could not be reasonably said that the entire view from the property would be that of the wall. In addition, I was able to see that there was a greener and more open outlook to the side of the amenity space and including a notable presence of trees associated with the car park at Alan Lodge.
6. While there would be some limited harm caused to the outlook of future occupiers of the flat, owing to the existing position and height of the wall, the evidence is that both the flat and the outside amenity space would receive a good level of light penetration. Furthermore, and importantly, the limited harm to outlook has already been suitably mitigated by way of the provision of an artificial hedge that covers the whole of the back boundary wall. This has softened the impact of the boundary wall when viewed from the flat and provides a more interesting and acceptable outlook for future occupants. As outlined earlier, there is some harm trade-off arising from what is a private and sheltered outside amenity space, albeit with suitable sunlight and daylight penetration.
7. Subject to the imposition of a planning condition relating to the retention of the existing artificial hedge that covers the whole of the back boundary wall, I conclude that overall the development provides an adequate and reasonable level of outlook for future occupants. Therefore, the development accords with the amenity requirements of policy DM1 of Barnet's Development Management Policies DPD 2012 (DMP), Barnet's Residential Design Guidance SPD 2016 and Barnet's Sustainable Design and Construction SPD 2016.

Car Parking Stress

8. At planning application stage, the Council raised concern about the potential for occupants of the proposed studio flat to apply for an on street parking permit in an area which is a controlled parking zone (CPZ) and where there is evidence of car parking stress. The proposal does not include any on-site car parking. Policy DM17 of the DMP states that residential development may be acceptable with limited or no parking within a CPZ. Where it can be demonstrated that there is insufficient capacity on street, the applicant will be required to enter into a legal agreement to restrict future occupiers from obtaining on street parking permits. The appellant has completed a unilateral undertaking, dated 1 December 2021, which would restrict future occupiers from obtaining on street car parking permits.
9. Given the above, the Council has commented in its appeal statement that *'with regards to the second reason for refusal relating to highways impacts, the appellant has provided a draft unilateral undertaking with this appeal. It is considered that this would be considered sufficient to mitigate the impact of the proposed development on the surrounding highway'*. The completed

unilateral undertaking is acceptable and meets the tests outlined in paragraph 57 of the National Planning Policy Framework 2021.

10. Given the completed unilateral undertaking, I conclude that the development would not lead to on-street car parking stress and there is therefore no conflict with the car parking and traffic management requirement of policy DM17 of the DMP and the Council's Planning Obligations SPD 2013.

Other Matters

11. The occupier of Flat 51, Norman Court has raised concern about overlooking his garden. As part of my site visit, I was able to consider the relationship of the appeal property with such a garden. Taking into account the location of the appeal development, it does not give rise to any material loss of privacy for the occupiers of Flat 51, Norman Court.
12. Reference has been made by the occupier of Flat 51, Norman Court to being '*aware of some issues with a garden wall which I believe he is encroaching upon*'. I am not certain what is meant by this comment. In any event, this would be a private or civil matter that would need to be considered separately from this appeal.
13. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions

14. As development has already commenced, it is not necessary to impose the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans and submitted documents, for the avoidance of doubt and in the interests of certainty. While development has clearly commenced, the purpose of my site visit was not to establish whether the development had been completed in full accordance with the submitted plans. I have therefore imposed a condition to this effect.
15. The Council has suggested a condition requiring the submission of pre-completion Sound Insulation Test Certificates confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission). I do not consider that this is a necessary condition as it seeks to duplicate control that exist elsewhere. I have therefore not imposed this suggested condition.
16. The Council has suggested a condition requiring the efficient use of water and compliance with Regulation 36(2)(b) of Part G 2 of the Building Regulations. I do not consider that this is a necessary condition as it seeks to duplicate control that exist elsewhere. I have therefore not imposed this suggested condition.
17. Given my conclusion on the living conditions main issue, it is necessary to include a condition requiring the permanent retention of the artificial hedge that already covers the whole of the back wall. The Council has been provided with a photograph showing the artificial hedge and hence the imposed condition is enforceable.

Conclusion

18. Subject to the completed unilateral undertaking and the imposition of planning conditions, there are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

D Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be implemented in accordance with the following approved plans and documents: SLP-001 revA; GA 100 revA; GA 102 revA; Sec 002 revA; Sec 003 revA; EL101 revA; "Combined Report", Landmark Information Group, February 2016; "Design and Access Statement", June 2021; "Daylight and Sunlight Assessment", Herrington Consulting, June 2021, and "Planning Statement" (ref P08118), Rolfe Judd Planning, June 2021.
2. The artificial hedge that already covers the whole of the back boundary wall, as detailed in the photograph taken by the Inspector on 12 April 2022, shall be permanently retained.

-End of Conditions-