



Appeal Decision

Site visit made on 18 May 2022

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th June 2022

Appeal Ref: APP/N5090/W/21/3279578

Site of former 16 Church Way, Whetstone, London N20 0LA

- 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 Chan Yan Ki, A Mema, L Memaj against the decision of London Borough of Barnet.
 - The application Ref 21/1354/FUL, dated 11 March 2021, was refused by notice dated 16 June 2021.
 - The development proposed is Development of one single family dwellinghouse (C3) to front of site with associated landscaping, parking, refuse and cycle storage. Also creation of pedestrian access to rear of site and the and development of second single family dwellinghouse (C3) together with landscaping, parking, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As the site is known to harbour protected species, the appellants have commissioned an ecological bat survey to be undertaken at the site by Cherryfield Ecology, dated 27 August 2021. I have asked the Council to provide a response to this survey however none has been forthcoming.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the local area;
 - The living conditions of local residents by way of outlook, noise and disturbance; and
 - Whether or not the proposal would adversely affect protected species and biodiversity.

Reasons

Character and appearance

Front dwelling

4. Church Way is a residential road with two-storey detached and semi-detached houses flanking both sides. The appeal site is a vacant and overgrown plot in broadly a 'T' shape between No's 14 and 18 Church Way that extends behind

houses No's 12-28 Church Way as well as No's 183-197 and 187-189 Friern Barnet Lane. The original dwelling to the front of the site was demolished some time ago and therefore a distinctive gap to the street scene has been created. The curtilage of the site is not entirely visible from the street scene due to its irregular shape.

5. A dwelling to the front of the site would fill the existing gap between houses and correspond with the prevailing pattern of housing along Church Way. It would abut the boundary with No 14. I could see from my visit that this would not be uncharacteristic along Church Way as many dwellings fill the width of the plot with limited or no visual gap between houses.
6. The design of the proposed dwelling would differ significantly from the properties either side. I appreciate there are differing house types and styles seen along Church Way and that the houses that flank the site are of differing styles. However, a uniform characteristic between these houses are the hipped roof configuration and eaves level that sits above the first floor windows and continues around the dwelling. In particular, the use of double peaked gable end to the front elevation with no eaves level present to the front, and proportions of brickwork above the top of the first floor windows would create an imbalance to the dwelling.
7. In addition, its width would appear disproportionately narrower when compared to the adjacent houses it would be sandwiched between, further emphasising its discordant appearance.
8. The rear elevation would not be widely seen unless from private views although it would substantially differ from the more traditional rear elevations.
9. Overall, within the street scene it would appear as an incongruous form of development in this location and would not create good placemaking.

Rear dwelling

10. The prevailing character of the local area is houses facing the road with linear back-to-back gardens. Ancillary domestic outbuildings are the only garden features seen within surrounding gardens. Back-land housing development is not characteristic here.
11. The proposal for the dwelling to the rear of the site would be intended to appear as a series of connected garden out-buildings and designed as contemporary low-level structures within a specific area and a finish to blend with the surrounding garden vernacular. Whilst they would be more elaborate in design than typical ancillary garden buildings and cover a larger footprint, in terms of the architectural composition, overall scale, massing and form, I find it would appear characteristic in this garden location.
12. Nonetheless, it would not be representative of the local pattern of built housing development within the local area. As pointed to by the appellant, it is a perimeter block, and most significantly, dwellings seen here have a consistent aspect of main frontage to the road.
13. Irrespective that the shape of the appeal site is an anomaly as it does not follow the linear nature of other plots, and whilst the appellant may argue it is not a domestic garden, their submission states the use of the site to be C3 use class. There is nothing before me to conclude differently.

14. The pattern of housing development that is characteristic here is one of continuous frontages to the road. The back-land nature of the proposal would not have regard to local context. It would appear out of character and harmful to the character and appearance of the local area.
15. The appellant points to another residential back-land development at Hale Lane. The circumstances are however not precisely the same as the appeal before me. The aerial picture of the site submitted by the appellant demonstrates other back-land development as well as planned housing development that does not front a main road. The Inspector considered the context of that proposal in its own specific circumstances. This is different to the context of the proposal before me.
16. In addition, whilst Council policy does not prevent back-land residential development, their Policy CS5 specifically refers to local context and distinctiveness and this is broadly echoed within their Supplementary Planning Document (SPD) Residential Design Guidance 2016. Nonetheless, each application should be considered on its own particular merits to which I have come to the view that a new dwelling to the rear of the plot would not create acceptable placemaking.
17. Therefore, to conclude on this main issue, bringing all matters together, I have found the design of the proposed dwelling to the front would appear as an unsympathetic addition to the street scene and the back-land development would not follow the prevailing pattern of development. To this end, it would conflict with Policies D1, D3, D4 of the London Plan 2021 in their combined aims to protect character and deliver good design as well as Policies CS NPPF, CS1, CS5 of the Local Plan Core Strategy 2012, and Policy DM01 of the Local Plan Development Management Policies DPD 2012 in their overarching objectives to approve sustainable development, placemaking and to protect local character. Finally, it would not meet the wider design expectations of the Residential Design Guidance SPD 2016 for development to have regard to local context, or the Council's Sustainable Design and Construction SPD 2016 in terms of design.

Living conditions

18. The outlook from the rear elevations and gardens of the surrounding houses is onto a verdant environment of the appeal site where it extends behind their boundaries. With regards to the proposed dwelling to the rear of the site, low level buildings within a contained space would be well confined and appear as ancillary garden structures that are typical features of garden spaces. External space laid to lawn would be created with limited change to the otherwise natural appearance that the existing residents currently enjoy. Overall, the proposal for a rear dwelling would not lead to harm arising to the living conditions of these neighbours by virtue of loss of outlook.
19. I am conscious that the site is surrounded on all sides by residential dwellings. In a suburban environment, there is an expectation of noise associated with residential neighbours. A single dwelling to the rear space would generate activity associated with everyday residential living. The main structures would be positioned close to a number of boundary fences and the remainder of land used as external space for the potential occupants.

20. On balance, I find that the activities associated with a new dwelling here would be experienced in much the same way as the existing surrounding residential environment, with limited impact. Therefore, a dwelling here would not unduly compromise the living conditions of the adjacent occupants that share a boundary with the appeal site.
21. Having said that, with particular regard to the living conditions of the occupants of Number 18 Church Way, I am less convinced the proposed rear dwelling would not adversely impact upon their living conditions.
22. The proposed pedestrian path running parallel with the boundary of No 18 leading to the rear dwelling would be the only means of accessing the far site by its occupants, visitors, deliveries and the like. The current garden boundary fence of No 18 would provide limited protection from noise associated with these activities. As it would be the sole means of access to the rear plot, it would be in significant use therefore causing greater noise and disturbance to the adjacent occupants. There is no evidence before me to demonstrate that trees and landscaping would protect the living conditions of the neighbours.
23. A car parking space exclusively for the use of the rear development would be created adjacent to the side of Number 18. This house has been extended to the side by way of a bedroom above the garage and this side wall forms the boundary with the appeal site. A large side window is also present at first floor.
24. Noise from car engines, radios, vehicle doors closing, and voices would be experienced directly below this window. Given parking would support two independent households as proposed here, there would be an accumulation of the aforementioned noise. This leads me to the view that it would contribute adversely to the living conditions of the occupants, regardless of whether or not the occupants have objected to the scheme.
25. The appellant directs me to the Inspector's decision at 40-44 Hale Lane. As the layout of the proposal before me is not the same as that one, especially as vehicles can access that site, therefore I cannot conclude that the same circumstances arise. Another back land development at 60-64 Friern Park is also not the same layout as the proposal before me. Nonetheless, I have considered the proposal before me on its own merits and reached my own conclusion on the matter.
26. Therefore, bringing all matters together, I find the rear dwelling would lead to no adverse effect on the outlook from the adjacent dwellings. It would therefore not conflict with the development plan or SPD guidance.
27. However, with regard to the impact of the proposal on the living conditions of the adjacent occupants at No 18, detrimental harm would arise by way of noise and disturbance from vehicles associated with the site, and users of the footpath running parallel to the boundary. On this basis, the proposal would conflict with Policy DM01 of the Local Plan Development Management Policies DPD 2012 with regard to its effect on outlook and Policy DM02 Local Plan Development Management Policies DPD 2012 only in so far as it refers to the Sustainable Design and Construction SPD 2016 in its measures to manage noise associated with development. Finally, it would not meet the Supplementary Planning Document Residential Design Guidance 2016 that aims to safeguard residential amenity.

28. I find no direct relevance to Policy CS5 of the Barnet Local Plan Core Strategy 2012 as this policy does not relate to living conditions.

Biodiversity and protected species

29. An arboricultural impact assessment has been commissioned by the appellant to support their original application. Trees on site would be both retained and removed and accordingly tree protection measures would be secured by way of condition including a landscaping scheme should this development be approved. The Council's ecologist recommends a condition to improve biodiversity at the site. I have assessed the wording of this condition in the light of paragraph 56 of the National Planning Policy Framework and find it would be appropriate to meet the tests, should I conclude to allow the appeal.
30. An ecological assessment was submitted as part of the evidence before me and confirms the high probability of roosting bats at the site. Further to this I have had sight of a letter from the ecologist consultant to the appellant confirming additional surveys would be undertaken on specific dates to the existing building on site.
31. Further to these surveys, there was no evidence of bats roosting within the surveyed building. I have no evidence before me to disagree with these findings. Enhancement measures by way of bat boxes has been proposed by the appellant's ecologist. Although the Council have provided no response to this enhancement measure, if I were minded to allow the appeal, it would therefore be appropriate to follow the enhancement measures and this could be secured by way of condition.
32. Considering the findings of these surveys and conditions that could be imposed to mitigate the effects of the proposal and to enhance biodiversity at the site, to conclude on this main issue, the proposal would not have a detrimental impact on ecology and would therefore comply with the biodiversity and habitat aims of Policy DM16 of the Development Management Policies DPD 2012 and the Sustainable Design and Construction SPD 2016.

Other Matters

33. Additional dwellings in this location would add to the Borough's housing stock. However, two family dwellings would be of limited contribution. They may be intended to be built using sustainable construction techniques with good access to local facilities. However, these factors would not outweigh the harm I have identified.
34. Issues pertaining to the appellant and their experience with dealing with the Council is not within my remit to comment. Any complaints regarding the Council's service should be directed to them in the first instance.

Planning Balance and Conclusion

35. Both dwellings would result in harm arising to the character and appearance of the local area as a consequence of the design characteristics of the dwelling to the front of the site, and as a consequence of the back land location of the second dwelling. I apportion substantial weight to these effects.
36. I apportion moderate weight to my findings that the back land dwelling would not lead to harm to the outlook of adjacent dwellings as a result of its scale

massing and form. It would however not safeguard the living conditions of the occupants of Number 18 due to noise and disturbance associated with comings and goings associated with this back land development. I apply significant weight to this issue.

37. I am satisfied that protected species and biodiversity would be safeguarded on site although this alone would not lead me to reach a favourable conclusion on the matter.
38. All things considered, in the overall balance I apportion significantly more weight to the harm that would arise as a consequence of the proposal. It would thus lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR

