
Appeal Decision

Site visit made on 7 June 2022 by S Witherley CIHCM MRTPI

Decision by J Hunter BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2022

Appeal Ref: APP/N5090/W/21/3288755

170 Long Lane , Finchley, London N3 2RA

- 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 David Kattan against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/4501/FUL, dated 13 August 2021, was refused by notice dated 12 October 2021.
 - The development proposed is: Creation of 1no self-contained unit within the roof space. Roof extension with rear dormer windows and rooflights. Removal of chimney stacks.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect on the living conditions of future occupiers with regards to floor-to-ceiling heights, outlook, light and outdoor amenity space.

Reasons

4. The appeal site is a three-storey mixed use building located on the corner of Long Lane and Squires Lane. At ground floor there is a commercial unit with the upper two floors containing residential accommodation. The proposal, which was amended during the application process, seeks to create a 1no. self-contained residential unit within the roof space. This would include constructing a rear dormer window and inserting 9 no. roof lights to the front and side roof planes. As part of the works a chimney would be removed.
5. The proposed development would have an approximate Gross Internal Area (GIA) of 49 sqm. Both parties agree that this would meet and exceed the minimum GIA of 39 sqm for this type of accommodation, as set out in Policy D6 of the London Plan 2021 (LP).
6. There is disagreement between the parties in regard to the minimum floor to ceiling height, which Policy D6 of the LP specifies must be 2.5m for at least 75 per cent of the GIA of each dwelling. The nationally described space standard of 2015 (NDSS) requires that for 75% of the floor area of a dwelling, its floor to ceiling height should be a minimum of 2.3 metres.

7. The appellant has provided drawings which annotates the GIA along with the floor to ceiling heights. The drawing illustrates the internal areas that would have a floor to ceiling height of 2.5m and above, which equates to approximately 29sqm. The Council note this equate to 59% of the GIA, thereby falling short of the minimum target of 75%.
8. The appellant, however, states only the minimum required GIA of 39sqm should be considered when calculating the floor to ceiling heights. As such the proposal would meet the 75% minimum targets of both Policy D6 of the LP and the NDSS. In addition, they state some areas exceed the 2.5m minimum height requirement and this, along with the proposal exceeding the minimum floor area by 10sqm, is to be considered as a positive aspect of the development.
9. Policy D6 is clear in that it requires a minimum ceiling height of 2.5m for at least 75 per cent of the GIA. Furthermore, it defines the GIA as *the total floor space measured between the internal faces of perimeter walls that enclose a dwelling. This includes partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. GIA should be measured and denoted in square metres (sqm.)*. Having regard to the Policy requirements and the specific wording that accompanies Policy D6, I find the appellant is erroneous in applying the minimum floor to ceiling heights to only the required minimum GIA.
10. The proposed living accommodation would be arranged around an off-centred entrance and stairwell. This along with the design of the roof results in the highest point of the floor to ceiling height centre around the entrance, with the gradual reduction of floor to ceiling height falling away across the accommodation. The areas surrounding the entrance, including parts of the bathroom and dining area are annotated as 2.5m in height and above. Parts of the living room, bathroom and kitchen area are annotated as 1.8 metres in height, with some areas on the outer edges of the accommodation annotated as being 1.5m in height.
11. The proposed entrance would visually partition the room and this along with the fall in head height would result in a cramped and somewhat contrived layout. As a consequence, the prospective occupants would experience a constrained and oppressive living environment.
12. The appellant has referred to paragraph 3.7.1 of the supporting text to Policy DM02 of Barnet's Local Plan Development Management Policies Development Plan Document (2012) (DMDPD) where it sets out that there may be exceptions to applying the LP space standards and these will be considered on a case-by-case basis. However, no demonstrable evidence has been submitted which shows the appeal site is located in a regeneration area or in a core town centre where other amenity benefits may be provided, and where these may be considered as exceptions to applying the space standards set out in the LP. The proposal therefore fails to meet the floor to ceiling policy requirements and the overall objectives of improving the quality of London's housing as set out in the Policy DM02 of the DMDPD and Policy D6 of the LP.
13. The Council note that the proposal would fall short of the minimum requirements for all new development to have no less than 20% glazing of the internal floor area of the room, as set out in the London Borough of Barnet

Local Plan Supplementary Planning Document: Sustainable Design and Construction (2016) (SDC).

14. Nevertheless, given the proposed dormer window along with the siting and number of roof lights, it is considered that the proposal would provide adequate levels of daylight and sunlight into the main living areas of the accommodation. Furthermore, given the siting of the appeal building along with its overall height in relation to other surrounding light sources, the accommodation would not be subjected to any unwanted light pollution. Overall, the living conditions of future occupiers would not be negatively affected in terms of light.
15. The main outlook for future occupiers of the accommodation would be limited to the proposed rear dormer window which would provide views over the roof tops of dwellings located in the street below. However, as the proposed dormer window would be located to the rear of the entrance and stairwell partition, views over to the dormer window from the main living areas of the accommodation, which would be in regular use, would be restricted. This would lead to an oppressive and bleak outlook for the future occupiers of the accommodation, which would be compounded by the reduction in floor to ceiling heights throughout the accommodation. The number of proposed roof lights would not mitigate this effect, particularly as the outlook from these windows would require the future occupant to look upwards in a forced manner and the outlook would be restricted to sky views only.
16. In terms of outdoor amenity space. I appreciate that it can be difficult in some cases to provide the required outdoor amenity space for this type of accommodation. The appellant states that Victoria Park is only a short distance away and also points out that a previous Inspector's¹ decision, which sought a similar proposal at the site, found the lack of on-site amenity space would not be detrimental to future occupiers.
17. I have not been provided with the full details of the previous scheme, nevertheless, it is understood from the evidence submitted that the previous Inspector dismissed the appeal on its character and appearance and found no issue with the proposed outdoor amenity space. The Council concur that as part of that scheme, the lack of outdoor amenity space was considered acceptable, but this was because the proposed internal layout, along with the floor to ceiling heights were considered overall adequate. Unlike my findings on the appeal before me.
18. Whilst I appreciate that the previous Inspector's decision did not find issue with this matter, without having the full details of the previous appeal before me, I cannot be certain that the external elements of that proposal along with the internal arrangements are directly comparable with this appeal proposal.
19. The appellant has also referenced an Inspector's decision for an appeal in Bournemouth². The Inspector dismissed that appeal but found the lack of outdoor amenity space would not give rise to substandard living accommodation. Limited details of that proposal have been submitted, nor have I been provided with the relevant local Development Plan Policies for that area. I cannot therefore be certain that the proposals are comparable in terms

¹ APP/N5090/W/15/30022761

² APP/G1250/W/18/3204719

of site circumstances and local policy requirements. As such, I attach limited weight to these other Inspector's decisions.

20. I am satisfied that the proposed development makes adequate provision for the living conditions of future occupiers having regard to light and that it would provide one additional unit of accommodation. However, these are of limited benefit and do not outweigh the substantial harm found to the living conditions of future occupiers as a result of the floor to ceiling heights, outlook and outdoor amenity space.
21. Consequently, it would fail to provide satisfactory living conditions for future occupiers with regards to floor-to-ceiling heights, outlook, and outdoor amenity space. The proposal does not therefore accord with Policies DM01 and DM02 of the DMDPD, Policy D6 of the LP, the SDC and the National Planning Policy Framework (2021), which amongst other things seek that all new accommodation should have adequately sized rooms, convenient and efficient room layouts, which are functional and fit for purpose, and provide a high standard of amenity for future occupiers.

Conclusion

22. For the reasons given above and having had regard to all other matters raised, I find that there are no material considerations that indicate the decision should be made other than in accordance with the development plan. It is recommended that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

J Hunter

INSPECTOR