



Appeal Decision

Site visit made on 12 May 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2022

Appeal Ref: APP/N5090/W/21/3286279

Warwick Court, Birkbeck Road, Mill Hill, London NW7 4BL

- 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 Roger Childs against the decision of London Borough of Barnet.
- The application Ref 21/2249/FUL, dated 21 April 2021, was refused by notice dated 22 June 2021.
- The development proposed is a first floor rear extension. Alterations and extension to roof including raising the roof ridge height, partial hip to gable to both sides and front dormer window. Associated alterations to fenestration to side elevations to provide 1no additional self-contained flat with rear terrace and glass balustrade at roof level.

Decision

1. The appeal is allowed and planning permission is granted for a first floor rear extension. Alterations and extension to roof including raising the roof ridge height, partial hip to gable to both sides and front dormer window. Associated alterations to fenestration to side elevations to provide 1no additional self-contained flat with rear terrace and glass balustrade at roof level at Warwick Court, Birkbeck Road, Mill Hill, London NW7 4BL in accordance with the terms of the application, Ref 21/2249/FUL, dated 21 April 2021, subject to the conditions contained in the attached schedule.

Application for costs

2. An application for costs was made by Mr Roger Childs against the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the description of development from the Council's Decision Notice as this is a more accurate description of the proposed development.
4. On my site visit I observed that development was being undertaken at the appeal site. This was not however the same as the development proposed in the submitted plans. I have considered the appeal on the basis of the submitted plans.
5. On 20 July 2021, the Government published its revised National Planning Policy Framework ('the Framework'). It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied. I have had regard to the Framework in reaching my decision.

Main Issues

6. The main issues are the effect of the proposed development on 1) the character and appearance of the area and 2) the living conditions of occupants of surrounding residential properties with regard to outlook and privacy.

Reasons

Character and appearance

7. Prior to the undertaking of any development, the appeal property formed a two-storey building of residential flats. It is located in a predominantly residential area where there is a wide range of property styles and sizes.
8. The planning history for the property is set out in the evidence. This most notably includes planning permission granted at appeal¹ for a development proposal similar to that currently before me.
9. Although since this previous appeal decision, the Government has published a revised Framework and the Mayor of London has published a new London Plan, there is no substantive evidence that either the situation on, and surrounding the appeal site, or the relevant considerations, have changed significantly in the interim. I therefore give significant weight to the previous appeal decision.
10. Although the whole of the development is before me, as outlined above, planning permission has been granted for a similar proposal. The appellant has submitted in evidence a plan outlining the differences between the previously allowed appeal scheme and the current scheme. This shows that the main differences relate to the increased projection of the second-floor roof extension by 1.1m and an increase in the first-floor rear extension of 1.55m into an area previously used as a roof terrace. Both first and second floor sections have balconies that are broadly in a similar position.
11. In the previous appeal, on the matter of character and appearance, the Inspector concluded that the proposed development would not harm the character and appearance of the area. The Inspector considered that despite the Council's Residential Design Guidance Supplementary Planning Document (SPD) (2016) discouraging front dormer windows it would not cause harm.
12. The Council have commented that they consider that the works allowed by the appeal in isolation are considered to be acceptable. I have no reason to form a different view.
13. Due to the relatively minor increase in size of the development from the previous scheme, I do not consider that there would be unreasonable harm to the character and appearance of the area as a result. The elements of the current scheme that are different from the appeal scheme are concentrated to the rear elevation, which is not prominent in the street scene with limited visibility.
14. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with Policies CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document (2012), Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012) and Policies D1, D3, and D4 of The

¹ APP/N5090/W/18/3205455

London Plan (2021). Collectively, these policies seek to ensure, amongst other things, that development is of a high quality and standard of design, should respect the scale, mass, height of surrounding buildings, and enhance local context by delivering buildings that positively respond to local distinctiveness through their scale with due regard to existing building types, forms and proportions.

15. The proposed development would also comply with guidance contained within the Residential Design Guidance Supplementary Planning Document (2016) that outlines proposals for new residential development should respond to the distinctive local building forms and patterns of development and respect the scale, massing and height of the surrounding physical context. It also outlines that new development should recognise the scale, massing and roof form of surrounding buildings and reflect these where they are a positive attribute of the area's character.
16. The Council's reason for refusal refers to the proposed development being contrary to Policies D5 and D6 of the London Plan. These policies require the delivery of high-quality housing with regard to inclusive design and internal and external space. There is no substantive evidence submitted that the proposed development would fail to meet these requirements.

Living conditions

17. The appeal building sits between residential properties. The rear gardens of these properties would be overlooked from the balconies of the proposed development. The evidence shows that there are existing balconies to the first-floor units.
18. A balcony is proposed to the second-floor unit. It is in a similar position to the balcony that was allowed on appeal. In terms of the current application, the balcony projects further from the rear of the property than the previous appeal scheme, however the increase in projection is relatively minor and to such an extent that there would be no noticeable exacerbation of the impact in terms of privacy.
19. Both the proposed second floor balcony and the existing first floor balconies would include obscure glazed privacy screens to the sides. This would significantly and noticeably reduce the ability to overlook the rear elevations of residential properties either side, particularly when residents would be seated on the balconies. Although views would be permissible into the rear gardens of properties either side, I do not find this to be any worse than the previous appeal scheme and would not be unacceptable overall.
20. In terms of the impact on outlook, the properties either side of the appeal site have windows that are set back behind their existing outriggers. The proposed development would be visible when viewed from these rooms and be of a greater mass than the existing building. Having regard to the increase in the bulk of the building relative to its existing mass, form and siting, and most pertinently, the previous appeal scheme, I do not consider that the proposed development would have an unacceptable impact on the outlook from these properties. The proposed roof extension would incorporate a hipped roof at the sides to alleviate the bulk of the development at the side boundaries.

21. The remainder of the properties are set broadly in line with the main body of the appeal property, where there would also not be an unacceptable impact on outlook.
22. I therefore conclude that the proposed development would not have an unacceptable impact on the living conditions of occupants of surrounding residential properties with regard to outlook and privacy. It would comply with Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012) and Policy CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document (2012). These policies seek to ensure, amongst other things, that development should be designed to allow for adequate privacy and outlook for adjoining occupiers and should contribute to people's sense of place.
23. The proposed development would also be in accordance with the guidance contained within the Residential Design Guidance Supplementary Planning Document (2016) that outlines, amongst other things, development should maintain adequate privacy and not unduly affect outlook, and in relation to roof terraces and balconies they should not result in overlooking which has a negative impact on the privacy of neighbouring residents or other occupiers.
24. The Council's reason for refusal refers to the proposed development being contrary to Policies D4 and D5 of the London Plan. These policies relate to the delivery of good design and inclusive design. I do not find them to be pertinent to the main issue in terms of living conditions with regard to outlook and privacy.

Other Matters

25. Representation has referred to the development that has been undertaken at the appeal site not being in accordance with the submitted plans. As I have outlined, I have determined the appeal on the basis of the submitted plans. At the front elevation, these show the front dormer windows aligning with the fenestration below, this element being unchanged from the previous scheme allowed on appeal. At the sides and rear, the evidence shows the differences between the current appeal and previous appeal. I have acknowledged the previous appeal decision and these differences in my assessment above.
26. Representation also refers to whether the existing foundations have been inspected to assess if they can accommodate the additional weight. This would however be a building regulation matter.
27. Objection was received in relation to the demand for parking spaces in the area. The Council have not objected to the proposal in this regard and there is no substantive evidence before me to suggest the proposal would contribute to parking stress such that it would compromise highway safety in the area. The frontage is capable of accommodating sufficient parking to serve the development, and a condition can be imposed requiring the installation of these parking spaces.
28. Comments were received in relation to where refuse and recycling can be kept. In this case I consider that such a matter can be addressed through the imposition of an appropriately worded planning condition.

29. Comment was also received that a lift was not previously included so is not needed. The installation of a lift, or the requirement or otherwise, is not, however, a determinative matter in the appeal.

Conditions

30. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
31. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
32. In the interests of the character and appearance of the area conditions are necessary requiring the use of materials to match those used in the existing building and details of refuse storage. In the interests of sustainable travel, a condition requiring details of cycle parking is also necessary. I have also imposed a condition requiring the submission of details and installation of parking spaces, in the interests of highway safety.
33. In the interests of living conditions of occupiers of surrounding residential properties, conditions requiring details of the privacy screens, sound insulation and obscurely glazed flank windows are necessary.
34. Conditions are also necessary to ensure the dwelling is and remains water efficient and incorporates carbon reduction measures in order to meet the requirements of the London Plan and the Mayor of London's Housing Supplementary Planning Guidance (2016) where they exceed the minimum standards set out in the Building Regulations. A condition is also necessary to ensure that the development meets the accessibility needs of future occupants.
35. A condition requiring the submission of a Construction Management and Logistics Plan to the detail suggested by the Council is not necessary for a development of this scale. In the interests of living conditions, I have imposed a condition restricting the hours of construction.

Conclusion

36. The proposed development would accord with the development plan. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site and Location Plan – Drawing Number 20/215-03; Proposed Amended Design – Drawing Number 20/215-02; As Existing – Drawing Number 20/215-01.
- 3) The materials to be used in the external surfaces of the extension shall match those used in the existing building.
- 4) Prior to the first occupation of the new dwellinghouse (Use Class C3) hereby approved they shall have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
- 5) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwelling (Use Class C3) permitted under this consent it shall have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.
- 6) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
- 7) Before the development hereby permitted is first occupied, details of the privacy screens to be installed shall be submitted to and approved in writing by the local planning authority. The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
- 8) Prior to the first occupation of the unit, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the local planning authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).
- 9) The development hereby permitted shall not be occupied until the proposed windows in the flank elevations have been fitted with obscured glazing and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

- 10) Before the development hereby permitted is first occupied parking spaces and crossovers to the highway shall be provided and marked out within the site in accordance with a scheme to be submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for any purpose other than the parking of vehicles.
- 11) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.
- 12) Before the development hereby permitted is first occupied refuse storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and shall be permanently retained thereafter.
- 13) Construction works shall take place only between 0800 and 1800 on Monday to Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

-----End of Conditions Schedule-----