



Appeal Decision

Site visit made on 19 July 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2022

Appeal Ref: APP/N5090/W/22/3296157

45 and 47 Somerton Road, Cricklewood, London NW2 1RU

- 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 James Kara against the decision of London Borough of Barnet.
 - The application Ref 21/4441/FUL, dated 5 August 2021, was refused by notice dated 8 October 2021.
 - The development proposed is the demolition of the existing outbuildings and erection of a new two storey dwelling. New vehicular access to provide off-street parking. Associated amenity space and refuse/recycling store. Insertion of rooflights at 45 and 47 Somerton Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development proposal outlined in the banner heading above has been taken from the appeal form rather than the application form as it provides a more accurate description of the proposed development shown on the submitted plans.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of 47 Somerton Road, in relation to outlook, daylight and sunlight.

Reasons

4. The appeal site is an area of land to the rear of 45 and 47 Somerton Road, currently occupied by a large outbuilding with access onto Gillingham Road.
5. The garden at No 47 is currently located to the rear of the property and to the side of an existing rear outrigger. The size of the garden has already been reduced by the addition of a single storey rear extension and, whilst the proposed dwelling would have a similar footprint to the existing outbuilding, the garden would be further reduced to accommodate a side garden serving the proposed dwelling. The two properties would be separated by a close board fence.
6. The Council do not have a policy stipulating the minimum depth of gardens. However, the significant reduction in the depth of the garden at No 47 due to the proposed development and the proximity of the proposed boundary fence,

would create a harmful sense of enclosure when the garden is in use. This would be further exacerbated by the proposed two-storey dwelling, which although is set back at first floor level, would still be a much larger addition to the appeal site than the existing single storey outbuilding and in close proximity to this neighbouring garden. Although greater enclosure does not impede the function of the garden, it does result in a reduced outlook and poorer living conditions for the occupiers.

7. The part of the garden to the side of the outrigger would remain as existing. However, this is very narrow and does not provide a sufficient alternative space for the occupiers to use instead. Therefore, although the overall size of the garden at No 47 would still be in excess of the minimum space required by the Barnet Residential Design Guidance Supplementary Planning Document (SPD) 2016, the majority of this would not be functional space for the occupiers, in terms of size and outlook.
8. The appellant has indicated that the mid-point of the garden at No 47 would continue to receive 2 hours of sunlight on the equinox, in line with BRE guidelines. However, this assessment includes the part of the garden to the side of the outrigger with limited functionality. In my view, both the daylight and sunlight would be restricted in the rear part of the garden at No 47 by the proposed development. This would be due to the reduction in the size of the garden along with the close proximity of the boundary fence and proposed dwelling and its positioning to the south of the neighbouring property, resulting in significant overshadowing.
9. The Council consider the rear garden of the proposed dwelling to be acceptable, even though it is only approximately 3 metres in depth and adjoins an outbuilding in the neighbouring property. However, this would not be a reduction in the space, outlook and light currently enjoyed by the occupier, as is the case with the neighbouring dwelling at No 47. Therefore, this is not a comparable scenario and does not weigh in favour of the proposal.
10. The previous two appeal decisions¹ on this site have found no harm to the living conditions of the neighbouring dwellings. However, in the 2008 appeal the proposed development did not extend into the rear garden of No 47 and therefore would have a limited impact on the occupiers of this property. In the 2009 appeal, the proposed dwelling would have been a similar distance from the rear elevation of No 47 to the appeal before me. However, the boundary fence would have been further from the neighbouring dwelling and the resultant garden at No 47 would have been larger. Therefore, the impact upon the occupiers of the neighbouring dwelling would be different.
11. The window and doors serving the kitchen on No 47 are largely obscure glazed. While the size of the dwelling's garden would be reduced, and the boundary fence would be closer to the rear elevation, this means that the development would not have a significant impact on outlook from the kitchen. This room is also served by a second window on the side elevation and therefore the proposed development would also not have a significant impact on the daylight and sunlight which this room receives. This would be further mitigated by the proposed rooflight to be added to both ground floor extensions at No 45 and 47.

¹ APP/N5090/A/08/2087855 (2009 appeal) and APP/N5090/A/07/2053976 (2008 appeal)

12. Nevertheless, there would still be unacceptable harm to the living conditions of the occupants of No 47 as a result of the impact on outlook from the garden and due to the effect on the amount of daylight and sunlight the garden would receive. Therefore, the proposed development would significantly harm the living conditions of the occupiers of No 47 and would conflict with Policy DM01 of Barnet's Local Plan Development Management Policies (2012). This policy seeks to ensure that development proposals are designed to allow for adequate outlook for adjoining occupiers and users.
13. The proposal would also be contrary to the section of Barnet Residential Design Guidance SPD (2016) which states that back garden buildings should not unduly affect outlook for the adjoining properties principal garden areas.

Other Matters

14. It is noted that the proposal would provide one additional dwelling in a sustainable location and would make effective use of under-used land. However, the benefits of a single additional dwelling would not be sufficient to outweigh the harm that I have identified.
15. The Council have no objections to the design of the proposed development, the quality of the accommodation proposed and the proposed parking and highway arrangement. I have no reason to disagree with this finding. However, these are neutral factors which weigh neither for nor against the development. As such, these do not overcome the resultant harm.

Conclusion

16. For the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR