



Appeal Decision

Site visit made on 12 September 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2022

Appeal Ref: APP/N5090/W/22/3292903

45 Grove Road, LONDON N12 9EB

- 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 M Pritchard, on behalf of Matt Finished Construction, against the decision of the London Borough of Barnet.
 - The application Ref 21/5247/FUL, dated 30 September 2021, was refused by notice dated 10 January 2022.
 - The development proposed is the demolition of the existing building and alterations to land levels to enable the erection of a two-storey building to provide 3 no. three bed dwellinghouses, together with associated amenity space and landscaping, car and cycle parking, and refuse and recycling storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted during the application consideration process. These omitted the basement and reduced the number of bedrooms in each dwelling from four to three. The Council confirms that it considered and refused the revised version of the scheme. As the revision is smaller than the originally proposed scheme no parties would be prejudiced by my consideration of these amended plans. Consequently, I have adjusted the description of development, from that shown on the Reason for Refusal to reflect the revised scheme.
3. Planning approval¹ was granted in 2021 for the erection of a single-storey building, with basement, to create four dwellings ('the approved scheme'). This was had a rectangular footprint with a single storey component at natural ground level and a basement 'well' within its middle providing natural light to its lower level. The approved building included space around it for the retention and addition of tree planting. There is no substantive evidence before me to demonstrate that the approved scheme could not be implemented if no further consent was forthcoming. Accordingly, this presents a realistic fall-back position.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area,

¹ Planning Application Reference: 20/3235/FUL

- The effect of the proposed development on the living conditions of future occupiers of unit two, with particular regard to outlook, and
- The effect of the proposal on the living conditions of neighbouring occupiers with respect to outlook.

Reasons

Character and appearance

5. Grove Road is a residential street containing two-storey buildings of traditional styles of housing. Surrounding streets consist of development with a strong linear character of built form and mostly long rear gardens that include mature trees and planting. The appeal site is occupied by a bungalow in a back-land site that is somewhat of an anomaly to the local pattern of development. Nonetheless, its garden areas include tree and shrub planting that contributes to the tree cover in the wider area. The bungalow is set away from the boundaries of the site and has a low profile. These features enable the site to retain an open and verdant character and make a positive contribution to the character and appearance of the area.
6. The proposed scheme would include three flat-roof dwellings. These would be partially submerged into the ground with the upper floor having a similar floor level as the natural ground level of neighbouring rear gardens. The scheme would include a courtyard area to the frontage and separate recessed rear terrace areas for each unit that would add to the urban form of the proposed development. It would be perceived from neighbouring gardens, windows and partially experienced from the street as a relatively extensive development, despite its low-lying form.
7. The proposed dwellings would include a number of design features to both maximise the use of the available space and reduce its overall visual effect on the surrounding area. Nonetheless, the effect of contemporary materials and overall scale of development would be discordant with the existing form of development both on and off site. Furthermore, whilst the National Planning Policy Framework (the Framework) supports innovative design solutions it still requires, in such circumstances, for development to integrate well with the overall form and layout of their surroundings.
8. A linear group of trees exist along the eastern boundary within the site. The Appellants arboricultural survey² identifies that these trees consist of several Category C trees (low quality) and two Category B (moderate quality) being a Silver maple and London plane. The survey advises that most of the trees within the site would be required to be removed to facilitate development. Most trees, including the Silver maple adjacent to unit 3, are proposed for removal in the Appellant's landscape scheme with limited space retained for replacement planting. Therefore, whilst of low to moderate quality, these trees make a positive contribution to the character of the site and its surroundings.
9. The approved scheme would be located within the centre of the site and retain the natural ground level adjacent to the boundaries. It would retain most trees and avoid root protection areas both within site and around its perimeter. Although including a basement level, this deeper section is largely constrained to the centre of the site. This enables the ground works to be set away from

² Arboricultural survey, by Marcus Foster Arboricultural Design & Consultancy, October 2021

the boundaries and retain the open and verdant character of the site. In contrast, the proposed development would have a footprint that is substantially closer to the site's boundaries with a greater extent of excavation and hardstanding that would introduce an urbanising form of development that would not integrate well with its surroundings.

10. The proposal would erode the open character of the existing site and its sense of spaciousness. Due to its increased proximity to the boundaries and its design, the proposal would be an obtrusive form of development. It would be incongruous with the spatial pattern of local development and the open and green character of neighbouring rear gardens. In combination, the removal of tree cover from the site, the quantum of development and its proximity to the site boundaries, would result in a form of development that would harm the verdant character and appearance of the site and its surroundings.
11. Furthermore, the proposal would retain limited space for new tree and shrub planting. The site would be unable to accommodate meaningful screening to soften the appearance and better integrate the proposal. As such, I am unconvinced that suitable or sufficient tree screening would mitigate the harm found to the character and appearance of the area nor would this deficiency be adequately offset by the proposed green roof.
12. Accordingly, the proposal would conflict with policy D3 of the London Plan, policies CS1 and CS5 of the Barnet Core Strategy (2012), policy DM01 of the Barnet Development Management Policies (2012)(DMP) and the Council's Residential Design Guide. These seek, among other matters, for development to respect local context, its distinctive local character and the appearance and pattern of surrounding buildings, spaces and streets.

Living conditions – proposed

13. The Mayor's Housing SPG identifies that dual aspect dwellings obtain many inherent benefits. These include providing access to adequate natural light and in offering a choice of views. Paragraph 2.3.37 of this Guidance states that where possible, the provision of dual aspect dwellings should be maximised in a development proposal.
14. The proposed development would include three two-storey dwellings. The ground floor would be set at a level equivalent to natural ground level with a lower floor located at an excavated level. Lower-level rooms would overlook terraced external areas. These would include a small patio area that would provide access to a garden level set higher, but still below, natural ground level. The lower-level rooms consist of multipurpose rooms that accommodate living/dining and kitchen functions and an office. The multipurpose rooms of units 1 and 3 are dual aspect. These would provide an outlook towards both the courtyard to the front and the private rear gardens.
15. However, the majority of glazing for the multipurpose room and office of unit 2 would be on the west elevation only. Over a relatively short distance the outlook would take in the retaining walls of both the patio area and the lowered garden beyond. The boundary would then consist of a retaining wall and a fence. Such an outlook, over such a short distance, would create a compromised living space for occupiers within the lower level of this unit.

16. Nonetheless, unit two would have a floor area of around 152sq.m. This would substantially exceed the Council's adopted Nationally Described Space Standards, of 102sq.m, for a three-bed dwelling. The provision of generous internal space weighs in favour of the proposal. Furthermore, the living room and home office would include fully glazed walls, these would maximise the outlook from these spaces, reducing the sense of enclosure. Also, the design constraints of the scheme would maximise the number of dual aspect dwellings within the site. Therefore, whilst the Guidance has a preference for dual aspect units, the merits identified here would outweigh the modest compromise found to the living space and office of unit two and their restricted outlook.
17. As such, the proposed development would create adequate living conditions for future occupiers of unit 2 due with an acceptable outlook. Accordingly, the proposal would comply with DMP policy DM01, the Council's Sustainable design and Construction SPD (2016) and Mayor's Housing SPG (2016) in connection with the effect of development on future living conditions. These seek, among other matters, for development to be designed to allow for adequate outlook for potential occupiers and users and to deliver an appropriate outlook.

Living conditions – existing

18. The proposed development would be within the outlook of rear gardens of many neighbouring dwellings. The nearest properties are those of Grove Road and Castle Road, albeit Castle Road properties would first look over the long rear garden of 47 Grove Road.
19. The proposal would consist of two-storey development arranged in an 'L-shape' around a small courtyard. Its lower level would be created through the excavation of the site. The existing bungalow on-site is also partly located below natural ground level with its existing side and rear gardens accessed via steps leading up to ground level. The proposed development would follow this approach resulting in only higher parts of the proposal being visible over the existing boundary fence lines.
20. The proposed removal of trees on the eastern boundary would expose views of the site. As a result, neighbouring occupiers would be able to overlook the proposed development from habitable room windows, especially at first-floor levels. However, rear views from these windows and those of neighbouring streets would be through garden trees and shrubs in neighbouring gardens, over a substantial distance. Furthermore, as the proposed development would be low-lying, the proposal would not be substantially closer than that which would be observed by the approved scheme.
21. Furthermore, having sight of a building does not necessarily translate to harm to living conditions. In this case, due to the separation distance, coupled with the limited height of the proposed scheme above the fence line, the relationship would be neither obtrusive nor contribute to a strong sense of enclosure. Consequently, the proposed development would not result in harm to the living conditions of existing residents with respect to outlook.
22. Accordingly, the proposal would accord with policies D3 and D6 of the London Plan (2021), DMP policies DM01 and DM02 and the Council's Residential Design Guide with respect to its effect on existing living conditions. These policies seek, inter alia, for development to be designed to allow for adequate outlook for adjoining occupiers and users.

Other Matters

23. The Framework seeks to boost the supply of housing and encourages development that makes efficient use of previously developed land such as exists here. Furthermore, the proposed dwellings would consist of high-quality contemporary materials. It would also include sustainable design measures such as a ground source heat pump, photovoltaic panels and a green sedum roof. Native tree planting is offered by the Appellant to enhance the ecological and biodiverse value of the site. These measures weigh moderately in favour of the scheme.
24. The Appellant identifies that the approved scheme is no longer market appropriate. The proposal is different to the extant scheme inasmuch as it would now offer generous internal floorspace and a room that could be used as a home office. However, I am unconvinced that the approved scheme could not be internally adapted to meet the identified market change. This matter is therefore of limited weight in favour of the scheme.
25. The evidence refers to a previous appeal³ that was allowed for a replacement dwelling on site. For that scheme the Inspector found that the contemporary design would nestle comfortably on site and retain a reasonable separation to its boundaries. I am also cognisant that a later appeal was dismissed for four dwellings due to overlooking but where the Inspector found that the scheme would have an acceptable effect on the character and appearance of the area. Although, the full details of these schemes are not before me, these seem to be materially different to the proposal. I have therefore attributed limited weight to these decisions in support of the proposal.
26. I have noted the comments raised by interested parties in representations with respect to a range of matters including parking, impact on wildlife, flooding and privacy, but I have not considered these further as I am dismissing the appeal for other reasons.

Planning balance and Conclusion

27. The Government's objective is to significantly boost the supply of housing. The proposal would provide three modern homes in a location with adequate access to services. Given the small scale of the proposal the provision of the additional housing attracts modest weight. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment. The proposed sustainable design measures and small ecological gains also attract modest weight in favour of the scheme.
28. Conversely, the proposal would erode the sense of spaciousness and verdant character of the site, in conflict with the character and appearance of the area. The harm outweighs the benefits associated with the proposal and would conflict with the development plan when taken as a whole. There are no other considerations, including the Framework, that outweigh this conflict. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Ben Plenty

INSPECTOR

³ Planning Appeal Reference: APP/N5090/W/18/3213664