
Appeal Decision

Site visit made on 27 September 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2022

Appeal Ref: APP/N5090/W/22/3300632

Southbourne Court, The Hyde, Colindale, London NW9 5BP

- 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 P Klein of Hillfinch Properties Limited against the decision of the Council London Borough of Barnet.
 - The application Ref 21/1684/FUL, dated 24 March 2021, was refused by notice dated 14 December 2021.
 - The development proposed is demolition of existing garages and erection of a single storey detached dwelling with associated amenity space, off street parking spaces and hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr P Klein of Hillfinch Properties Limited against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - i) Whether the proposal would provide adequate living conditions for future occupiers with particular regard to privacy and sense of enclosure from surrounding development;
 - ii) The effect of the proposal on the living conditions of the occupants of neighbouring properties in Southbourne Court with particular regard to light levels and outlook; and
 - iii) The effect of the proposal on the character and appearance of the area.

Reasons

Future occupiers' living conditions

4. The appeal site comprises a long strip of garages which lie behind the 3 storey block of flats at Southbourne Court. The rear elevation of the flats and the appeal site are separated only by a rear alley. The garden space for the proposed dwelling would be provided to the front and rear and would be separated from the flats by a low wall. The very close proximity of the windowed rear elevation of Southbourne Court would result in overlooking of the front and rear gardens at close range from multiple ground, first and

second floor windows. This would result in a lack of privacy to these gardens and substandard living conditions for the future occupiers of this property. This would not be compensated for by the direct access from the bedrooms to the garden area or by the level of amenity space provision exceeding the minimum standard set down in Sustainable Design and Construction Supplementary Planning Document (2016) (SDC), as all areas of the garden would experience this overlooking at close range. Whilst a degree of overlooking can be expected in urban areas this would go beyond reasonable levels.

5. Additionally, Southbourne Court would appear overbearing to the future occupants of the proposed dwelling given the very limited separation from this 3-storey building. Due to the height and proximity of the flats, the occupants of the proposed dwelling would experience a sense of enclosure which would make the gardens an unpleasant space in which to spend time, to the detriment of the living conditions of the future occupants.
6. For the foregoing reasons I find that the proposal would fail to provide adequate living conditions for future occupants through lack of privacy and a sense of enclosure from surrounding development. Therefore, the proposal conflicts with those aims of Policies D3 and D6 of the London Plan (2021) (LP), Policies DM01 and DM02 of Barnet's Local Plan Development Management Policies September 2012 (2012) (DMP) and Policies CS1 and CS5 of the Barnet's Local Plan Core Strategy September 2012 (2012) (CS) which, amongst other matters, require that development delivers appropriate outlook, privacy and amenity for potential occupiers and users. I also find conflict with the Residential Design Guidance Supplementary Planning Document (2016) (RDG) which has similar aims and the SDC which requires that outdoor amenity space is usable and outdoor amenity space which does not have a reasonable level of privacy will not be considered to be usable.

Neighbouring residents' living conditions

7. The proposed dwelling would replace an existing single storey garage block and would be sited closer to the flats in the southern part of Southbourne Court than the existing garage with a separation of between 3 and 3.6 metres between the proposed dwelling and the rear elevation of Southbourne Court. The proposed dwelling would appear overbearing in views from these windows, and this would make the rooms which these windows serve an unpleasant space in which to spend time, to the detriment of the living conditions of the occupants of these flats. The incorporation of a green wall to the elevation facing these properties would not overcome or minimise the loss of outlook to these windows. Therefore, whilst the proposed dwelling would be a similar height to the existing garage, the limited separation between the dwelling and the windowed rear elevation of Southbourne Court would result in loss of outlook for the occupants of the flats within the southern part of the building.
8. Based on my observations on site, although the building height would not restrict sunlight levels to upper floor windows, the close proximity of the new dwelling would be likely to lead to some loss of light to the rear ground floor windows during early mornings during spring and summer. However, when assessed in relation to existing circumstances, these effects would be unlikely to significantly worsen living conditions of the occupants of Southbourne Court. I note that the Council did not raise a concern regarding overlooking of nearby

properties from the proposed dwelling and I have no reason to take a different view.

9. The effect of the proposed dwelling on 2 Greenway Gardens would be similar to that of the existing garage block, given the similarities in scale and position relative to the rear site boundary. The proposed dwelling would be sited further away from 1 Southbourne Avenue than the existing garage block and would therefore result in some minor improvements to the living conditions of the occupants of this property through an increase in daylight levels to the garden. Additionally, the removal of the garage structure would improve outlook for the occupants of the ground floor units in the central and northern parts of Southbourne Court.
10. For the foregoing reasons I find that the proposal harms the living conditions of the occupants of rear ground floor flats in the southern part of Southbourne Court through loss of outlook and the oppressive nature of the development. This harm would not be outweighed by the improvement in outlook to 1 Southbourne Avenue and the ground floor units in the central and northern parts of Southbourne Court. Therefore, the proposal conflicts with those aims of LP Policy D3, DMP Policies DM01 and DM02 and CS Policies CS1 and CS5, which state that proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users. I also find conflict with the RDG which has similar aims.

Character and appearance

11. The appeal site comprises the rear of Southbourne Court, a modern 3 storey block of flats. The front of Southbourne Court is located on the A5 in a mixed commercial and residential area and the area to the rear of the site is residential in character, comprising predominantly two storey semi-detached dwellings.
12. The proposed dwelling would be a similar height to the existing garages, would have an acceptable appearance and would replace an existing structure which detracts from the appearance of the appeal site. However, the dwelling would be wider than the existing garage block and consequentially would be positioned closer to the rear elevation of Southbourne Court. This limited separation from Southbourne Court and from the site's north-eastern boundary would result in a cramped form of development which would detract from, rather than enhance the character and appearance of the appeal site and the surrounding area. Furthermore, the single storey scale of the proposed dwelling when seen in relation to the surrounding 2 and 3 storey buildings would result in a development form which would be at odds with the character and appearance of the surrounding area.
13. Overall, the proposal would be wholly unrelated to the character of the appeal site and the surrounding area and would not respond to local character. Therefore, the proposal would harm the character and appearance of the surrounding area and so would not accord with the design principles set out in LP Policy D3, CS Policy CS5 and DMP Policy DM01, which require that development respects local context and distinctive local character, creating places and buildings of high-quality design which preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets development. I also find conflict with the RDG which requires that development responds to distinctive local building

forms and patterns of development and respects the scale of the surrounding physical context. The proposal also conflicts with the Framework, which states that development that is not well designed should be refused.

Other Matters

14. I acknowledge that the construction of one dwelling would make a small contribution towards the borough's housing supply, consistent with the Government's objective to significantly boost the supply of homes. Additionally, the proposal would bring forward housing development on a small, brownfield site within an area with reasonable access to local services. This factor weighs in favour of the scheme. However, one new home would make only a small contribution in this respect.
15. The proposal would include the provision of an area of communal amenity space for the occupants of Southbourne Court, improved areas of circulation space to the rear of Southbourne Court, as well as better outlook for the occupants of the flats in the central and western parts of Southbourne Court. Additionally, the proposed landscaping, sedum roof and green wall may result in improvements to ecology. These matters weigh in favour of the proposal.
16. The proposal would provide 3 parking spaces for the occupants of Southbourne Court. Whilst I note the appellant's comments that existing car parking on site is informal and existing residents have no rights to park on this land, nonetheless at the time of my site visit I observed that the area was used for the parking of vehicles. Whilst this is a snapshot in time there is nothing in the evidence before me to indicate those observations are atypical. The formalisation of the existing parking situation therefore attracts limited weight in the overall planning balance.
17. I note that the proposal makes provision for adequate levels of cycle and car parking spaces and adequate light levels for future occupants. These are neutral matters in the overall planning balance. The appellant's comments that the proposal would represent a superior form of residential accommodation with pleasing standards of accommodation are noted. Nonetheless, as set out above, I have found conflict with the development plan.
18. I note that the appellant is dissatisfied with the Council's handling of the application and approach to decision making in this case. This is the subject of a separate costs decision.

Conclusion

19. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Nichola Robinson

INSPECTOR