



Appeal Decision

Site visit made on 29 December 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/N5090/D/22/3303572

28 Downage, Hendon, London NW4 1AH

- 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 Uriel Biton against the decision of the London Borough of Barnet.
- The application Ref 21/6195/HSE, dated 24 November 2021, was refused by notice dated 11 May 2022.
- The development proposed is described as the erection of a part single, part two-storey front, side and rear extension including new front porch, alterations to the pitch of the roof including the insertion of roof lights and the creation of side and rear dormer windows to facilitate a loft conversion and the creation of a basement under the footprint of the house including rear light wells.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a part single, part two-storey front, side and rear extension including new front porch, alterations to the pitch of the roof including the insertion of roof lights and the creation of side and rear dormer windows to facilitate a loft conversion and the creation of a basement under the footprint of the house including rear light wells; in accordance with the terms of the application Ref 21/6195/HSE, dated 24 November 2021, subject to the conditions attached as an annexe to this letter.

Application for Costs

2. An application for costs was made by Mr Uriel Biton against the London Borough of Barnet. This application is the subject of a separate decision.

Preliminary Matter

3. The reason for refusal as stated in the Council's Decision Notice refuses the application on procedural grounds that concerns the submission of a householder application rather than a full application. It is not for me under a s78 Appeal to make a judgement of whether the correct application form has been used. In this letter I have been requested to make my judgement on the planning merits of the application and plans as submitted as part of this appeal which match the description of the proposed development and which are the same plans as the Council has also made an assessment upon. Whilst not detailing any additional matters in the reason for refusal, the Council have listed a number of policies from the Barnet Core Strategy¹ (CS) and the Development Management Policies Development Plan Document² (DMP) which is supported

¹ Policies CS4, CS5 and CS9

² Policies DM01, DM02, DM08, DM16 and DM17

by the Barnet Residential Design Guide (RDG). As such, I shall limit my discussion to these policies.

Main Issue

4. The main issue is whether the proposal when taken as a whole complies with the Development Plan Policies of the London Borough of Barnet, and any other material considerations.

Reasons

5. The refusal is based upon CS Policies CS4 (which seeks to provide quality homes and a mix of housing choice); Policy CS9 (which seeks to provide safe efficient and effective travel); and Policy CS6 (which lists a number of design considerations to protect and enhance character and create high quality places). Additionally, DMP Policies DM01 seeks to protect Barnet's Character and Amenity; Policy DM02 seeks that development is constructed in accordance with development standards; Policy DM08 Seeks to ensure a variety of homes to meet housing need; Policy DM016 seeks considerations regarding the impact of development towards biodiversity; and Policy DM017 seeks to understand travel impact and parking standards. The RDG accompanies the design and living conditions policies which suggests guidance for extensions and alterations to buildings.
6. The Council's Planning Officer Report states that the relevant policies from the Core Strategy for consideration are CS1 and CS5, as well as DMP Policies DM01 and DM02. Under the Council's assessment they are satisfied that the proposal would comply with these policies, in terms of both design and living conditions. I have no reason to take a different stance from the Council in these matters. The only exception is the front first floor windows which the Council view are elongated and do not reflect the proportions of other properties in the vicinity. The surrounding neighbourhood consists of a number of detached two storey properties and whilst there are similar designs found, there are a number of alterations within the area such as side and front extensions, with a variance in design of front windows, such as those to the dwelling opposite the appeal site. I also take on board the appellant's appeal statement where such windows could also be installed with the use of permitted development rights. As such, I do not take the same stance as the Council that the proposed windows are so incongruous to the design to justify a refusal.
7. The Council have also listed policies of the development plan which relate to transport, biodiversity, design and housing delivery. The council have not justified these reasons for refusal, no information has been submitted with the appeal documents such as from a transport or ecology colleague that there are concerns with regards to the impact to transport or biodiversity. There is also no evidence presented in the appeal that the Council requested such information from the appellant which formed the basis of concerns and no discussion of these concerns are noted within the Council's Officer Report. Other policies which the Council refused the application on such as housing choice and housing standards are relevant, having considered this dwelling is within a residential area and that the proposal meets the housing standards in terms of its size, I do not find conflict with CS Policies CS6, CS4 and DMP Policy DM08.

8. In conclusion of this matter, the proposed scheme would present an appropriate architectural approach which is subservient in size, positioning and siting and would be in keeping with the site and its context. Consequently, the proposal would be an appropriate development that would not cause detriment to the character and appearance of the existing or the greater locality. The scheme would therefore be compliant with CS Policies CS4, CS9, CS6; and DMP Policies DM01, DM02, DM08, DM016 and DM17; and the RDG all of which were described previously.

Conclusion and Conditions

9. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions as detailed in the annexe to this letter.
10. In terms of the placement of conditions, the Council have specified conditions in case an appeal is approved and I have assessed these in accordance with the Planning Practice Guidance (PPG). The standard conditions which specify time limit, approved plans and a matching materials condition is considered necessary and for the avoidance of doubt, and to ensure the satisfactory appearance of the proposed scheme.
11. Suggested condition No.4 seeks to prevent the flat roof of the rear extension from being utilised as a sitting out area which is necessary in that it avoids potential issues to living conditions of surrounding residents. Suggested Condition No.5 seeks to obscurely glaze the window of the side dormer prior to the occupation of the building. Given that the building is already occupied and the owners may choose to live within the building whilst development is taking place, and may also not choose to implement the full permission in one phase; it would be unreasonable to restrict existing occupancy.
12. As the issue is with the dormer window, it would be more appropriate to cite within the condition that it is the installation of the dormer window that would trigger it to be obscurely glazed. The condition has been amended accordingly to make it reasonable. Condition No.6 seeks to remove permitted development rights for windows to be installed on the side facades. This condition is not considered necessary, given that the General Permitted Development Order (as Amended) 1995 places conditions on such installations with regards to obscure glazing and opening. This condition is therefore not necessary and is deleted. Suggested condition 7 suggests that provisions be made for the washing and cleaning of vehicles to prevent dirt onto the highway. It is unclear in the condition what 'provisions' the council seeks; and the Council does not seek to approve such a condition. As such, the condition is non-descript and is not enforceable and therefore would not pass the test of conditions as per the PPG. It is therefore deleted.

J Somers
INSPECTOR

Annexe: Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Block Plans, Dwg No. 028DS-A-01-002, Dated 15.11.2021;
 - Proposed Front Visualization, Dwg No. 028DS-A-02-101, Dated 15.11.2021;
 - Proposed Rear Visualization, Dwg No. 028DS-A-02-102, Dated 15.11.2021;
 - Proposed Lower Ground Floor Plan, Dwg No. 028DS-A-03-101, Dated 15.11.2021;
 - Proposed Ground Floor Plan, Dwg No. 028DS-A-03-102, Dated 15.11.2021;
 - Proposed First Floor Plan, Dwg No. 028DS-A-03-103, Dated 15.11.2021;
 - Proposed Second Floor Plan, Dwg No. 028DS-A-03-104, Dated 15.11.2021;
 - Proposed Roof Plan, Dwg No. 028DS-A-03-105, Dated 15.11.2021;
 - Proposed Section A-A, Dwg No. 028DS-A-05-101, Dated 15.11.2021;
 - Proposed Section B-B, Dwg No. 028DS-A-05-102, Dated 15.11.2021;
 - Proposed Elevation, Dwg No. 028DS-A-06-101, Dated 15.11.2021;
 - Proposed Elevation, Dwg No. 028DS-A-06-102, Dated 15.11.2021;
 - Proposed Elevation, Dwg No. 028DS-A-06-103, Dated 15.11.2021;
 - Proposed Elevation, Dwg No. 028DS-A-06-104, Dated 15.11.2021;
- 2) This development must be begun within three years from the date of this permission.
- 3) The materials to be used shall match those specified in the application.
- 4) The roof of the extension hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
- 5) Once the proposed dormer window facing No.26 Downage is installed, the window shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening above 1.7 metres.