



Appeal Decision

Site visit made on 24 March 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/N5090/D/22/3313790

153 Friern Park, London, N12 9LR

- 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 Ben Miller against the decision of London Borough of Barnet.
 - The application Ref 22/5072/HSE, dated 14 October 2022, was refused by notice dated 9 December 2022.
 - The development proposed is new windows and balcony with balustrade to first floor rear with privacy screening.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character and appearance of the host property with specific regard to its locally listed status, and 2) the living conditions of occupants of neighbouring properties with regard to privacy.

Reasons

Character and appearance

3. The appeal property is a handsome three storey end of terrace dwelling. It is one of four dwellings with well-proportioned glazing and distinctive bay windows to the front elevation. Like the other properties, there is an outrigger to the rear. A balcony is proposed on top of the single storey section of the outrigger. Along with the other properties on the terrace, the appeal property is a locally listed building.
4. Although local listing provides no additional planning controls, the fact that a building is on a local list means that its conservation as a heritage asset is an objective of the National Planning Policy Framework (2021) (the Framework) and a material consideration when determining the outcome of a planning application or subsequent appeal. In considering proposals that affect a locally listed heritage asset, paragraph 203 of the Framework requires, amongst other things, that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application, and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

5. It is clear from my observations on my site visit and from the local listing description that the significance of the property lies in its front elevation and the positive contribution this makes to the street-scene. Being located in a relatively confined space to the rear of the property, the proposed development would not diminish the positive contribution the property makes to the street-scene or its significance as a locally listed building.
6. At the rear of the property the arrangement is more disjointed than the orderly front elevation, with a combination of the part two, part single storey outrigger and a lean-to dining/conservatory. Into this context the proposed development, due to its overall design, size, scale and siting would not cause harm to the character and appearance of the property overall.
7. Set against the backdrop of the arrangement described above, in conjunction with the three storeys and roof-space of the appeal property, the development would also not be prominently positioned.
8. I therefore conclude that the proposal would not harm the character and appearance of the host property and would sustain the significance of the non-designated heritage asset. It would therefore comply with Policies CS1 and CS5 of the Barnet Local Plan (Core Strategy) Development Plan Document (2012), Policies DM01 and DM06 of the Barnet Local Plan (Development Management Policies) Development Plan Document (2012) and Policies D3 and HC1 of the London Plan(2021). These policies seek to ensure, amongst other things, that development is of a high quality and standard of design and that all heritage assets will be protected in line with their significance, including a presumption in favour of retaining Locally Listed Buildings.
9. The proposed development would also be in accordance with the guidance contained within the Residential Design Guidance Supplementary Planning Document (2016) that outlines with regard to Locally Listed Buildings that the council will apply a presumption in favour of retention, and that alterations should be of an appropriate design.

Living conditions

10. The proposed balcony would be situated at first floor level and be adjacent to the boundary with no. 151 Friern Park. It would be set in from the communal garden to the rear of Buttermere House.
11. The proposed balcony would be positioned at the first-floor on top of the single storey rear extension. It would overlook, and be clearly visible from, the rear garden of the adjoining property, 151 Friern Park. Due to its siting and elevated position, the proposed balcony would result in a significant loss of privacy and an unacceptable level of overlooking of the garden of 151 Friern Park. Due to the rear communal garden of Buttermere House being further away from the site of the proposed balcony, and the fact that it is for a communal garden which is overlooked by many existing Juliette style balconies, I find that the effect on those properties would not be unacceptable.
12. Although a privacy screen is proposed on the side elevations of the balcony, I consider that such a screen would only marginally alleviate the harm that I have identified, which would be predominantly in a forward direction.
13. I acknowledge that the garden of 151 Friern Park is relatively long, with the section immediately adjacent to the rear of the property being unaffected by

the proposal. I do not however consider that the occupants should feel confined to a certain part of their garden due to the harmful effect of the proposal which I have identified and there is nothing to suggest that the other areas of the garden are not well-used.

14. The proposal would therefore have an unacceptable impact on the living conditions of occupants of 151 Friern Park in relation to loss of privacy. The proposal would be contrary to Policy CS5 of the Barnet Local Plan (Core Strategy) (2012) and Policy DM01 of the Barnet Local Plan (Development Management Policies) (2012). These policies seek to ensure that, amongst other things, development should be designed to allow for adequate privacy for adjoining and potential occupiers.
15. The proposal would also be contrary to the Residential Design Guidance Supplementary Planning Document (SPD) (2016) which outlines, amongst other things, that flat roofs should not normally be used as balconies and should only be accessed for maintenance purposes as nuisance and loss of privacy to immediate neighbours may result in overlooking into their amenity space.
16. The proposal would also be contrary to the Sustainable Design and Construction SPD (2016), which outlines that the privacy of existing and future development should be protected and gardens should not be significantly overlooked.

Other Matters

17. The appellant has referred to a number of examples of roof terraces and balconies in the surrounding area. These examples however relate to different properties in different contexts and are not the same as the appeal property and the proposed development. Either way, their presence does not overcome the harm I have identified, and I have, in any event, determined the appeal proposal on its own individual planning merits.
18. The appellant has referred to the impact that the installation of a Juliette style balcony under permitted development rights would have. I acknowledge that this may constitute a fallback, however it is for a different form of development to the appeal proposal and would be set further back into the property. It would therefore not be sufficient to overcome the harm I have identified and is of limited weight.

Conclusion

19. On the matter of the effect of the proposed development on the character and appearance of the locally listed host property, I have found that the proposed development would not cause unacceptable harm. On the matter of living conditions, I have found that the development would have an unacceptable impact on the living conditions of the occupants of 151 Friern Park in relation to loss of privacy.
20. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR