



Appeal Decision

Site visit made on 13 April 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 June 2023

Appeal Ref: APP/N5090/W/22/3312918

2 Fitzalan Road, Finchley, Barnet, London N3 3PD

- 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 and Mrs Barashi against the decision of London Borough of Barnet.
 - The application Ref 22/2006/FUL, dated 11 March 2022, was refused by notice dated 20 June 2022.
 - The development proposed is the demolition of the existing dwellinghouse and erection of a four storey block with rooms in roofspace and basement level of 4 apartments, with associated vehicular and pedestrian access, parking, refuse and recycling store, landscaping, and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst differing from the application form, I have included in my description above that which was agreed between the main parties during the life of the appeal.
3. Hearings for the new Local Plan took place in late 2022. I have not however been referred to specific policies, and am unaware if they are in their final form. In any event, the plan is yet to be adopted. I have therefore referred to the adopted plan in my assessment of the main issues.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, with specific regard to the sub-division of the garden, and the intensity of occupation and increased activity;
 - the living conditions for neighbouring properties with regard to noise and disturbance;
 - the living conditions of future occupiers with specific regard to outlook from the basement and 2nd floor levels; and
 - the neighbouring ground water conditions.

Reasons

Character and Appearance

5. The appeal building is a large detached two storey dwelling with rooms in the roof space. Along with the majority of others in the immediate street scene, it is set back from and facing the road, and has an open rear garden. Whilst the area incorporates a wide variety of architectural types and detailing, the scale and placement of the dwellings along with the consistency of the size and openness of their rear gardens, creates a pleasant consistency. This contributes positively to what can be best described as a quiet residential family street.
6. The rear boundaries of Regents Park Road dwellings border the side boundary of the appeal property. Regents Park Road has a distinctly different character despite this proximity, as it is wider and a busy through traffic route, incorporating a mix of building uses, and is lined to one side by significantly higher flatted accommodation. It therefore does not provide the context for considering the impact of the appeal proposal.
7. The proposal is to demolish the existing dwelling and replace it with 4 apartments, comprising a 2 storey building plus accommodation in the roof and basement levels. The appeal scheme would be very similar in its external appearance, composition, and scale to an extant scheme¹, which I find to be a reasonable fallback prospect. However, the sub-division of the large and uninterrupted rear garden into four smaller plots would appear discordant and introduce clutter through the amount of new boundary treatment which would be required. This would significantly reduce the quality of the area's consistent character in this regard.
8. In addition, whilst the proposed parking for four cars would not be a substantive increase on that possible at present, the intensity of vehicle use would be significantly greater for four apartments than for a family dwelling. Furthermore, although the precise details of bin and cycle storage could be set via a condition, significantly increased storage would be required. Numerous refuse bins and recycling bins appear unlikely to fit in the area identified on the plans. Similarly, cycle storage would require a relatively substantial structure. Altogether, the impact on the frontage of the property would be significantly different to that of a family dwelling, such that it would be obtrusive within the streetscene, reducing the quality of its consistency.
9. The proposed flats could accommodate up to 20 people, significantly more than for a large family dwelling. There would therefore be a significant increase in vehicle and pedestrian movements, visitors, and general external activity including use of the gardens, compared to that for the existing dwelling or the larger extant dwelling. Together, this activity would conspicuously impact on the quiet family character of the street.
10. On the opposite side of Fitzalan Road is an open grassed area plus a tree lined access track leading to a collection of red-brick buildings, which together form the College Farm Conservation Area (CA). The CA was the model dairy farm of the Express Dairy Co Ltd and its significance derives from both the listed buildings to one end and its history, as well as its physical juxtaposition as a

¹ Council reference 19/6658/FUL.

relatively expansive area of open green within the surrounding built up urban environment.

11. I agree with the Council that the appeal scheme would preserve the character of the CA, notwithstanding the harm I have identified above. This is because of the appeal site's existing separation from the CA in character, history, and form, and because proportionally it would have a much lower impact on and comparison with the CA as a whole, than it would on the dwellings along Fitzalan Road.
12. However overall, the proposal would harm the character and appearance of the area, with specific regard to the sub-division of the garden, and the intensity of occupation and increased activity. It would conflict with Barnet's Local Plan Core Strategy 2012 (CS) Policies CS NPPF, CS1, and CS5, Barnet's Local Plan Development Management Policies Development Plan Document 2012 (DMP DPD) Policy DM01, and the London Plan 2021 Policy D3. It would also conflict with guidance in Chapter 15 of the Residential Design Guidance Supplementary Planning Document 2016 (RDG SPD), the Sustainable Design and Construction Supplementary Planning Document 2016 (SDC SPD), and paragraph 130 of the National Planning Policy Framework 2021 (the Framework). Together, and amongst other things, these seek for development to respect and be sympathetic to the local context, the surrounding built environment, and distinctive local character. They aim to protect the character of established areas of family housing from the cumulative effects of intensified use resulting from the conversion of houses to flats.

Living Conditions – Neighbouring Occupiers

13. The proposal's impact on the living conditions for neighbouring occupiers was not explicitly identified on the decision notice, albeit the Council expresses substantive concerns in this regard and alludes to such effects in the first reason for refusal.
14. Given the significant increase in the number of unrelated households and occupants, the issues already discussed above relating to the impact on character apply equally to an impact on the living conditions of neighbouring occupiers. There would be increased and more intensive garden use, pedestrian and vehicle movements, and general activity and noise. This would be to the extent that the proposal would cause noticeable disruption and thus disturbance to the occupiers of neighbouring properties compared to that from a single dwelling.
15. The proposed development would therefore harm the living conditions of the occupiers of neighbouring properties. It would thus conflict with Policy CS5 of the CS, Policy DM01 of the DMP DPD, Policy D3 of the London Plan, and guidance in the RDG SPD and the SDC SPD. These require developments to preserve local character, and ensure that development reduces the effect of noise on existing properties. It would also conflict with paragraph 130 of the Framework regarding the need to ensure that developments function well, and to create places which have a high standard of amenity for existing and future users.

Living Conditions – Future Occupiers

16. The proposed apartments would meet the minimum internal space standards required by the development plan. However, there would be 2 apartments spanning the ground floor and basement levels, each with 3 bedrooms in the basement. Each bedroom would only be served by a relatively small lightwell. The 2 front lightwells would be covered by grills, which the plans show may allow cars to park on top. The rear lightwells would be bordered by approximately 1m high brick walls from ground floor level. Together these combined factors would cause issues of a relatively low level of natural daylight into the rooms, a lack of any meaningful outlook with the only views being of high walls at close range, and a very strong sense of enclosure.
17. Although the ground floor living accommodation to those flats would provide suitable outlook and light, this would not sufficiently mitigate its absence in the bedrooms. These provide the majority of the habitable rooms in these flats, sleeping up to 6 people per apartment. Overall outlook would therefore be severely restricted, to the extent that harm would be caused to the living conditions of the future occupants. There are limitations on the design and placement of the lightwells so that the scheme would not be visually incongruous, but this does not outweigh the need to provide appropriate living conditions.
18. Each of the upper floor apartments would have a bedroom on the 2nd floor, which would each have 3 side dormer windows. These would be non-opening and obscure glazed up to a height of 1.8m above the finished floor level. These windows would require obscure glazing to maintain privacy for neighbouring properties. However, this would then result in restricted internal outlook, only being through an additional small window for each room. For one bedroom this would be to the rear, and that window would only serve a narrow dressing area. For the other this would be a circular front window, with views out restricted to a relatively narrow angle due to the lower headroom in parts of the room.
19. The need for sufficient outlook is reinforced by the SDC SPD and the RDG SPD, which both identify that single aspect dwellings as well as the use of opaque glazing should be avoided for this reason. Table 2.4 of the SDC SPD also requires that the size of glazing to all habitable rooms should not normally be less than 20% of the room's internal floor area, in order to provide suitable outlook. The Council has identified that the fenestration to both 2nd floor bedrooms would fall considerably short of this amount. Overall, the majority of the floorspace for these bedrooms would have a poor outlook.
20. The proposal's footprint may cover less of the rear garden than the extant permission, and thus reduce the impact in terms of loss of daylight or outlook, but this does not address the outlook issues I have identified above.
21. The proposed development would not therefore provide adequate living conditions for its future occupiers with regard to outlook. It would therefore conflict with Policy CS5 of the CS, Policies DM01 and DM02 of the DMP DPD, Policy D6 of the London Plan, and guidance in the RDG SPD and the SDC SPD. This suite of policies and guidance require high quality design to allow for adequate outlook. The proposal would also conflict with the Framework, particularly paragraph 130, the aims of which I have set out above.

Surface Water

22. The appeal site is located within Flood Zone 1, an area with a low probability of flooding from tidal or fluvial sources. The area surrounding the site is within an area of medium-high risk from surface water flooding. The Council did not have detailed information to allow an assessment of the impact of the proposed development on surface water flooding, and so identified that the proposal could cause undue harm to neighbouring ground water conditions by adversely impacting local run off and increasing the risk of surface water flooding.
23. Thames Water has raised no objection. The extant permission included a Basement Impact Assessment, which in summary identified that with careful and considered detailing there would be no obstacle to having residential accommodation at basement level. The proposed basement would also maintain the extant scheme footprint and building line, plus reduce the excavation needed as there would be no basement swimming pool or rear external staircase. The Council does not directly refute these aspects.
24. While I do not have the full plans of the extant scheme or its Basement Impact Assessment before me, I am not convinced by the Council's position that the proposed building's use as flats would be materially different to its use as a single dwelling in terms of potential impact on surface water flooding. In taking the above aspects in totality, I therefore take a pragmatic approach that if I were minded to allow the appeal then I could impose a suitable condition to address this need for additional information. I also note that the Council has suggested a condition requiring a Basement Impact Assessment.
25. With this in mind, the proposed development would not have a harmful effect on the neighbouring ground water conditions. Therefore, it would comply with Policy DM04 of the DMP DPD and guidance within the RDG SPD, whereby development proposals should provide information on their flood risk potential, and not adversely affect neighbouring ground water conditions.

Other Matters

26. A permitted apartment scheme No. 70 Fitzalan Road is sufficiently far away so as to not provide the direct physical context for the appeal site. Furthermore, it has a side elevation directly onto Hendon Lane which I noted on my visit has a different character of larger flatted properties. It is therefore sufficiently different from the appeal site so as not to be determinative. The appellant also considers that the street ends are an acceptable location for apartments, as they would provide minimal visual change to the character of the whole street. I disagree because the property has a clear relationship with the stretch of Fitzalan Road within which it lies.
27. Both the London Plan and the Framework provide general support for new housing and for the efficient use of land. However, the benefits associated with the construction and occupation of 3 additional dwellings would be limited. Furthermore, no specific evidence has been provided that the Council is not meeting its housing targets overall. I have seen no detailed evidence to determine whether the loss of the existing house would be harmful in the context of the area's wider housing need and delivery, nor whether the provision of three bedroom apartments would contribute to any specific housing need. I therefore do not find this matter to be determinative in the context of my consideration of the appeal overall.

Conclusion

28. I give very limited weight to the benefits of the provision of new dwellings, and give significant weight to the harm which would be caused to the character and appearance of the area, and to the living conditions of adjacent and future occupiers. I also attach significant weight to the conflicts with the development plan that would arise. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR