



Appeal Decision

Site visit made on 6 June 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th August 2023

Appeal Ref: APP/N5090/W/22/3313871

Land to rear of 130 Clitterhouse Road NW2 1DN

- 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 & Mrs Matthew and Saira Grant of Bricks Mortar & Interiors Ltd against the decision of the London Borough of Barnet.
 - The application Ref 22/4013/FUL, dated 3 August 2022, was refused by notice dated 7 October 2022.
 - The development proposed is a new house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Barnet's Draft Local Plan has been submitted for examination under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. However, I am not aware of the exact stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupiers of 128 Clitterhouse Road, with particular regard to outlook and light, and 130 Clitterhouse Road, with particular regard to privacy.

Reasons

Character and appearance

4. Properties in the area are predominately traditional semi-detached and terraced two storey properties with hipped and gable roofs, some with rear dormer extensions. New development, under construction at the time of my visit, introduces three storey development along Brent Terrace. Materials in the area largely comprise brick, tile and render. It is the overall traditional appearance of the properties, including uniformity of roof forms and materials, that contribute to the character of the area.

5. The overall design of the proposed property, while intended to create a unique built form that responds to pre-application discussions, does not reflect the traditional design features of surrounding properties. The design and massing include an overall height, roof form and cladding which are features and materials that are not prevalent in the area. Together with the prominent location of the site, it would be these unique features that would be most conspicuous when viewed from Brent Terrace. The proposed property would result in a prominent and incongruous form of development, to the detriment of the prevailing character of the area.
6. The appeal site is screened by existing trees and vegetation. The siting of the proposed property would allow for the majority of the vegetation to be retained. The use of cladding for the upper level of the proposed property is intended to complement this green verge. The retained vegetation would help provide some screening and restrict some views of the development from Brent Terrace. However, as a permanent form of development, the proposal is likely to outlast the vegetation. In any case, there would still be some views of the development from Brent Terrace and the retained vegetation is not sufficient mitigation to overcome the harm identified.
7. During my site visit, I observed the property located to the rear of 138 and 140 Clitterhouse Road and the new development along Brent Terrace, which was under construction. I have limited information before me relating to the overall finished design and landscaping of the new development along Brent Terrace, however I understand it would not be shielded by a green verge and the proposed property would be subordinate to it. The new development along Brent Terrace is however a larger, comprehensive scheme, and is not directly comparable by virtue of its size and height. Similarly, the property located to the rear of Nos 138 and 140 is also not directly comparable by virtue of its height, design, including roof form, and brick and tile construction.
8. The use of pitched slate faces and red brick would reflect and complement materials used within the wider area and the appellant's have confirmed a materials condition would be acceptable. However, the use of suitable materials alone is not sufficient to overcome the harm identified.
9. For the above reasons, the proposed development would be unacceptably harmful to the character and appearance of the area. This is contrary to Policy CS5 of the Barnet's Local Plan Core Strategy Development Plan Document 2012 (CS), Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document 2012 (DMP) and the guidance within the Local Plan Supplementary Planning Document: Residential Design Guide 2016 (SPD) and the Framework. Collectively, these policies and guidance documents seek, amongst other things, to ensure new development respects local context and distinctive local character, are sympathetic to local character and achieves good design.

Living conditions

10. 128 and 130 Clitterhouse Road are both two storey corner properties, with narrow plot frontages and wider rear gardens. The proposed property would be positioned within the rear garden of No 130, close to the shared boundary with No 128.

11. It is not uncommon in residential areas for views into neighbouring gardens being permissible from the upper floors of properties. Having regards to the layout and height of neighbouring properties on Clitterhouse Road, there is a degree of oblique overlooking of the rear garden serving No 130 from first floor windows of neighbouring properties. There are limited views of the rear garden serving No 130 from the properties along Brent Terrace, due to the intervening highway and vegetation. The rear garden serving No 130 has a degree of privacy as a result of this layout.
12. The layout, siting and boundaries of the proposed development are such that the first floor window serving bedroom No 2 would be within close proximity to the rear garden serving No 130. As a result, there would be direct and oblique views of most of the rear garden associated with No 130 from this bedroom. Due to direct overlooking of their private rear garden from the proposed property, the occupiers of No 130 would experience an unacceptable loss of privacy.
13. The effect on privacy from bedroom No 1 would be limited by the oblique angle at which the garden area could be seen. There would be no material loss of privacy for the occupiers of No 130 as a result.
14. Irrespective of the distances involved, given the acute angle between windows, there would be no direct views into the first floor bedroom of No 130 from the proposed development. There would be no resulting loss of privacy for the occupiers of No 130.
15. Appropriate boundary treatment would mitigate against any overlooking from ground floor windows. This could be secured through the imposition of a suitably worded condition, should the appeal be otherwise acceptable.
16. The orientation, siting and height of the proposed development means that any overshadowing would only affect a relatively small area of No 128's garden and then only for short periods of the day. On this basis, there would be no significant impact on daylight or sunlight reaching the garden or the ability of the occupants of No 128 to enjoy the space.
17. No 128 is orientated with its rear elevation facing away from the appeal site and is sited in a wide plot, away from the shared boundary with No 130. The layout, siting and height of the proposed development, would ensure it does not result in a harmful sense of enclosure, or a visually dominant or overbearing form of development, when viewed by the occupiers of No 128. There would be no material loss of outlook for the occupiers of No 128 as a result.
18. Notwithstanding my conclusions about the effect on No 128, the development would still have an unacceptable impact on the privacy and living conditions of residents of No 130. This would conflict with Policies DM01 and DM02 of the DMP, Policies D3 and D6 of the London Plan 2021 and the guidance within the SPD and the Framework. Collectively, these policies and guidance documents seek, amongst other things, to ensure development proposals are designed to allow for adequate privacy and outlook for adjoining occupiers, deliver appropriate outlook, privacy and amenity, minimise overshadowing and create a high standard of amenity for existing users.

Other Matters

19. The provision of one dwelling would contribute towards housing supply in the area, thus helping to alleviate the demand for housing in the area, whilst complementing the areas wider regeneration. The site is well located with regard to the provision of amenities and transport links. I understand this section of Brent Terrace is underused and prone to anti-social behaviour. The development would help create a sociable pedestrian street, with positive frontages, whilst visually improving the area and enhancing the green verge. These matters would result in minor benefits, which carry limited weight, having regard to the modest amount of development proposed.
20. No 130 would retain a sizable garden as a result of the proposed development. A lack of harm in this respect is neutral and weighs neither for nor against the development.
21. I understand the appellant worked closely with the architect and, as a result, there is local support for the proposal and were no objections in respect of the planning application. These are also neutral matters.
22. The appellant has raised concerns with the pre-application and application process. These are matters between the appellant and Council and are outside the scope of the appeal.

Conclusion

23. Overall, the proposed development would conflict with the development plan as a whole and there are no material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

S Pearce

INSPECTOR