



Appeal Decisions

Site visit made on 13 June 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2023

Appeal Ref: APP/N5090/W/22/3313881

27 Ashley Walk, Mill Hill, Barnet, London NW7 1DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Cavusoglu against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5387/PNV, dated 2 November 2022, was refused by notice dated 16 December 2022.
 - The development proposed is additional storey at first floor level to provide 1no. self-contained flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice, on the basis that it accurately and clearly describes the proposed development and I have assessed the appeal on that basis.
3. The provisions of Schedule 2, Part 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) do not require regard to be had to the development plan. I have had regard to the policies of the development plan, the National Planning Policy Framework (the Framework) and any related guidance only in so far as they are relevant to the assessment of the main issues in this case.
4. The Council's decision notice refers to paragraph AA.2 (1) (g) of the GPDO, the Council have acknowledged this error and confirmed that this should be paragraph AD.2 (1) (g) of the GPDO.

Background and Main Issues

5. The first reason for refusal refers to the effect of the proposal on the character of the area, including from increased levels of activity and the associated noise and disturbance, whilst the second reason refers to the effect on the outlook of the occupiers of No 84 Oakhampton Road (No 84). On that basis, the main issues are the effect of the proposed development on:
 - The external appearance of the building, having particular regard to its effect on the character and appearance of the area, and;

- the amenity of the occupiers of neighbouring premises, having particular regard to noise and disturbance and the effect on the outlook of the occupiers of No 84.

Reasons

External appearance

6. The appeal site is at the end of Ashley Walk which is a residential road that is lined on one side by predominantly semi-detached dwellings. Opposite the appeal site, the road is lined with dense vegetation, on the other side of which is a golf course.
7. 27 Ashley Walk (No 27) is a detached bungalow, and the proposal would result in an additional storey to create another dwelling. The additional storey would be built directly above the existing ground floor, and would appear as a continuation of the building using materials to match the existing bungalow.
8. The GPDO does not define external appearance for the purposes of assessing this prior approval matter, but the Cab Housing Ltd¹ judgement has established that consideration of external appearance under the various classes of Part 20 of the GPDO is not confined to an assessment of the impact on the appearance of the building itself, but also includes impact on neighbouring premises and the locality. It is a matter of planning judgement as to whether consideration is given to the effect in terms of the building's intrinsic design and/or to the effect in terms of the building's relationship with nearby properties.
9. In this case, the appeal site is located within a residential area with buildings of varying scale and appearance. As such, it would not be appropriate to consider the external appearance of the building in isolation, and the relationship with nearby properties is a relevant consideration in making an assessment of the proposal on the external appearance of the building and the effect on the character of the area.
10. I appreciate that the dwellings in the area are predominantly single-family units and there are no flats located close, however, whilst the building would be occupied by two separate households, it would still appear as a detached dwelling. The proposal would maintain a single entrance, which combined with the matching materials and fenestration, would still give the appearance of a single-family unit which would be in keeping with the residential character of the wider area.
11. No 27 is a bungalow which is the only dwelling of this type in the area which makes the dwelling stand out on the street scene. As such, the proposed changes to create a two-storey dwelling would be in keeping with the scale of surrounding dwellings and the street scene and would not adversely affect its function and character.
12. I conclude that the proposal would have an acceptable appearance. I therefore find no conflict with policies D3 of The London Plan the Spatial Development Strategy for Greater London (March 2021) (London Plan), CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS), DM01 and DM02 of Barnet's Local Plan (Development Management

¹ Cab Housing Ltd & Ors v Secretary of State for Levelling Up, Housing and Communities & Ors [2022] EWHC 208 (Admin)

Policies) Development Plan Document September 2012 (DP) and paragraph 130(a) of the Framework.

13. Amongst other things, these seek to ensure development enhances distinctiveness and maintains a strong sense of place.
14. The proposal would also not conflict with guidance contained within the Local Plan Supplementary Planning Document: Sustainable Design and Construction October 2016 and the Local Plan Supplementary Planning Document: Residential Design Guidance October 2016. Amongst other things, these seek to ensure developments are appropriately designed and enhance local character.

Amenity

15. The appellant has carried out a sun survey which demonstrates that the proposal would not overshadow the rear gardens and windows of No 84. It is clear from the survey that due to the orientation of No 84, sunlight is already blocked by the dwelling itself, and the proposal would not cause additional harm in that respect. I note that the survey only extends to 15:00, however, due to the orientation of the garden, it is likely that by this time the sun would be to the west of No 84 and sunlight would be cast into the side part of the garden, as such the proposal would not reduce levels of sunlight after this time.
16. I note that the Council have not identified any harm in respect of overlooking and loss of privacy, and I have no reason to conclude otherwise. Schedule 2, Part 20, Class AD of the GPDO requires the impact on the amenity of neighbouring premises to be assessed as part of the prior approval and lists overlooking, privacy and loss of light. Cab Housing Ltd also confirmed that impact on amenity is not confined to overlooking, privacy and loss of light.
17. In this regard, the dwellings in the area are predominantly single-family units and the introduction of a flat is likely to increase the frequency of comings and goings of future occupiers and their visitors. These movements are likely to create some noise and disturbance, particularly from occupiers and visitors entering and exiting the dwellings as well as car movements. The neighbouring properties are close to the appeal site and the noise and disturbance associated with these additional movements would be noticeable over and above existing background noise levels. This would be harmful to the living conditions of the occupiers of the immediately adjoining properties.
18. The rear garden of No 84 abuts the side elevation of No 27 with the dwelling being very close to the boundary. The boundary is demarcated by fencing and hedging and as a result only the roof is currently visible. The proposal would increase the height of the property by an additional storey, which due to the combination of its height and proximity to No 84 would dominate the outlook from No 84's garden and rear facing windows. The increased sense of enclosure and reduction in views of the sky for the occupiers of No 84 would make the garden less enjoyable to use.
19. Although levels of sunlight would continue to be acceptable, I conclude that the adverse effect on outlook for the occupiers of No 84 would cause material harm to their amenity. The increased levels of noise and disturbance would be materially harmful to the amenity of adjoining occupiers. The proposal would

therefore be contrary to policies D3 and D14 of the London Plan, CS5 of the CS, DM01 and DM04 of the DP and paragraph 130 of the Framework.

20. Amongst other things these seek to ensure that development delivers appropriate outlook, avoids significant noise impacts and protects the gardens of residential properties.
21. The proposal would also be contrary to guidance contained within the Local Plan Supplementary Planning Document: Sustainable Design and Construction October 2016 and the Local Plan Supplementary Planning Document: Residential Design Guidance October 2016. Amongst other things, these seek to ensure that development safeguards residential amenity.

Other Matter

22. I note that the proposal would provide adequate private amenity space and the construction would be of high quality, however these matters would not outweigh the harm I have found to amenity.

Conclusion

23. Although I have found that the proposed extension would be acceptable in terms of its external appearance and the effect on the character and appearance of the area, it would be harmful to the amenity of neighbouring premises. For the reasons given above, the development is not permitted under the terms of the GDPO. Therefore, I conclude that the appeal is dismissed.

D Wilson

INSPECTOR