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## Appeal Decisions

Site visit made on 14 August 2023

**by T Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 October 2023**

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### **Appeal A - Ref: APP/N5090/W/22/3312638**

#### **1 The Lincolns, Mill Hill, Barnet, London NW7 4PD**

- 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 E Edward against the decision of the Council of the London Borough of Barnet.
  - The application Ref 22/2983/FUL, dated 6 June 2022, was refused by notice dated 18 November 2022.
  - The development proposed is erection of a two storey plus rooms in roofspace detached dwelling with associated amenity space, and off-street car parking, following demolition of existing house and garage.
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### **Appeal B - Ref: APP/N5090/W/22/3312661**

#### **1 The Lincolns, Mill Hill, Barnet, London NW7 4PD**

- 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 E Edward against the decision of the Council of the London Borough of Barnet.
  - The application Ref 22/2993/FUL, dated 7 June 2022, was refused by notice dated 18 November 2022.
  - The development proposed is erection of a two storey plus rooms in roofspace detached dwelling with associated amenity space, and off-street car parking, following demolition of existing house and garage.
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### **Appeal C - Ref: APP/N5090/W/22/3312670**

#### **1 The Lincolns, Mill Hill, Barnet, London NW7 4PD**

- 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 E Edward against the decision of the Council of the London Borough of Barnet.
  - The application Ref 22/2994/FUL, dated 7 June 2022, was refused by notice dated 18 November 2022.
  - The development proposed is erection of a two storey plus rooms in roofspace detached dwelling with associated amenity space, and off-street car parking, following demolition of existing house and garage.
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#### **Decision – Appeal A**

1. The appeal is dismissed.

#### **Decision – Appeal B**

2. The appeal is allowed. Planning permission is granted for erection of a two storey plus rooms in roofspace detached dwelling with associated amenity

space, and off-street car parking, following demolition of existing house and garage at 1 The Lincolns, Mill Hill, Barnet, London NW7 4PD in accordance with the terms of the application Ref 22/2993/FUL dated 7 June 2022 subject to the conditions set out within the attached schedule.

### **Decision – Appeal C**

3. The appeal is dismissed.

### **Main Issue**

4. The main issue is the effect of the proposals on the character and appearance of the area.

### **Reasons**

5. The appeals all relate to variations on a development proposal to demolish an existing dwelling and erect a replacement dwelling. The appeal site is within an area that is dominated by often large, detached properties. The appeal site fronts onto Marsh Lane, which is particularly verdant by reason of the wide variety of planting and the set back of houses from the road.
6. Both the schemes under appeal A and appeal C include a substantial crown roof with rather steep roof pitches included. These schemes also feature a two storey rear element which is set at the same level of the main ridgeline, allowing the further extension of the crown roof rearwards.
7. This would result in the provision of a rather top heavy and overly bulky dwelling on the site. This would appear particularly uncomfortable when considered in the same context as the often more modest existing dwellings to the south west on Abbey View and to the north east on The Lincolns.
8. Whilst due to the set back and screening from existing trees, the property would be unlikely to be particularly prominent from Marsh Lane, it is likely that the excessive bulk would be particularly notable from private areas at nearby properties around the side and rear of the appeal site.
9. The scheme under appeal B, whilst based on a 'wider' footprint as seen under appeal C, would not include that substantial crown roof and would also include a rear two storey element that would be set down. This would restrict the bulk and mass of the proposed dwelling to an acceptable level. I am not convinced that the increased width over the approved scheme would result in any significant loss of views through the site or result in a cramped or oppressive form of development.
10. The tree surveys<sup>1</sup> identify a run of conifer trees closely adjacent to the south-western boundary at the appeal site which appear to be within the ownership of the neighbouring dwelling.
11. Whilst identified within category C, they do contribute positively to the character and appearance of the area assisting in reinforcing the overall verdant characteristics of this part of Marsh Lane. It is also the case that they

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<sup>1</sup> Central London Tree Surveys Arboricultural Report, Impact Assessment & Protection Method Statement February 2022 & update August 2023.

could provide some screening benefit for the occupiers of the neighbouring property.

12. The property proposed under appeals B and C would extend towards the boundary beyond which these trees are located such that the dwelling would be within the RPA's of these trees. Construction within the RPA of the trees would risk their decline/loss, which would have an adverse impact on the character and appearance of the area.
13. However, the evidence indicates that a foundation such as a pile and beam design on this part of the dwelling would reduce the risk of harm to these trees. This would seem possible and given the intervention would be within the outer part of the RPA's and that further details could be secured via condition; I consider that any significant adverse impact arising as a result of appeal schemes B or C could be avoided with regard to this matter.
14. The proposals under appeals A and C would therefore have a significant adverse impact on the character and appearance of the area. They would conflict with policies CS1 and CS5 of the Barnet Core Strategy (2012), Policy DM01 of the Barnet Development Management Policies (2012) and Policy D3 of the London Plan (2021) which amongst other things broadly seek good design. They also require that amongst other things development should also preserve or enhance local character and respect the appearance, scale and mass of surrounding buildings. Guidance<sup>2</sup> also outlines the desire to protect local character and local patterns of development.
15. The scheme under appeal B would have no significant adverse impact on the character and appearance of the area and would comply with the requirements of these policies and guidance.

## **Other Matters**

16. My attention has been drawn to an existing approval at the site for the erection of a two storey plus rooms in roofspace detached dwelling with associated amenity space, and off-street car parking, following demolition of existing house and garage. This therefore represents a viable fall-back position.
17. However, the evidence indicates that this scheme does not include such an extensive crown roof and includes a rear two storey element which is set down from the main ridgeline. Consequently, I afford this matter limited weight in terms of its justification for appeals A and C.
18. My attention has also been drawn to an existing dwelling at 116 Marsh Lane in justification for the proposals. However, it is the case that this property bears more relationship to Marsh Lane, than the more intimate character of The Lincolns/Abbey View environment. Further, it is clear that this property is limited to a reasonably restrained crown roof, with the bulk of the roof as a whole broken down through its included design features. I therefore afford this matter limited weight in support of the proposals under appeals A and C.
19. I note the apparent discrepancy on the elevation plans. However, the proposed roof/site plan appears to show the intended position of the proposed dwelling

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<sup>2</sup> Barnet Local Plan Supplementary Planning Document: Residential Design Guidance October 2016.

on the site clearly and using this plan provides certainty as to the location of the property on the plot.

### **Conditions**

20. Planning permission is granted subject to the standard three-year time limit. It is also necessary that the development be carried out in accordance with the approved plans and that details of levels are provided for the avoidance of doubt and in the interests of certainty. Details of materials are required in the interests of the character and appearance of the area. Details of obscure glazing are required in the interests of the living conditions of nearby occupiers.
21. A Construction Management Plan is necessary to ensure there is no significant adverse impact on the living conditions of nearby occupiers, in the interests of highway safety and in the interests of on and off site trees. Condition 7 is required in the interests of biodiversity at the site, while condition 8 is required to secure efficient waste removal.
22. A condition requiring the retention of parking is necessary in the interests of highway safety. Conditions 9, 11, 12 and 13 are necessary in the interests of sustainable development. A condition restricting permitted development rights is justified given the level of plot coverage that would result from the scheme in order to protect the character and appearance of the area and trees on site.

### **Planning Balance and Conclusion**

23. There is nothing to indicate that the decision should be made otherwise than in accordance with the development plan. Appeal B should therefore be allowed whilst appeals A and C should be dismissed.

*T Burnham*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

2021-1478-1

2021-1478-2

2021-1478-3

2021-1478-4

2021-1478-5

Tree Constraints Plan

Tree Impact Plan

Tree Protection Plan

Arboricultural Report, Impact Assessment & Protection Method Statement.

- 2) The development must be begun within three years from the date of this permission.

3) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the materials approved under this condition.

4) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:

i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;

ii. site preparation and construction stages of the development;

iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;

iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;

v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;

vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;

vii. noise mitigation measures for all plant and processors;

viii. details of contractors compound and car parking arrangements;

ix. details of interim car parking management arrangements for the duration of construction;

x. details of a community liaison contact for the duration of all works associated with the development;

xi. Provision of a competent banksman;

xii. Details of tree protection measures required to ensure that trees, including important and protected trees are not harmed and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) (To include details of Pile foundations adjacent to existing conifer trees close to the south west boundary of the site).

The development shall thereafter be implemented in full accordance with the

measures detailed within the statement and no site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

5) The dwelling hereby permitted shall not be occupied until the windows within the side elevations at first floor level have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room that they serve shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

6) No development other than demolition works shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

7) Before any site works, (including any temporary enabling works, site clearance, removal of existing vegetation, demolition or any investigative works referred in any other conditions, or development) hereby permitted commences, the applicant shall submit for approval details of measures to secure net biodiversity gain on the site in accordance with guidance set out within BS42040:2013: Biodiversity - Code of practice for planning and development, and guidance documents provided by the Chartered Institute of Ecology and Environmental Management (CIEEM) and the Royal Town Planning Institute (RTPI) for approval. The development shall be implemented in full accordance with details approved under this condition.

8) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.

9) Before the development hereby permitted is first occupied, cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.

10) Prior to occupation of the development on-site parking spaces and the access from the highway shall be provided. Thereafter, the parking spaces shall be used

only for their intended use and for no other purpose than the parking and turning of vehicles in connection with the approved dwelling.

11) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement in carbon dioxide emissions of a minimum of 10% when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

12) Prior to the first occupation of the new dwellinghouse hereby approved it shall have been constructed to have 100% of the water supplied to it by the mains water infrastructure provided through a water meter or water meters and shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed dwelling. The development shall be maintained as such in perpetuity thereafter.

13) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse permitted under this consent it shall have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.

14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any Class of Part 1 of Schedule 2 of that Order shall be carried out within the curtilages of the dwellings hereby approved.