



Appeal Decision

Site visit made on 8 September 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/N5090/W/23/3315901

42 Rosemont Avenue, North Finchley, London N12 0BX

- 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 S Ganesamoorthy against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/3348/FUL, dated 24 June 2022, was refused by notice dated 23 August 2022.
 - The development proposed is change of use of existing building (office) to form new live/work unit and the addition of 1no dormer window to front and rear plus 1no car space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal submissions refer to, and include plans and documentation relating to, an alternative development proposal at the site. This alternative development was also refused by the Council (planning application reference 22/5640/FUL). For the avoidance of doubt, my decision relates to the development proposal and planning application set out within the banner heading above and the plans and documentation that accompanied it.
3. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application.

Main Issues

4. The main issues are:
 - Whether appropriate living conditions would be provided for the future occupiers of the proposed unit with particular reference to their private internal space;
 - Whether appropriate living conditions would be provided for the residential occupiers within the adjacent Ballards Lane property and, for the future occupiers of the proposed unit with particular reference to privacy;
 - Whether appropriate living conditions would be provided for the future occupiers of the proposed unit and for the residential occupiers within

the adjacent Ballards Lane property with particular reference to their private outside space; and

- The effects of the proposed parking space upon the use of the driveway area at neighbouring 40 Rosemont Avenue and the safety of highway users.

Reasons

Private internal space

5. At only 2.2m, the ceiling height that would be provided for in the proposed development would be below the standards that are set out within Policy D6 of the London Plan, 2021 (LP) and the guidance contained within both the Sustainable Design and Construction Supplementary Planning Document and the Residential Design Guidance Supplementary Planning Document (the SPDs). As a development plan policy and, as the most recently adopted standard relevant to the issue, I give the greatest weight to the ceiling height standard contained within the LP. Requiring a minimum floor to ceiling height of 2.5m for at least 75 per cent of the gross internal area of a dwelling, it is also the standard within the LP that is the highest and, that against which the proposal would be most deficient.
6. Internal space and housing quality standards assist in ensuring that residential accommodation is comfortable, fit for purpose and meets the needs of occupiers. In failing to meet this minimum standard the proposal would not be delivering residential accommodation of high quality or appropriate living conditions. In coming to this view, I acknowledge that the size of the accommodation provided may be acceptable in terms of its floor space. Office accommodation is not lived in. That the ceiling height that would be provided for may have previously been considered acceptable for office space is therefore not very relevant to this case given residential accommodation would also be provided.
7. The proposed development would, therefore, be contrary to Policies DM01 and DM02 of Barnet's Local Plan Development Management Policies Development Plan Document (DMP document), Policy D6 of the LP and guidance within the SPDs. Amongst other matters, these policies and provisions require all development to represent high quality design and demonstrate compliance with relevant development standards including residential space standards.

Privacy

8. Rosemont Avenue and Ballards Lane progressively diverge in an easterly direction. Consequently, east of the appeal site, most of the terraced houses on Rosemont Avenue are well separated from the properties on Ballards Lane. Many of the residential properties in the local area are served by quite large back gardens and, as a result, benefit from quite significant separation from properties to their rear.
9. Positioned to the west of the terraced houses on Rosemont Avenue the host building is closely positioned to the rear of the Ballards Lane property which backs onto it. This Ballards Lane property includes windows within its upper floors which face towards the appeal site. In the proposal, residential accommodation would be provided within the first floor of the host building

which presently is not permitted whilst the proposed rear dormer would introduce a quite large window that would project slightly rearwards.

10. Given these factors, in the proposal, views from the first floor of the host building would be available into the flatted accommodation of the Ballards Lane property at quite close proximity. Views in the opposing direction would also be available from the Ballards Lane accommodation into the first floor residential accommodation proposed in the host property. The angle of these views would not be very acute. The views available between the residential accommodation of each property would unacceptably infringe upon the privacy of the occupiers and would be divergent from the prevailing levels of privacy in the area.
11. For these reasons, appropriate living conditions would not be provided for either the residential occupiers within the adjacent Ballards Lane property, or for the future occupiers of the proposed unit. As a result, the proposed development would be contrary to Policy DM01 of the DMP document and guidance within the SPDs. Together, this policy and this guidance require development to be designed to allow for adequate privacy. Policy DM02 of the DMP document requires compliance with particular national and London-wide standards. It has not been shown to me that any of the standards referenced are of particular relevance to privacy and, therefore, I find no conflict with the policy.

Private outside space

12. The submitted plans show that an area of private outside space would be provided for at the rear of the proposed unit. The Council submit to me that this area of private outside space would be 17m². I have no reason to disagree. Implementation of the proposed development in accordance with the submitted plans would provide for its occupiers an outside space in excess of the 10m² established by Policy DM02 of the DMP document and the SPDs.
13. The plans also show that the proposed outside space would abut an outside space at the rear of the adjacent Ballards Lane property. I have very limited evidence before me in relation to the occupancy levels of that property or the number of habitable rooms the flatted accommodation within it may contain. It has not been shown to me that following the implementation of the development proposal the subject of this appeal, the outside space that would be left to serve the occupiers of the Ballards Lane property would be inadequate. In such circumstances, the private outside space serving the occupiers of the proposed development and the residential occupiers of the adjacent Ballards Lane property would be acceptable.

Parking

14. To one side of the appeal site is the terraced property 40 Rosemont Avenue. To the front and side of this property are hard surfaced areas. During my site visit I noted that there was signage within and adjacent to No 40 advising of driveway land at the property and that it should not be blocked. Evidence before me indicates that this driveway is in shared use. How regularly vehicles are parked upon this drive and whether they are parked on the side area, the front area or both is not clear to me.

15. To the front of the host building there is an existing hard surfaced area. The host building has a canted rather than a straight address to the street. Therefore, its front elevation is partly opposite the driveway area at No 40.
16. Given this layout and, given the proximity of the existing driveway at No 40, any parking to the front of the host building would have to be undertaken with care otherwise some blocking or overhanging of the driveway areas at No 40 could quite easily take place.
17. The plans do not clearly show to me the precise layout of the car parking space proposed. The submitted site plan on drawing Rose/3 indicates that the proposed parking space would follow the same alignment as the building. The provision of a parking space in such a manner could very well result in the car overhanging and impeding the use of the driveway area next door.
18. At the time of my site visit a car was parked to the front of the host building. Photographs submitted in evidence show a car parked to the front of the host building in a similar manner. However, the parking I witnessed during my visit and that is shown in the photographic evidence, was undertaken on a different alignment to that which the plans indicate is proposed.
19. The submitted plans do not show me that the proposed parking space can be provided without it causing an impediment to the driveway at No 40. Although it is submitted to me that permission already exists for a parking space to the front of the host building, I have been provided with no compelling evidence that this is the case.
20. The evidence before me and my observations on site does indicate to me that a car parked to the front of the host building would be set well away from the road. Although there is no formal pavement as such running along the front of the site, I also expect that pedestrians could walk past the car without issue or the need to step into the road.
21. Therefore, I find that the effects of the proposed parking space upon the safety of highway users would not be harmful. Despite this, it has not been shown to me that the effects upon the use of the driveway area at neighbouring 40 Rosemont Avenue would be acceptable.
22. In the relevant reason for refusal, the Council refer to Policies CS9 and CS15 of Barnet's Local Plan Core Strategy, Policy DM17 of the DMP document and the Planning Obligations Supplementary Planning Document. As these policies and guidance principally relate to road safety and infrastructure, they are not very relevant to the particular harm I have identified. Nevertheless, for the reasons given above, it has not been shown to me that the proposed parking space would represent an acceptably high standard of design.

Other Matters

23. The principle of the provision of a live/work unit at the site and within this area may be acceptable, no harm to the character or appearance of the area may result, whilst it may also be the case that the proposed unit could be let quite easily. However, these factors do not outweigh the harm I have identified in the main issues.
24. The appellant has drawn some issue with the Council's handling of the planning application, however, this is not a determinative factor in my decision.

Conclusion

25. I have concluded that the private outside space serving the occupiers of the proposed development and the residential occupiers of No 316 would be acceptable. However, this does not outweigh the harm that would be brought about by the deficiencies in the proposal's private internal space, the loss of privacy and the effects of the proposed parking space upon the use of the neighbouring drive. Consequently, the development would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. The appeal is therefore dismissed.

H Jones

INSPECTOR