



Appeal Decision

Site visit made on 3 October 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/N5090/W/23/3319996

78 Hendon Way, London NW2 2NG

- 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 Ms Melania Ilief against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/6313/FUL, dated 2 December 2021, was refused by notice dated 10 October 2022.
 - The development proposed is described as “proposed demolition of existing double garage and construction of a new three bedroom house in its place”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to internal ceiling heights and the provision of external amenity space; and
 - The effect of the proposed development on existing parking provision and whether or not the proposed development would provide car free housing.

Reasons

Character and Appearance

3. The appeal site comprises a single storey, double garage which adjoins the rear garden of No. 78 Hendon Way, which is a semi-detached dwelling that has been subdivided into two properties. It is located close to the junction of Garth Road and Hendon Way. The garages also adjoin an electricity transformation station immediately east of the site.
4. The appeal site fronts onto Garth Road which is a predominantly residential street, comprising mostly short terraces, with some semi-detached houses located at the top of the road. Whilst there is some architectural variety, Garth Road retains a strong common characteristic of short terraces of dwellings, which follow a consistent building line.

5. The proposed development would result in the introduction of a detached, two-storey building that would be highly visible in the street scene. Although fronting onto Garth Road, it would be sited forward of the terraced houses on this side of Garth Road, which would be at odds with the character of the surrounding area.
6. The existing building is single storey, with a flat roof and whilst it is not of any particular architectural merit, it is relatively inconspicuous within the street scene. Although the proposed dwelling would provide an active frontage, it would by virtue of its height, scale, and proximity to the junction of Garth Road and Hendon Way be a dominant feature in the streetscene, which fails to reflect the scale, mass and positioning of neighbouring dwellings. Furthermore, the footprint of the proposed dwelling would take up a large proportion of the plot, which would result in a cramped form of development.
7. The proposed development would also result in the loss of a Sycamore Tree within the site which although is not a protected tree, has amenity value and contributes positively to the appearance of the site.
8. I therefore find on this main issue that the proposed dwelling would be harmful to the character and appearance of the area. Consequently, it would be contrary to Policies CS1 and CS5 of the Barnet Core Strategy 2012 (CS), Policy DM01 of the Barnet Development Management Policies Development Plan Document 2012 (DMP), which require, amongst other things, high quality design that respects local character, including the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.
9. It would also be contrary to guidance contained within the Residential Design Guidance Supplementary Planning Document 2016 (RDG), which requires, amongst other things, development to reinforce the character of an area by contributing and adding to the positive aspects of the built and natural environment.

Living Conditions

10. The proposed plans indicate that the ceiling heights throughout the dwelling would be below 2.5 metres high. This is not disputed by the appellant who has suggested that the minimum ceiling height of 2.5 metres could be achieved. They suggest that these amendments could be secured by the imposition of a planning condition. However, whilst I have had regard to this suggestion, it has not been demonstrated that the increased ceiling heights could be achieved without affecting the design of the proposed dwelling or its external dimensions. Therefore, in this particular case I find that the imposition of a planning condition would not be sufficient to ensure that adequate living conditions could be provided for the future occupiers of the dwelling.
11. It is not disputed between the parties that the proposed development would fail to provide the minimum amount of private external amenity space required by Policy DM02 of the DMP and the Sustainable Construction and Design Guide Supplementary Planning Document (SDC) 2016. Although the shortfall would not be significant, there would nevertheless be a shortfall, which would be further compounded by the location of the garden areas to the front and side of the proposed dwelling.

12. My attention has been drawn to the availability of public open spaces close to the site, whilst this is noted, the existence of public open spaces including Childs Hill Park, Basing Hill Park and Hampstead Heath would not outweigh the harm caused by the shortfall in provision of private amenity space.
13. I therefore find on this main issue that the proposed development would fail to provide adequate living conditions for the future occupiers of the dwelling, with particular regard to internal ceiling heights and provision of external amenity space provision. It would therefore be contrary to Policy D6 of the London Plan and Policies DM01 and DM02 of the DMP. These policies require, amongst other things, high quality design which provides comfortable and functional layouts for future occupiers. It would also be contrary to guidance contained within the SDC.

Car-Free Development

14. Policy DM17 of the DMP requires provision of 1 to 1.5 parking spaces for two or three bedroom residential dwellings. However, this policy also states that residential development with limited or no parking may also be acceptable within a Controlled Parking Zone (CPZ) where it can be demonstrated that there is insufficient capacity on street and the applicant will be required to enter into a legal agreement to restrict future occupiers from obtaining on street parking permits.
15. The appeal site relates to two existing garages, located within a Controlled Parking Zone (CPZ), which is in operation between 13:00 and 18:00 hours, Monday to Friday. The proposed plans indicate that no off-street parking would be provided.
16. Whilst I have had regard to the comments of the appellant that they would accept this requirement and are willing to provide a Unilateral Undertaking. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. In the interests of certainty this would need to be in place before planning permission is granted. However, despite the appellant's agreement to provide the necessary obligation, no such document has been submitted.
17. Furthermore, the proposed development would result in the reduction in availability of existing off-street car parking that would arise through the demolition of the existing garages and for which no mitigation measures have been put forward. Whilst I have had regard to the appellant's statement that the garages are used for storage, rather than car parking. Nevertheless, they could be made available for parking.
18. Consequently, I find on this main issue that in the absence of a suitable planning obligation, the development would not provide car free housing and that the proposed development will result in the permanent loss of two off-street parking spaces. The development would therefore be contrary to Policy DM17 of the DMP which requires, parking to be provided in accordance with the maximum standards set out by the policy, or where limited or no parking is proposed, secured by a legal agreement to prevent future occupiers obtaining an on-street parking permit.

Other Matters

19. I acknowledge that the proposed development would make a small contribution towards the area's housing supply, which based on the scale of the proposed development would be a moderate benefit. However, it does not outweigh the harm which has been identified in respect of the main issues.

Conclusion

20. For the above reasons, the proposed development would not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR