



Appeal Decision

Site visit made on 22 August 2023

by M J Francis BA (Hons) MA MSc MCIffA

an Inspector appointed by the Secretary of State

Decision date: 02 November 2023

Appeal Ref: APP/N5090/W/23/3316947

68 Galley Lane, Arkley, Barnet EN5 4AL

- 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 James and Keren Collins against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5518/FUL, dated 14 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is demolition of the existing dwelling and erection of a three-storey dwelling. Associated landscaping, cycle parking/parking and landscaping (amended description).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form includes 'Arkley Barnet Section, Barnet'. For clarity, I have omitted 'Barnet Section' and included Arkley in the banner heading.
3. The application form describes the development as 'proposed replacement dwelling with associated ground works. Please see document for further information: - 68 Galley Lane – Planning Statement – Final.' I have therefore used the description on the Council's decision notice and as found on the appeal form in the banner heading above. This is the basis on which I have determined the appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of Nos 66 and 70 Galley Lane with regard to privacy of the rear garden areas; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations as to amount to the very special circumstances required to justify the proposed development.

Reasons

Whether inappropriate development

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. Policy DM15 of Barnet's Local Plan (Development Management Policies), Development Plan Document, (DMP), 2012, and Policy G2 of the London Plan (LP), 2021, require development proposals in the Green Belt to comply with the Framework, protecting it from inappropriate development.
7. Paragraph 149 of the Framework states that the construction of new buildings is inappropriate in the Green Belt. It does, however, provide a number of exceptions which includes at 149 d) 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.'
8. Both the existing and replacement building would be a dwelling. Therefore, as the new building would be in the same use, it would comply with the first part of paragraph 149 d). As to whether the building is 'materially larger', the Framework does not provide a definition. However, case law has determined that it is primarily an objective exercise by reference to size.
9. The appellant has provided figures based on the size of both the existing and proposed dwelling, although no detailed calculations have been set out. The existing ground floor plan is listed as being 184m² in size, with a volume of 886.6m³, whilst the proposed floor plan is 224m², with a volume of 1150.4m³, which has been calculated as an increase in volume of 263.8m³, or 29.7%. These figures demonstrate that the replacement dwelling would be larger than the existing dwelling.
10. The appellant contends that assessing materially larger should not be purely a mathematical calculation, and that the stepped design seeks to retain the visual mass and therefore not appear materially larger within the plot than the existing building. However, as the assessment is one based on actual size comparisons, I give the design of the proposed house little weight. I shall return to the design of the house below.
11. Based on the submitted figures, the replacement dwelling would be materially larger than the existing. It would, therefore, not satisfy paragraph 149 d) and as such it would represent inappropriate development in the Green Belt. It would also not accord with Policy DM15 of the DMP and Policy G2 of the LP as it does not comply with the Framework.

Openness

12. The appeal site is a detached, two storey dwelling. It would be replaced by a 3-storey building, with a flat roof. Whilst it would largely be constructed on the same site as the existing building, it would extend further towards the rear, and so spatially there would be a limited effect on openness.
13. Visually, the proposal would appear very different. The traditional building that currently exists on the site would be replaced by a building with extensive

glazing, particularly on the rear elevation. Whilst there would be no change of use of the building, the building would, because of its design, be more visible. Lighting would be more prominent and as the building would be much larger, with six bedrooms, there is the potential for an increased level of activity because of additional people living there. This would result in a more intensive form of development than at present.

14. Additionally, the site overlooks agricultural land both to the front and rear of the site. The overall design and scale of the building would increase its prominence making it more visually intrusive. It would therefore harm the openness of the Green Belt in this location, in visual terms.
15. Therefore, the proposal would not accord with Policy DM15 of the DMP and Policy G2 of the LP as it would not comply with the Framework and protect the Green Belt from inappropriate development.

Character and appearance

16. Galley Lane branches off from the A411. It is a long road with large houses set back from the frontage in spacious grounds. The stretch of road where the appeal site lies only has housing on one side of the road. It therefore overlooks countryside to the front and to the rear, behind the long, rectangular, back garden.
17. The proposal seeks to replace the existing dwelling with a contemporary design using render and metalwork and extensive glazing; materials and features which are reputedly found in other nearby houses which have recently been approved by the Council. The building would have three floors and a flat roof, creating a tiered design. This, the appellants consider, would retain gaps between the proposal and neighbouring dwellings and respond to the height and scale of adjoining properties, whilst being innovative and sustainable and contribute to the mix of building styles in the area.
18. Galley Lane has a mix of architectural styles with buildings having varying roof forms, but they are more often, two-storey, with a hipped roof, and of a similar height. I could see from my visit and the examples that have been provided, that there are a number of properties along this road that are being rebuilt or remodelled.
19. Although the proposal would retain the front building line, the design, particularly when viewed from Galley Lane, would be discordant with the more traditional style of housing found in this semi-rural location. Although the proposal would have the same eaves height as adjoining properties, there would be glazed windows above this level, forming the 2nd floor. Furthermore, building to three-storeys across the width of the plot, would infill the space that currently exists between it and No 70.
20. The housing along Galley Lane is set in a verdant setting, often with low hedging to the front of the site, small trees and mature landscaping. Therefore, as many of the properties, like the appeal site, have open frontages, the housing can be seen from the road. Despite some differences, there is a general uniformity to the style of housing which is a key characteristic of the area.
21. Whilst the Framework seeks to not prevent or discourage appropriate innovation or change, it does require development to be sympathetic to local

character and to maintain a strong sense of place. The style of this proposal would unbalance the rhythm of housing along the road and would be visually intrusive. It would be an incongruous addition within this location. This would cause significant harm to the character and appearance of the area.

22. Therefore, the proposal would not accord with LP Policy D3, Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (CS), 2012 and Policy DM01 of the DMP. Furthermore, it would not accord with the Local Plan Supplementary Planning Document: Residential Design Guidance (SPD), 2016. These policies collectively seek to protect the character of the area, positively respond to local distinctiveness and respect the appearance of surrounding buildings. It would also not accord with the Framework.

Living conditions

23. On the rear of the proposal there would be a terrace on the ground floor, part of which would have screening to the side, and a balcony on the 1st floor. As the balcony would have privacy screens on the side elevations, which would be from floor to ceiling height, and an obscure glazed balustrade, it would reduce the angle of overlooking of the rear gardens of Nos 66 and 70. However, as the balcony would stretch across the full width of the house, it would be located close to the boundaries of these properties.
24. Whilst a skylight on the balcony would reduce the available floor area that would be utilised, occupiers using it would have the ability to overlook extensive areas of the gardens of Nos 66 and 70. Although I have been informed that 1st floor rear terraces have been approved at Nos 70 and 88, I do not have substantive evidence of these proposals to assess whether they are similar to the appeal case, in their design and effect on neighbouring properties.
25. The appellants contend that a balcony is not proposed on the 2nd floor, however, the rear elevation CGI in the appeal statement, appears to show a glazed balcony with full height screens to the side. The proposal also allows access to the roof level. Although the appellants have suggested that a condition could be used to prevent the use of the roof as a terrace, and the creation of a balcony at 2nd floor level, such a condition would not meet the necessary tests¹. The proposal is a private residence, and it would neither be reasonable or enforceable to use a condition to prevent current and future occupiers using these spaces.
26. Therefore, the proposal would harm the living conditions of the occupiers of Nos 66 and 70 with regard to the privacy of the rear gardens. Consequently, the proposal would not accord with LP Policy D3, CS Policy CS5, DMP Policy DM01 and the SPD. These policies collectively seek to create high quality places, which deliver appropriate outlook, privacy and amenity.

Other considerations

27. Whilst the garage would be removed, two parking spaces are shown at the front of the site, as well as a bike store and the provision of an electric charging point. This is as expected from a new residential property and so is a neutral consideration. Although there are no ecological concerns, hedges and

¹ Paragraph 56, National Planning Policy Framework, 2023

shrubs would be retained, and additional landscaping would take place at the front, which is also a neutral consideration.

28. The appellants have referred to No 70 Galley Lane, which was demolished and was being rebuilt at the time of my site visit. It is contended that the proposal would have the same eaves and ridge height as this property, although it would extend beyond the rear building line. This is again a neutral consideration.
29. The appellants have also provided figures showing that the volume of replacement dwellings for Nos 70 and 74 would be greater than that proposed for No 68 and on this basis, the proposal would be acceptable. However, when establishing what is 'materially larger', the comparison required is between the existing and the proposed dwelling at No 68, not the proposal and other dwellings nearby.
30. Details of a Certificate of lawfulness of proposed use or development (CLOPUD)² for alterations to the roof and a prior approval (PA)³ for a rear extension to the property have been provided. The appellants have also referred to existing outbuildings on the site which consist of two small sheds and a summer house, being demolished, and replaced with a swimming pool, built under Class E permitted development (pd) rights⁴.
31. The buildings proposed using the CLOPUD and PA scheme would result in a volume that would be less than the proposal. However, the appellants consider that the appeal proposal would be less 'visually jarring', with the flat roof being more simplistic. As the alternative scheme does not represent a similar scheme to that proposed, I conclude that it is unlikely that this would be implemented. Whilst this scheme would affect the roof, it would largely result in development to the rear of the house, and I consider that this would be less harmful to the character and appearance of the area.
32. The appellants contend that a swimming pool building in combination with the alternative scheme for the house would have a greater volume than the appeal proposal. However, no application or plans for such a building are before me and so without substantive evidence, I do not know whether such a scheme would be lawful. Therefore, this would not represent a reliable fallback position and so would have limited weight.
33. Furthermore, it has been suggested by the appellants that, as an alternative scheme using all available pd rights would have a greater effect on openness than the appeal proposal, pd rights within Classes A to E could be removed if the appeal is allowed. However, the routine removal of pd rights in the Green Belt should not be commonly used, as the GPDO does not differentiate between these rights in the Green Belt. The Framework also states that planning conditions should not be used to restrict pd rights unless there is a clear justification for doing so.
34. There has been one letter of support for the proposal considering it to be an improvement on the design of the current house which would make the most of wonderful views. This is a neutral consideration.

² 22/3843/192

³ 22/2439/PNH

⁴ Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015

35. Whilst the parties' reference that there was no pre-application advice sought and that the appellant was not informed of any concerns regarding the submitted scheme, this does not affect my determination of the appeal.

Green Belt Balance

36. The Government attaches great importance to Green Belts. Substantial weight should be given to any harm to the Green Belt, and I have found that the proposal is inappropriate and has a greater impact on openness than the existing development. This moderate harm to the openness of the Green Belt must therefore receive substantial weight. This is in addition to the other harms that I have identified in terms of the effect on the character and appearance of the area and on the living conditions of Nos 66 and 70, which I also give substantial weight to.
37. The Framework confirms that inappropriate development should not be approved except in very special circumstances. It goes on to confirm that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The other considerations that have been advanced in this case, including possible fallback positions, do not outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

38. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.
39. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR