



Appeal Decision

Site visit made on 14 November 2023

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/N5090/W/23/3322124

Flat 1, 10 Grove Avenue, Finchley, Barnet, London N3 1QP

- 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 Christofis Neophitou against the decision of the Council of the London Borough of Barnet.
- The application Ref 23/0192/FUL, dated 15 January 2023, was refused by notice dated 14 March 2023.
- The development proposed is described as 'demolition of existing outbuilding in rear garden and construction of a single person single storey dwelling fronting Falkland Avenue.'

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect on the living conditions of the occupiers of neighbouring properties 10 and 12 Grove Avenue in relation to outlook.

Reasons

Character and appearance

3. The application site is located in a residential area, the majority of properties are two storey and either semi-detached or terraced. Most properties are set back from the footway with small front gardens that have low boundary walls. The rear gardens of the properties on the eastern side of Grove Avenue are modest and some properties have small ancillary buildings. Originally a two-storey semi-detached dwelling, the appeal property occupies a plot on the corner of Grove Avenue and Falkland Avenue; and has been extended to the side and converted into three flats.
4. The application site is formed by part of the rear garden, which is part of the ground floor flat. A large proportion of the rear garden is occupied by a flat roofed garage. The ground level slopes upwards from Grove Avenue towards Falkland Avenue and the rear garden slopes upwards from the rear elevation.
5. The proposal is for the erection of a single storey, flat roofed, detached dwelling on the site of the existing garage. While the proposed dwelling would be marginally lower than the height of the existing garage, it would be significantly wider. As the rear garden is relatively modest a large proportion

would be developed. As a result the dwelling would not read as an ancillary building within the street scene and cannot be comfortably accommodated within the plot.

6. On corner plots the juxtaposition between garden spaces and the frontage of properties plays an important role in establishing the pattern of development. Garden spaces give the streets a spacious quality. When considered alongside the existing extension on the side elevation the proposal would result in development over a large proportion of the garden. Currently the separation distance between the host property and 22 Falkland Avenue accommodates this arrangement. The introduction of an additional dwelling in close proximity to the rear of 10 Grove Avenue would appear constrained and would fail to respect the established pattern of development.
7. The proposed green roof, and any other benefits of the proposal, would not out-weigh the harm to character and appearance I have identified. For the reasons stated above the proposed dwelling would have a harmful effect on the character and appearance of the area. As such the development is contrary to Policy D3 of the London Plan 2021 (LonP), Policy CS5 of Barnet's Core Strategy 2012 (CS) and Policy DM01 of Barnet's Development Management Policies 2012 (DMP). These policies are consistent with the National Planning Policy Framework (the Framework) in aiming to protect local distinctiveness by seeking high quality design and should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

Living Conditions

8. As detailed above the existing garage takes up a large portion of the rear garden of the lower flat at 10 Grove Avenue. The boundary between the application site and neighbouring property 12 Grove Avenue is marked by a high close boarded timber fence. A narrow unsurfaced access lane separates the application site from the neighbouring dwellings on Falkland Avenue.
9. Based on the evidence before me the proposed dwelling would result in a building that would be significantly closer to the rear elevation of 10 Grove Avenue, and the building would be less than 6m from the rear walls of both 10 and 12 Grove Avenue.
10. It is acknowledged that the proposed dwelling would be marginally lower than the existing building. However, it would be significantly higher than the boundary fence. As detailed above the rear garden is relatively modest and the proposed development would result in development along over half the boundary with 12 Grove Avenue.
11. As detailed above the application site slopes upwards towards Falkland Avenue, as a result the ground level at the proposed dwelling would be higher than the neighbouring dwellings 10 and 12 Grove Avenue. The site is constrained and therefore a structure of this size and in close proximity would have an overbearing impact. Further, the variance in ground level exacerbates this impact.
12. In their assessment of the proposal the Council did not identify any harm in relation to other aspects of the living conditions of 10 and 12 Grove Avenue; such as privacy, overlooking, sunlight and daylight. The Council also found that

the proposal would not impact negatively on the living conditions of the occupants of the properties on Falkland Avenue. I have found no reason to disagree with the Council's assessment in these respects.

13. There is no substantive evidence before me to suggest that the ground floor rear windows of 10 and 12 Grove Avenue do not serve habitable rooms. Therefore, by reason of their scale and proximity the proposed dwelling would have a harmful effect on the living conditions of the occupiers of neighbouring properties 10 and 12 Grove Avenue in relation to outlook. As such the development is contrary to Policy D3 of the LonP, Policy CS5 of the CS and Policy DM01 of the DMP. These policies are consistent with the Framework in aiming to protect the residential amenity of the occupants of neighbouring properties.

Other Matters

14. In support of the appeal my attention was drawn to properties that have been granted planning permission, or allowed at appeal, that share characteristics with the appeal proposal. One of the examples is a flat roofed property to the north west of 159 Etchingham Park Road, which is also a corner property. However, this property is shown on the plans as being in close proximity to a small portion of the rear elevation of 159 Etchingham Park. When compared to the appeal proposal there is a greater separation distance between this allowed property and most of the closest elevation of 159 Etchingham Park. Also, the application site in that instance is relatively flat, as detailed above the appeal site is on a sloping site which exacerbates the harmful impact.
15. Further examples were provided of dwellings approved on Alan Drive and Henry Road, where there is a greater separation distance between the proposed development and the rear elevation of neighbouring properties. In these instances, the greater separation distances allow the proposed properties to sit comfortably in the existing layout and does not have a harmful impact on the living conditions of neighbouring properties.
16. The appeal proposal would be built up to the boundary with 12 Grove Road and the appellant draws a comparison from the approved property on Henry Road; as the plans indicate that the approved proposal would be higher and built up to the boundary with 41 Henry Road. However, when compared to the appeal proposal a larger proportion of the rear boundary would remain undeveloped in that instance. Therefore, the examples provided are not a direct parallel to the appeal proposal in respect of siting and their relationship with neighbouring properties. In any case, I have determined the appeal on its own merits.
17. The absence of harm in relation to the living conditions of future occupants, protected trees and existing parking provision are neutral factors and do not outweigh the harm I have identified as detailed above.
18. No mention is made within the evidence of an absence of 5-year housing land supply but, even if that were to be the case, I am satisfied that the adverse impacts I have identified would significantly and demonstrably out-weigh the benefits arising.

Conclusion

19. The development would make a positive contribution to the supply of housing in an accessible location. However, my conclusion that the proposal would be

materially harmful in terms of character and appearance and would have a harmful impact on the living conditions of the occupants of neighbouring properties, brings the scheme into conflict with the development plan taken as a whole.

20. The proposal would conflict with the development plan when read as a whole and other material considerations including a positive contribution to the supply of housing in an accessible location, do not weigh otherwise.
21. Accordingly, I conclude the appeal should be dismissed.

C Livingstone

INSPECTOR