



Appeal Decision

Site visit made on 31 October 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2024

Appeal Ref: APP/N5090/W/23/3320015

10 Wentworth Avenue, Finchley, Barnet, London N3 1YB

- 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 Haim Ben Arzi against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/2859/FUL, dated 27 May 2022, was refused by notice dated 1 February 2023.
 - The development proposed is conversion of existing property into 4no. self-contained flats including a part single, part two storey side and rear extension plus creation of basement with lightwells at rear. Roof extension including rear dormer window, 2no. rooflights to side roof slope and 1no. rooflight to front roof slope. Associated amenity space, refuse and cycle storage and provision of 4no. off-street parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing property into 4no. self-contained flats including a part single, part two storey side and rear extension plus creation of basement with lightwells at rear. Roof extension including rear dormer window, 2no. rooflights to side roof slope and 1no. rooflight to front roof slope. Associated amenity space, refuse and cycle storage and provision of 4no. off-street parking spaces at 10 Wentworth Avenue, Finchley, Barnet, London, N3 1YB in accordance with the terms of the application, Ref 22/2859/FUL, dated 27 May 2022, subject to the conditions set out in the schedule appended.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate decision.

Preliminary Matters

3. The Council amended the description of development on validation. As this description more accurately reflects the nature of the development proposed I have used that description in my formal decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether or not the development would provide an appropriate housing mix.

Reasons

Character and appearance

5. The appeal property is a two-storey, three bedroomed detached dwelling occupying a prominent corner position at the junction of Wentworth Avenue and Wentworth Park. Wentworth Avenue is predominantly characterised by a mix of detached and semi-detached houses. Wentworth Park contains a number of flats formed within converted detached and semi-detached properties and a four-storey block of purpose-built flats (Wentworth Lodge) which contributes to a mixed character.
6. The Council does not raise any objections to the physical works being proposed and I have no reason to take a different view. The principle of subdivision has also been accepted through the grant of permission, on appeal and subsequently by the Council, to convert the property into three flats. This permission, which is extant, authorises identical extensions and alterations to those being proposed in the appeal scheme. The history is a material consideration to which I have attached significant weight.
7. The decision notice cites Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (DMP) but does not, identify a specific criterion with which the proposed development conflicts. Criteria h) and i) state that the loss of a house to flatted development in roads characterised by housing would not normally be permitted. However, given that there is already planning permission for the conversion to flats, and therefore a fallback position, any conflict with this policy carries limited weight.
8. Insofar as there may be cumulative effects resulting from the conversion of dwellings into flats which may affect the quality of the environment, these will already have been factored in by the Council in its previous decision. I note that the Council's Supplementary Planning Document: Residential Design Guidance October 2016 (SPD) recognises that residential conversions may be appropriate in certain types of property or street particularly where they are highly accessible. Whether conversion is appropriate is therefore a matter of planning judgement, having regard to the circumstances of the case.
9. The proposal would retain a single front door, located centrally within the extended building and which would serve all four units, the proposed development would maintain the appearance of a single dwelling when viewed from Wentworth Avenue. To the rear, the subdivision of the existing garden and additional car parking, would be contained within the site and set behind the boundary treatment fronting Wentworth Park. As such there would be limited changes to the rear visible from within the street scene.
10. It is argued on behalf of the Council that the proposal would result in a greater number of comings and goings in comparison to a single dwelling. However, the authority concedes that occupancy levels would be directly comparable to the approved scheme. The addition of a studio unit is unlikely to give rise to a material intensification in the level of activity relative to the approved scheme. The Council contends that a studio flat is not appropriate in this location but provides no explanation.
11. I accept that the proposal would require additional refuse storage above that previously approved. An appropriately worded condition could be imposed to

secure adequate provision without undue clutter to the property frontage in accordance with Policy DM01 of the DMP.

12. Overall, I conclude that the proposal would not have an unacceptable adverse effect on the character and appearance of the surrounding area. There would be no conflict with Policies CS NPPF or CS5 of Barnet's Local Plan (Core Strategy) (2012) or DMP Policy DM01 which, amongst other things, seek to ensure that new development preserves the character of a locality.

Housing mix

13. The extant permission has established the principle of the loss of a single-family dwellinghouse. The mix of accommodation within the previous approval was: Flat 1 – 3 bed 5 person; Flat 2 – 2 bed 3 person; and Flat 3 – 1 bed 2 person, accommodating a total 10 occupants. The proposal would introduce a fourth unit in the form of a studio within the roof space. The new mix therefore would be: Flat 1 – 2 bed 3 person; Flat 2 – 1 bed 2 person; Flat 3 – 3 bed 4 person; and Flat 4 – studio, accommodating a total of 10 occupants.
14. Policy DM08 of the DMP states that development should provide where appropriate a mix of dwelling types and sizes in order to provide choice for a growing and diverse population for all households in the borough. For market housing, the highest priority is for 4 bedroom homes, with 3 bedroom homes being a medium priority.
15. The proposal would include a 3-bed unit and there would be no net loss of 3-bed homes relative to the existing situation and the extant permission. Although smaller than the current house and the 3-bed unit approved under the previous scheme, the 3-bed unit would comply with the minimum space standards contained in the London Plan and it would be suitable for family occupancy. The scheme overall would include a range of unit sizes and it would thus contribute to the mix of dwellings necessary to provide choice for a growing and diverse population in the Borough. In that respect, the proposal would accord with the broader aims of Policy DM08.
16. I therefore conclude that in this instance, the proposal would provide an appropriate mix of units. It would comply with Policy H10 of the London Plan, Policies CS NPPF and CS5 of the Core Strategy and Policy DM08 of the DMP insofar as they seek to as they seek to secure an appropriate housing mix and maximise the opportunity for community diversity, inclusion and cohesion.

Other Matters

17. The proposal would generate additional comings and goings relative to the existing use of the site as a single dwelling. However, these movements would be similar in number to those already accepted for the scheme of three flats. Given this, and the fact that the main access to the flats would be set away from the boundaries with adjoining properties, the development would not be likely to give rise to unacceptable noise or disturbance for neighbours.
18. Local residents report having experienced disruption in relation to the conversion of 43 Wentworth Park into flats. However, I have no evidence before me to suggest that the works proposed for the appeal property would have similar adverse effects. Any noise and disturbance from construction would be short-lived and there would be no long-term impacts on the living conditions of neighbours. To minimise impacts during construction it would be

reasonable to impose a condition requiring the submission and approval of a Construction Method Plan.

19. There is nothing to prevent proposals coming forward for other conversions and subdivisions in the area. However, I have seen no compelling evidence to demonstrate that the proposal would lead to unacceptable cumulative effects. Each application needs to be considered on its own merits.
20. I note the concerns regarding the perceived overdevelopment due to the creation of the basement. However, as the basement formed part of the previously approval and was found to be acceptable, I give this matter little weight.
21. Concerns have been raised regarding the loss of garden space to provide car parking. Whilst the proposal would provide three car parking spaces within the existing rear garden it also retains a proportion of garden as private amenity space for future intended occupiers. As such there would not be a total loss of the existing garden. I am content that the parking spaces shown on the plans would be of a satisfactory size. A condition can be used to secure the on-site parking provision prior to first occupation of the development.
22. One of the scheme's units would lack an on-site parking space. However, the site is located within Public Transport Accessibility Level 4 which is indicative of good public transport accessibility. Given this, future occupiers would not automatically require the use of a private car. Even if they did choose to own a vehicle, I have seen no evidence to persuade me that the controlled parking zone would have insufficient capacity.
23. There is no compelling evidence before me to support the assertion that the development would have an unacceptable impact on the safety of children walking to school. Given the limited scale of the development, I am satisfied that the proposal would not lead to conditions prejudicial to pedestrian safety.
24. The proposal would place demands on local services, but such pressure would be minimal and I have seen no information to demonstrate that the services do not have the capacity to accommodate the development.
25. The Council's Tree Officer has no objection to the loss of trees within the appeal site and there is no evidence to lead me to a different view. Those street trees outside the site would not be impacted by the proposed development.
26. It is alleged that the proposal may become Airbnb accommodation. Even if this were the case (and I have no evidence on this point) it is unclear how such a use would be more harmful in planning terms than a dwelling. Consequently, this would not be grounds to dismiss the appeal.
27. I have not been presented with any evidence to show that the excavation works to create the basement would disrupt the electricity supply. Likewise, it has not been demonstrated that the proposal would affect neighbouring property through ground instability.
28. I have taken account of all other matters raised by interested parties, including concerns relating to the Renters Reform Bill, local property values and anti-social behaviour, but based on the information before me none of these matters would justify dismissing the appeal.

Conditions

29. The Council has suggested a number of conditions and I have considered against the tests set out in the National Planning Policy Framework and Planning Practice Guidance (PPG). In some instances, I have made minor changes to wording to improve precision and enforceability.
30. In addition to the standard time-limit, I have attached a condition specifying the approved plans to provide certainty. To protect the character and appearance of the area I have imposed conditions relating to materials and boundary treatments. The suggested condition in relation to the screening of the lightwell is unnecessary as this feature will be discreet in any event.
31. To safeguard the living conditions of nearby residents, in respect of air quality, noise and disturbance, a pre-commencement condition is necessary to secure a Construction Method Plan.
32. To ensure that the development provides satisfactory refuse and recycling storage, as well as secure cycle parking, conditions are necessary that require further details of such provision, and the retention within the site thereafter. In the interests of ensuring the development provides satisfactory living conditions for future occupiers, conditions are necessary that require details of the subdivision of the rear garden for amenity space to be submitted and approved prior to occupation. A condition requiring details and implementation of parking, turning and access visibility is necessary in the interests of highway safety.
33. In order to secure compliance with Policies SI 2 and SI 5 of the London Plan, conditions are necessary to limit water use and minimise greenhouse gas emissions.
34. The Council has suggested the removal of permitted development rights. The PPG advises that conditions restricting the future exercise of permitted development rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity. I do not consider it reasonable or necessary to impose conditions restricting windows or the use of the flats, nor to prevent the use of the flat roof area as a balcony or roof garden, when such a use or access to this space is not shown on the approved plans.
35. Furthermore, the Council suggested contamination conditions and evidence of Pre-completion Sound Insulation Test certificate, I am not satisfied that these conditions have been properly justified, and they therefore fail the test of necessity. As such these conditions have not been imposed.

Conclusion

36. I have concluded that the proposal would not harm the character or appearance of the area and that it would provide an appropriate housing mix. The scheme would comply with the development plan taken as a whole and there are no material considerations to indicate a decision otherwise than in accordance with the development plan. For the above reasons, and having taken account of all matters raised, I conclude that the appeal should succeed.

L Clark

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

04C Proposed Floor Plans – Ground Floor & First Floor
05D Proposed Floor Plans – Second Floor & Roof
06C Proposed – Elevations & Cross Section
07C Existing & Proposed – Block Plan.

- 3) No development shall take place, including any works of demolition, until a Construction Method Plan (CMP) has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. Details of the routing of construction vehicles to the site, including hours of access and access and egress arrangements and security procedures;
 - ii. Details of interim car parking management arrangements for the duration of the construction;
 - iii. Details showing how wheels of vehicles associated with the construction works are washed to prevent the spread of mud onto the highway;
 - iv. Measures to control the emission of dust during construction including details of suppressing dust and containing stored or accumulated materials;
 - v. Details that show all Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of demolition, site preparation and construction of the development that shall be in accordance with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance.
 - vi. A scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii. Measures to minimise noise/vibration disturbance to nearby residents from plant and machinery;
 - viii. Delivery, demolition, piling and construction working hours;
 - ix. The name, role and contact details of the authorised personnel responsible on site for fulfilling the CMP including keeping an up-to-date list of all NRMM used during demolition in accordance with the SPG, during the course of the construction of the development.

The approved CMP shall be adhered to throughout the construction period for the development.

- 4) The external surfaces of the development hereby permitted shall be constructed in materials to match those used in the construction of the external surfaces of the existing building.
- 5) None of the flats hereby approved shall be occupied until details of boundary treatments and means of enclosure within the site, including those subdividing external amenity spaces, have been submitted to and approved in writing by

the Local Planning Authority. Those details shall include plans at a minimum scale of 1:50 as well as details of materials, permeability, method of fixing and finish. The boundary treatment and means of enclosure shall be implemented in accordance with the approved details prior to first occupation of the development and they shall be maintained and retained thereafter.

- 6) Notwithstanding Condition 2, prior to the occupation of any of the flats hereby approved, details of vehicle parking, turning and access into the site from the highway shall have been submitted to and approved in writing by the Local Planning Authority. Those details shall include plans at a scale of at least 1:50 showing a minimum of three parking spaces and turning areas, as well as visibility splays and cross-overs onto the highway. The vehicle parking, turning and access into the site shall be provided in accordance with the approved details prior to first occupation of the development and they shall be maintained and retained thereafter.
- 7) Notwithstanding Condition 2, prior to the occupation of any of the flats hereby approved, details of refuse and recycling storage within the site, as well as a point of collection, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include drawings at a scale of 1:50 and show space for recycling containers and wheeled refuse bins, as well as include details of materials used in the construction of the refuse and recycling storage, enclosures or screening. The refuse and recycling storage shall be provided in accordance with the approved details prior to first occupation of the development and retained thereafter as refuse and recycling storage for the occupiers of the approved development.
- 8) Notwithstanding Condition 2, prior to the occupation of any of the flats hereby approved, details of secure cycle parking within the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include plans at a minimum scale of 1:50 to show the location of cycle parking and include the type of stands to be installed. The secure cycle parking shall be carried out in accordance with the approved details prior to first occupation of the development and it shall thereafter be retained for use by the occupiers of the approved development.
- 9) None of the flats hereby approved shall be occupied until the external amenity spaces as shown on drawing no. 07C have been subdivided and in accordance with the additional details required by Condition 5. That land within the appeal site shall not thereafter be used for any purpose other than as amenity space for use by the occupiers of the approved development.
- 10) None of the flats hereby approved shall be occupied until the Building Regulations Optional requirement 36(2)(b) of Part G2 in relation to water efficiency has been complied with.
- 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.

*** END OF CONDITIONS ***