



Appeal Decisions

Site visit made on 1 February 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal A Ref: APP/N5090/W/23/3325212

Hillsborough Cottage, 4 Horseshoe Lane, Whetstone, Barnet, London N20 8NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Paschali against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/0640/S73, dated 9 February 2023, was refused by notice dated 19 April 2023.
 - The application sought planning permission for the demolition of the existing dwelling and outbuildings and erection of a replacement dwelling with rooms in the roofspace without complying with a condition attached to planning permission Ref 22/3959/FUL, dated 6 December 2022.
 - The condition in dispute is No 1, which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans:*
SKA/2010021/E Rev A
SKA/2010021/G
SKA/2010021/F
SKA/2010021
SLP-100
PL-50 Rev A
PL-100 Rev B
PL-101 Rev B
PL-200 Rev B
PL-201 Rev B
PL-202 Rev B
PL-203 Rev B
PL-204 Rev B
Area and Volume Calculation (15 November 2022)
Energy & Sustainability Statement
Heritage statement
Preliminary Ecological Appraisal
Arboricultural Impact Assessment and Method Statement.
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
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Appeal B Ref: APP/N5090/W/23/3325217

Hillsborough Cottage, 4 Horseshoe Lane, Whetstone, Barnet, London N20 8NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and

Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.

- The appeal is made by Mr J Paschali against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/2325/S73, dated 24 May 2023, was refused by notice dated 29 June 2023.
 - The application sought planning permission for the demolition of the existing dwelling and outbuildings and erection of a replacement dwelling with rooms in the roofspace without complying with a condition attached to planning permission Ref 22/3959/FUL, dated 6 December 2022.
 - The condition in dispute is No 1, which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans:*
SKA/2010021/E Rev A
SKA/2010021/G
SKA/2010021/F
SKA/2010021
SLP-100
PL-50 Rev A
PL-100 Rev B
PL-101 Rev B
PL-200 Rev B
PL-201 Rev B
PL-202 Rev B
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 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
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Decisions

Appeal A Ref: APP/N5090/W/23/3325212

1. The appeal is dismissed.

Appeal B Ref: APP/N5090/W/23/3325217

2. The appeal is dismissed.

Applications for costs

3. Applications for costs in respect to Appeal A and Appeal B was made by Mr J Paschali against the Council of the London Borough of Barnet. These applications are the subject of a separate Decision.

Preliminary Matters

4. As set out above there are two appeals on this site. Each relates to the same site, and they differ only in the detail of the appearance of the proposed development. I have considered each proposal on its individual merits. However, to avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.

5. In determining these appeals involving development within a Conservation Area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the revised version.
7. Barnet's Draft Local Plan has been submitted for examination under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. However, I am not aware of the exact stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the Framework. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.
8. There is agreement between the parties that the appeal site lies within the Green Belt and the development proposed as part of Appeal A and Appeal B does not represent inappropriate development. Given that both Appeal A and Appeal B seek amendments to the fenestration of the dwelling only and propose no amendments which would affect the footprint or volume of the dwelling, I see no reason to disagree.
9. The reason for refusal for both Appeal A and Appeal B, refers to 'floor to ceiling height windows and bi-fold doors'. Neither appeal scheme seeks to increase the overall height of the windows and doors above that which has already been approved as part of a previously approved planning application¹ (the replacement dwelling). I have therefore considered the appeal on this basis.
10. With regard to Appeal A, there is a discrepancy in respect of the drawing number's listed in the Council's decision notice, insofar as the revision references have been omitted. The Council have clarified the drawing numbers they considered within their Appeal Statement which, for the avoidance of doubt, are drawing numbers PL - 50 Rev B, PL - 100 Rev C, PL - 200 Rev C and PL - 201 Rev C.
11. The works proposed as part of Appeal B seek to make a number of revisions to all the windows and doors. However, the Council, in their reason for refusal, have only raised concerns in respect of the ground floor windows and bi-fold doors on the east and south elevations of the dwelling. The Council have raised no concerns in respect of the other revisions proposed. Given these are relatively minor, I see no reason to disagree, and I have considered the appeal on this basis.
12. At the time of my site visit, the existing property had been demolished and work had commenced in respect of a replacement dwelling.

¹ Planning application reference 22/3959/FUL

Background and Main Issue

13. In both Appeal A and Appeal B, the appellant seeks a revised design to the replacement dwelling.
14. Therefore, the main issue to be determined in both appeals is whether the proposed development would preserve or enhance the character or the appearance of the Totteridge Conservation Area (CA).

Reasons

15. The appeal site lies within the Totteridge CA. The origin of Totteridge is as an agricultural settlement. It is almost exclusively residential and characterised by very low density housing, set amid green fields with a distinct rural character. While there are a mix of building types and styles within the CA, they have a variety of special features, including regular window patterns. Window designs also vary within the CA, with the predominant type being timber vertical sliding sashes, which give a vertical emphasis to the buildings. The significance of the CA is derived from its rural character and low density housing of quality and simplicity, which have typically regular window patterns with a vertical emphasis.
16. While noting the alignment of window and door openings within the replacement dwelling, the fenestration of the replacement dwelling is predominantly regular and uniform. The windows and doors are of largely modest, vertical proportions and subdivided with relatively small glazing panes. The replacement dwelling therefore contributes to the significance of the CA.
17. There would be no public views of the developments proposed in both Appeal A and Appeal B, as a result of the location of the affected elevations within the site, boundary treatments and neighbouring gardens and land. As such, most of the views of the development proposed in both Appeal A and Appeal B would be primarily private views from within the site or glimpsed views from neighbouring gardens and land.
18. With regard to Appeal A, it is noted that the proposed openings on the south elevation of the replacement dwelling would be the same size as those they are to replace. While the proposed opening on the east elevation would be no wider than the combined width of the two openings it would replace, it would, nevertheless, result in an excessively wide, single opening. As a result, it would introduce a strong horizontal emphasis to the east elevation of the replacement dwelling.
19. Moreover, the introduction of overly large glazing panes within the revised openings would erode and unbalance the modest proportions and vertical emphasis of the east and south elevations of the replacement dwelling. They would also further exacerbate the width and horizontal emphasis of the proposed single opening on the east elevation.
20. With regard to Appeal B, although the proposed openings on the east elevation have been designed to look like French doors and align with the first floor windows above, they would be noticeably wider than the openings which they are to replace. Moreover, there would be very little separation between these two openings, which would exacerbate their width. As such, the proposed development would introduce a horizontal emphasis at ground floor and would unbalance the east elevation of the replacement dwelling. While the proposed

glazing panes are of similar proportions to others within the replacement dwelling, when combined with the excessive width, it would result in a cluttered form of development.

21. With respect to the south elevation of Appeal B, the proposed openings would be narrower overall than the width of the doors and side windows they would replace. Their width would largely reflect that of the first floor windows above, as would the proportions of the proposed glazing panes. Therefore, the proposed openings would reflect the modest, regular and vertical proportions of the elevations of the replacement dwelling.
22. My attention has been drawn to other nearby schemes which include large areas of glazing, including schemes at 2 and 5 Horseshoe Lane. While noting that consistency in decision making is important, the evidence submitted indicates these are not directly comparable. These schemes relate to extensions to existing properties, whereas the appeal schemes relate to fenestration revisions to a replacement dwelling. In any case, I have considered the schemes proposed under Appeal A and Appeal B on their own merits.
23. While noting there are other examples of window design within the CA, including metal framed windows, it is the proportion and design of the proposed development in Appeal A and that proposed in respect of the east elevation in Appeal B that would be at odds with the vertical, regular and uniform fenestration of the replacement dwelling and the prevailing character of the CA.
24. Consequently, notwithstanding my conclusions in respect of the proposed works to the south elevation within Appeal B, the development proposed in Appeal A and the proposed works to the east elevation within Appeal B would fail to preserve or enhance the character and the appearance of the Totteridge CA as a whole. As a result, the proposed works would result in harm to the significance of the designated heritage asset.
25. As required by paragraph 205 of the Framework, great weight should be given to the conservation of designated heritage assets, irrespective of the amount of harm identified. The harm to the character and the appearance of the CA in respect of both Appeal A and Appeal B would be less than substantial.
26. Paragraph 208 of the Framework states that if a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal.
27. The purpose of the proposed revisions in respect of both Appeal A and Appeal B is to improve the link with the property's side and rear garden. Given the nature of the development proposed, these benefits would primarily be private rather than public. As a result, they would be insufficient to outweigh the great weight I must attach to the harm I have identified to the significance of the designated heritage asset.
28. For these reasons, notwithstanding my conclusions in respect of the proposed works to the south elevation within Appeal B, the development proposed in Appeal A and the proposed works to the east elevation within Appeal B would fail to preserve or enhance the character or the appearance of the CA as a whole. This is contrary to the Act, Policy CS5 of Barnet's Local Plan Core

Strategy Development Plan Document September 2012, Policies DM01 and DM06 of Barnet's Local Plan Development Management Policies Development Plan Document September 2012 and the guidance within Supplementary Planning Document: Residential Design Guidance October 2016 and Supplementary Planning Document: Sustainable Design and Construction October 2016.

29. Collectively, these policies seek, among other things, to ensure development protects and enhances Barnet's heritage and preserves or enhances the character and appearance of Conservation Areas. The development proposed within Appeal A and Appeal B is also contrary to the Framework, which seeks to ensure development conserves and enhances the historic environment.

Other Matters

30. The site benefits from a Lawful Development Certificate² (LDC). The LDC scheme is for an extension to the original property, which includes large, glazed openings. While the evidence submitted states works have begun in terms of laying the foundations for the LDC scheme, following the site visit it is clear that the original property has since been demolished. As such, the LDC scheme cannot be implemented. Therefore, the LDC scheme carries very limited weight in the determination of Appeal A and Appeal B.

Conclusions

31. For the above reasons, notwithstanding my conclusions in respect of the proposed works to the south elevation within Appeal B, I conclude that the development proposed in Appeal A and the proposed works to the east elevation within Appeal B would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Consequently, I conclude that both Appeal A and Appeal B should be dismissed.

S Pearce

INSPECTOR

² Lawful Development Certificate reference 22/3406/192