



Appeal Decision

Site visit made on 13 February 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/N5090/W/23/3328670

42 Rosemont Avenue, North Finchley, London N12 0BX

- 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 S Ganesamoorthy against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/5640/FUL, dated 21 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is change of use of existing building (office) to form new live/work unit including raising of existing roof by 300mm and addition of 1 no dormer window at rear and 1 no dormer with patio doors and balcony to front plus 2 no car spaces.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. However, whilst the description on the appeal form is the same as that on the Council's Decision Notice, and whilst both descriptions are similar to that on the application form, I have used the description from the application form in the banner heading above, for reasons of clarity.

Main Issues

3. The main issues are:
 - whether appropriate living conditions would be provided for future occupiers of the development and the occupiers of the upper floor flats on Ballards Lane, to the rear of appeal property, with particular regard to privacy, and
 - whether appropriate living conditions would be provided for future occupiers of the development with regard to outdoor amenity space, and
 - the effect of the proposal on highway safety with particular regard to vehicular access and parking provision, and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Privacy

4. The existing two storey building has roof lights in the rear elevation serving an office and store room. The proposal would replace one of these with a dormer window to serve a bedroom. The rear of the host building directly faces the rear of the buildings on Ballards Lane, which the Council states are in residential use at upper floor level.
5. Guidance in the Residential Design Guidance Supplementary Planning Document (2016) (RDGSPD) indicates that there should be a minimum distance of 21 metres between properties with facing windows to habitable rooms. From my observations and the plans before me the proposal would not meet this minimum distance and would be significantly closer. As the windows would be directly facing each other there would be a significant loss of privacy for the occupiers of both the existing upper floor dwellings on Ballards Lane and the proposed dwelling.
6. I accept that there are currently roof lights in the rear elevation. However, this serves an office and store room not a habitable room as in the proposed scheme. In addition, the proposed window would be lower than the existing rooflight with views towards the properties on Ballards Lane. Therefore, the proposed design and use are not comparable.
7. The proposal would not provide appropriate living conditions for future occupiers of the development and the occupiers of the upper floor flats on Ballards Lane, to the rear of appeal property, with particular regard to privacy. It would conflict with Policy DM01 of the Barnet Development Management Policies Development Plan Document (2012) (DMP) and the guidance contained within the RDGSPD, which amongst other things seek to ensure that development is designed to allow for adequate privacy for adjoining and potential occupiers. Policy DM02 of the DMP references various documents and policies that are not in the evidence before me. Consequently, I can find no conflict or absence of conflict with Policy DM02.

Outdoor amenity space

8. Guidance in the RDGSPD and Sustainable Design and Construction Supplementary Planning Document (2016) (SDCSPD) indicates that for flats 5 square metres of outdoor amenity space is required for each habitable room. The requirement for the proposal would therefore be 10 square metres of outdoor amenity space.
9. Although the submitted plans show that there would be provision for outdoor amenity space for both the existing flat on Ballards Lane and the proposed live work unit, it is not clear how this would be split. Nevertheless, despite the very limited evidence before me, I am satisfied that 17 sqm would be provided to the rear of the host building for use by future occupiers. This would surpass the requirements of the SDCSPD and would be acceptable.
10. The proposal would provide appropriate living conditions for future occupiers of the development with regard to outdoor amenity space. It would comply with Policy DM01 of the DMP, which amongst other matters seeks to ensure that development retains outdoor amenity space having regard to its character. It would also comply with the guidance in the RDGSPD and SDCSPD.

Vehicular access and parking provision

11. The submitted plan ROSE 5 indicated that there would be sufficient space to park two vehicles. From my observations on site, the front elevation of the host building is not parallel to the street. This can be seen on drawing ROSE 1 and elsewhere which are inconsistent with drawing ROSE 5 in this regard.
12. At the time of my site visit, there were two vehicles parked to the front of the host property. The space for vehicles in front of the host building is therefore angled leaving insufficient depth for two vehicles to be parked without overhanging the footway or encroaching onto neighbouring land.
13. I note the Council's suggestion the proposal could be car-free, controlled by a suitably worded S106 planning obligation. However, no such obligation is before me and so I cannot consider whether this would make the proposal acceptable in this regard.
14. The proposal would harm highway safety with particular regard to vehicular access and parking provision. It would conflict with Policies CS9 and CS15 of the Barnet Core Strategy Development Plan Document (2012) (CS), and Policy DM17 of the DMP which together amongst other matters seek to ensure that development takes into account the safety of all road users.

Character and appearance

15. The proposal includes the provision of a balcony at the first floor. The appeal site is in a mixed residential and commercial area. On my site visit I did not see any other balconies in the vicinity of the proposal. The dwellings on Rosemont Avenue are mainly terraced and of a similar design which gives a regular rhythm to the street scene. The balcony would therefore be prominent in the street scene and add an uncharacteristic feature to the area which would not respect the local context of the buildings around it.
16. I note that the appellant has indicated that they are willing to omit the balcony and replace it with a dormer window. I do not have any plans before me regarding this amendment and in any event, I have to determine the appeal on the basis of the plans considered by the Council.
17. The proposed balcony would harm the character and appearance of the area. It would conflict with Policies D3 and HC1 of the London Plan (2021), Policies CS1 and CS5 of the CS and Policy DM01 of the DMP which together amongst other matters seek to ensure that development is of high quality design and respects local context. It would also conflict with guidance in the RDGSPD which has similar aims.

Other Matters

18. I note the appellant's concerns regarding the Council's handling of the case. However, this is a matter between the parties and does not affect my determination of the appeal in this case.
19. Whilst not a matter of direct dispute between the main parties, it is not clear from the evidence that the proposal would comply with the Nationally described space standards¹. Were the proposal otherwise acceptable I would need to have considered this matter further and sought the views of the parties.

¹ [Technical housing standards – nationally described space standard - GOV.UK \(www.gov.uk\)](https://www.gov.uk/technical-housing-standards)

However, as I have found the proposal would be unacceptable for other reasons, I do not need to address this matter further in this case.

20. I note the referenced appeal APP/N5090/W/23/3315901 which was undetermined at the time this current appeal was made but was subsequently dismissed on 6 October 2023. I am not familiar with that appeal, and in any event, each proposal should be determined on its individual merits, which is what I have done in this case.

Conclusion

21. I have concluded that there would be appropriate living conditions provided for future occupiers of the development with regard to outdoor amenity space. However, this does not outweigh the harm I have found regarding loss of privacy, highway safety and character and appearance. The proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude that the appeal is dismissed.

H Senior

INSPECTOR