



Appeal Decision

Site visit made on 6 March 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2024

Appeal Ref: APP/N5090/W/23/3331176

26 Wallcote Avenue, Cricklewood, Barnet, London NW2 1AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Dean Clowes against the Council of the London Borough of Barnet.
 - The application Ref is 23/3389/FUL.
 - The development proposed is erection of a two-storey bungalow following demolition of the existing. Associated refuse and recycling/cycle storage and amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council failed to give notice of its decision within the prescribed period. An assessment of the proposal's merits is now included within the Council's appeal statement, culminating with three putative reasons for refusal. I have used this evidence to formulate the main issues of this appeal.
3. Whilst not offered as a reason for refusal in the Officers Recommendation, the Council have considered the matter of outlook in relation to the living conditions of future occupiers in their Officer's Assessment. I have therefore had regard and assessed this issue in line with the relevant development plan policies. The appellant has been provided with the opportunity to comment on this matter.

Main Issues

4. Consequently, I consider that the main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions to the occupiers of neighbouring dwellings, with particular regard to the effects of outlook and overlooking to 26A Wallcote Avenue; and,
 - Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook, light and the internal head height of the proposed dwelling.

Reasons

Character and appearance

5. 26 Wallcote Avenue is a low-level property with split levels, constructed into the rear garden space of the host property, 26A Wallcote Avenue. When viewed from the street, the front of the appeal property appears as a single storey extension, much like other examples found within the street. The existing dwelling is discreet in its siting due to its low-level height and its construction along the garden wall of the host dwelling. The immediate area contains a mixture of semi-detached and terraced, two storey properties with simple gabled roof forms.
6. The proposed house would appear at odds due to its roof design and sited position in the rear garden, at close proximity to the host dwelling on the appeal site. Whilst buildings within the rear garden spaces of properties in the area are not an uncommon feature, they are smaller and ancillary developments at a single storey height. In comparison, the proposal would be a large, detached dwelling within the rear garden space of 26A Wallcote Avenue. As such, the combination of these factors would create an unsympathetic form within the surrounding area which would interrupt the established development pattern.
7. I note that an existing property is situated within the appeal site. As mentioned previously, the existing dwelling is discreet in its siting, at a low height and is difficult to view from wider vantage points. The appellant also notes that the materials proposed would be similar to those found within the wider area. Whilst the principle of development is established and these materials would be appropriate in relation to the environment, I find that the design of the proposal would have a negative effect on the character and appearance of the area due to its design and position sited within the rear garden of the host dwelling.
8. As such, the proposal would not integrate successfully into the immediate local area and fail to take account of the local context and site characteristics, which would be contrary to Policy D3 of the London Plan 2021, Policy DM01 of the Development Management Policies Development Plan 2012 (DMPD), Policy CS5 of the Barnet Local Plan Core Strategy 2012 (CS) and the guidance found within the Barnet Residential Design Guidance Supplementary Planning Document 2016 (SPD). These policies require development to make the best use of the land and fail to integrate successfully into the locality. Conflict would also arise with the National Planning Policy Framework (the Framework), insofar as it seeks to achieve development which respects the character of the area and promote high quality design.

Living conditions of neighbouring occupiers

9. The appeal site is located to the rear of 26A Wallcote Avenue and would occupy the land of an existing split level single storey property. When viewed from the rear windows of the host dwelling, the ridge of the proposed property would be closer to these windows. Although only marginally closer, the proposed development would also have a roof form and principal elevation which would be more evident from the rear windows of the neighbouring property. This is due to its difference in design and excavation of ground levels. Therefore, the proposed dwelling would be more noticeable when compared to the existing dwelling which is designed around the garden wall of the host dwelling with low height elevations.

10. As such, the proposal would appear visually dominant to the host dwelling of 26A Wallcote Avenue and other properties within this row of dwellings. The proposal would, by consideration of its design and closer proximity to the dwellings along Wallcote Avenue, have an unacceptable effect on the living conditions of 26A Wallcote Avenue with particular regard to outlook.
11. In the existing situation, the window which serves a living space area looks across to the rear elevation of 26A Wallcote Avenue. However, the opportunity to overlook into the rear windows of the neighbouring property is limited by a boundary wall and hedgerow. This hedgerow is noted to be retained. The proposed development would have a similar ridge height to the existing property due to the excavation of ground levels. This would reduce the overall height of the first-floor bedroom window positions within the new dwelling and as such, these would be at a similar height to the existing living space window.
12. The Residential Design Guidance SPD states that a minimum distance of 21m between properties with facing windows should be in place to avoid overlooking. In this situation, the proposed dwelling would fail to meet this requirement. However, the proposed building would have habitable room windows at a similar position and height to the existing habitable room window. As such, in this circumstance, I consider that the proposed dwelling would not have a greater harmful effect than the existing situation, despite the unusually close proximity to 26A Wallcote Avenue.
13. While the proposal would not have a harmful effect from overlooking, it would have an unacceptable effect on the outlook from 26A Wallcote Avenue. Therefore, the proposal would conflict with Policy DM01 and DM02 of the DMPD, Policies D3 and D6 of the London Plan 2021 and the guidance set out in the SPD. These policies and guidance seek to protect amenity to residents and deliver appropriate outlook, amongst other things.

Living conditions of prospective occupiers

14. The proposal would include windows and two rooflights to its principal elevation with three sets of paired rooflights to its rear elevation. This would create a single aspect dwelling. The outlook of the proposed dwelling is therefore limited to the front, with a short outlook distance to the host property, 26A Wallcote Avenue and the proposed hedge to be maintained at an even closer distance. This would create an enclosed space to the rooms noted as bedrooms, living room and dining room. Furthermore, the windows proposed to these spaces would be small openings when compared to the large size of the room in which they serve. Whilst the upper floor rooms would be served by rooflights, the ground floor would be served by one window. This would contribute to a dark and enclosed space to the ground floor rooms.
15. Policy DM02 of the DMPD states that development will be expected to comply with minimum amenity standards. The Barnet Sustainable Design and Construction SPD 2016 SPD states that, amongst other matters, proposals should provide a reasonable outlook and light, particularly to bedrooms, living rooms and kitchens, and avoid single aspect dwellings. Additionally, glazing to all habitable rooms should not be less than 20% of the internal floor area. As such, I find that the proposal would fail to meet the requirements of Policy DM02 and the guidance found within the SPD which seeks to provide minimum amenity standards, in respect of outlook and light, amongst other things.

16. Policy DM02 of the DMPD states that development will be expected to comply with minimum amenity standards. These are set out within Policy D6 of the London Plan 2021 which requires private internal space to have a minimum floor to ceiling height of 2.5m. The dwelling would provide maximum internal floor to ceiling heights of 2.4m in the ground and upper floor living space. Combined with the limitations on outlook as set out above, this floor to ceiling height would increase the sense of enclosure to the living conditions of future occupiers. Therefore, the proposal would fail to meet the minimum floor to ceiling height requirements for private internal space. The dwelling would therefore be unable to comply with Policy DM02 of the DMPD as it would be unable to meet the minimum amenity standards.
17. The appellant does note that the proposal would comply with the Nationally Described Space Standards. However, the compliance with these standards would not alleviate the harm I have found to other considerations with regard to the living conditions of prospective occupiers.
18. The proposal would therefore have an unacceptable effect on the living conditions of the prospective occupiers, with regard to outlook, light and the internal floor to ceiling heights. The combination of these factors would create enclosed and dark accommodation. As such, the proposal would conflict with Policies DM01 and DM02 of the DMPD, Policy D6 of the London Plan 2021 and the guidance set out in the Barnet Residential Design Guidance SPD. These seek to create development which would provide appropriate levels of amenity for its future occupants, amongst other things.

Other Matters

19. I have had regard to the living conditions to both neighbours and the current occupiers found within the existing dwelling and to the proposed development. The existing property is also a single aspect dwelling, with no outlook in the bedroom found in the lower ground level. I have also had regard to its character and appearance. However, I note in the evidence before me that the existing dwelling was not granted planning permission and therefore was not formally assessed in line with the development plan. The existing dwelling has been granted lawful status as it has been in situ for a period of time. I have therefore given minimal weight to this existing dwelling and do not consider that this situation would outweigh the harm I have found to the issues raised above.
20. I recognise the consideration that this dwelling would be an additional house which would contribute to the local housing stock. However, as a dwelling currently exists on the site, I ascribe this neutral weight in my assessment of the appeal.

Conclusion

21. For the reasons given above, the proposal would conflict with the development plan and the Framework, when read as a whole. The appeal should therefore be dismissed.

J Smith

INSPECTOR