
Appeal Decision

Site visit made on 6 March 2024

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2024

Appeal Ref: APP/N5090/W/23/3327271

4 Rundell Crescent, Antian House, Hendon, Barnet, London NW4 3BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by UPP Architects + Town Planners against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/1172/FUL, dated 16 March 2023.
 - The development proposed is erection of an outbuilding to both properties to be used incidental to the main dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address set out in the banner heading follows the same address in the application form. The address provided in the appeal form includes both 4 and 4a Rundell Crescent. For clarification, the proposal would include development across the rear garden spaces to both of these properties.
3. During the appeal, a dispute was noted between the parties as to whether the scheme proposed ground works. Clarification on this matter was sought from the appellant. The appellant confirmed that excavation would be involved but in doing so, provided amended plans to clarify this point. The Council's view was sought on this matter. The Council did not have any further comments.
4. The National Planning Policy Framework (the Framework) was revised in December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding its content and, any references refer to the content and revised numbering in that version.

Main Issues

5. The main issues are the effect of the proposal on:
 - The effect of the development on adjacent trees;
 - The effect on the character and appearance of the street scene and the wider area; and,
 - The effect on the living conditions of 29 Alderton Way, with particular regard to outlook.

Reasons

6. The appeal property contains a pair of separate semi-detached properties. Each dwelling has its own divided garden space located to the rear of the property. A shared characteristic amongst the properties in the immediate area of Rundell Crescent is that of tall buildings, within close proximity to each other, offering limited gaps of visibility into the rear amenity space of each property. High level boundary fencing enclose these amenity spaces, which makes viewing into gardens difficult.

Effect on trees

7. The footprint of the proposed outbuilding would fall within the Root Protection Area (RPA) of an Acacia tree (T3) located to the rear, but outside of the site. T3 is not protected or within a conservation area, but as noted in the Arboricultural Impact Assessment (AIA), the value of this tree is considered fair, with a life expectancy of 40 years.
8. The reason for refusal provided by the Council suggests that the tree is of high amenity value. This is in disagreement with the Tree Officer, who regards the tree as sub-optimal, with limited public amenity value. However, I have found that the tree forms part of a collective of trees in this location. Together, this collective provides a moderate contribution to the character of the area and creates some amenity value in these rear garden spaces. Policy DM01 of the Barnet Local Plan Development Management Policies 2012 (LP) states that trees should be safeguarded. Policy G7 of the London Plan 2021 requires that existing trees of value should be retained.
9. An AIA has been provided to support the application. This assessment promotes the use of non-invasive foundations through the use of a floating concrete raft to support the outbuilding. The assessment also promotes the use of tree protection and supervision methods such as protective measure checks prior to any site activities and the supervision of excavation works near to T3.
10. However, as confirmed by the appellant and the plans submitted, the proposal would involve the excavation of ground levels. As such, the AIA is in conflict with the proposed drawings. The Council have quoted BS 5837:2012 Section 7.2.1 which suggests that to avoid damage to roots, existing ground levels should be retained within the RPA. Therefore, it flows from the evidence before me that the use of a floating concrete raft support system and the use of supervision methods, would be of limited value due to the depth of excavation proposed in this location within the RPA of T3.
11. Therefore, concern is shared with the Council that the proposed excavation to such a substantial level may create an untenable relationship between the proposed building and T3. This is due to the damage of roots which would likely occur from excavation in this instance. This would result in a high likelihood that the health of the tree would be detrimentally affected and subsequently would be required to be removed for that reason.
12. I note that the reason for refusal offered by the Council discusses the post-development pressure on T3, concluding that the outbuilding could reduce its life expectancy through future remedial pruning. On this basis, there is limited evidence to suggest that future pruning would be detrimental to the health of

T3. I also find that the extent of pruning would be limited due to the height of the branches on T3 and the overall height of the proposed building.

13. However, the comments provided by the Tree Officer highlight a concern for root damage, which would result in the subsequent damage of T3. As demonstrated above, the evidence before me leads me to conclude that the excavations associated with the proposal would affect the future health of T3, at the detriment to the amenity of the area.
14. Consequently, the development would not be in accordance with Policy DM01 of the LP, or G7 of the London Plan 2021. These policies require trees to be safeguarded, and that any trees of value should be retained. The proposal would also conflict with the National Planning Policy Framework (the Framework), which seeks for development to respect the natural environment, and design out long-term conflict during the planning stage, amongst other things.

Character and appearance

15. Outbuildings located in rear gardens are considered as an acceptable form of development, as noted by the Residential Design Guidance Supplementary Planning Document 2016 (SPD). This outbuilding would sit across the full combined rear garden spaces of the two semi-detached dwellings and built up to the boundary of the adjacent neighbouring properties. This would create a wide flat roof structure. Other outbuildings are located in the vicinity. These are of varying size and are offset from adjacent boundaries. However, there is no continuous prevailing character to developments of this kind in this vicinity.
16. However, located to the rear of the site, the proposal would be limited in visibility from public vantage points due to the small gaps found between each building along Rundell Crescent and the high-level boundary treatments which enclose these spaces. Where the building would be visible in small glimpses, this would be read as one structure situated to the rear of the appeal site. More decisively, the proposal would include the excavation of the ground levels. This would reduce the overall height of the building when viewed from the wider area. As such, the building would be slightly taller than the adjacent boundary treatment. This greatly reduces the effect of the proposal on the character of the area.
17. I also find that design variation in this instance, with regard to its flat roof design, built adjacent to the neighbouring boundary, across two rear gardens and the overall size of the building would not result in harm. This is due to the limited relationships between neighbouring outbuildings which can be defined as a sporadic pattern of development. As such, there is no immediate connection between the outbuildings located in rear gardens adjacent to the appeal site.
18. Therefore, the proposal would not result in a development whose character or appearance would be incongruous in its surroundings. The proposal would comply with Policies DM01 and CS5 of the LP and the guidance found within the SPD. These policies and guidance require development to respect the scale, mass and height of surrounding spaces, amongst other things.

Living Conditions

19. No 29 Alderton Way and the private amenity space associated with this property is located to the rear of the appeal site. Sited in its proposed position, the outbuilding would run along the side boundary of this private amenity space. This would appear as a long projection along this shared boundary.
20. However, this boundary between the two properties is covered by fencing of a similar height. A collective of trees are also located along this boundary which would assist in screening the proposal. Even if these trees were removed, this proposal would create a building which would be marginally taller than the existing boundary fence between the two sites. This structure would be of a similar height, position and length to the existing boundary fence. As such, the effect upon the outlook of the neighbouring occupiers of No 29 Alderton Way and their private amenity space would be marginal and would not result in a development which is overbearing or visually obtrusive. Therefore, the effect on outlook would be similar to the existing situation.
21. To conclude, the proposal would not result in a development which would be unacceptable in its effect upon the living conditions of the occupiers of 29 Alderton Way. The proposal would comply with Policies DM01 and DM02 of the LP, the guidance found within the SPD and the Sustainable Design and Construction Supplementary Planning Document. This policy and the SPD state that development proposals should be designed to allow for adequate outlook for adjoining occupiers and overall regard for the residential amenities of neighbouring occupiers, amongst other things. The Sustainable Design and Construction Supplementary Planning Document notes that outdoor amenity space is highly valued and helps to protect the living standards of residents.

Other Matters

22. The appellant makes reference to structures which could be constructed under the utilisation of Permitted Development Rights. It is understood that a condition was attached to a previous planning permission which has removed the right for outbuildings to be constructed at this property. As such, I have given this matter minimal weight.

Planning Balance

23. Although I have found in favour of the appellant in relation to the effect of the proposal on the character and appearance of the street scene and the wider area, and its effect on the living conditions of 29 Alderton Way, these matters do not outweigh the harm I have found in relation to the effect of the development on adjacent trees. Taking all of the matters raised into account, the proposal would conflict with the development plan when read as a whole and the other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR