



Appeal Decision

Site visit made on 18 October 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/N5090/W/23/3318620

1 Rockways, Barnet, EN5 3JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by H Mok against the decision of Barnet London Borough Council.
 - The application Ref is 22/6115/PNU.
 - The development proposed is addition of one extra storey to existing dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the enlargement of a dwellinghouse by the construction of additional storeys subject to limitations and conditions.
3. Paragraph AA.3.(12) of the GPDO requires the local planning authority to (a) take into account any representations made to them and (b) have regard to the Framework in so far as relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of the appeal has been made on the same basis.
4. The reasons for refusal cite Policies CS NPPF, CS1 and CS5 of the Local Plan Core Strategy¹ and Policy DM01 of the Local Plan Development Management Policies² and the Residential Design Guidance SPD³ as well as the National Planning Policy Framework (the Framework). The principle of development is established through the grant of permission by the GPDO, and I am required to assess the proposal as a prior approval application as set out within the parameters of the GPDO. Regard can be given to development plan policies insofar as they are material considerations, however they are not in themselves determinative.
5. A revised version of the Framework was published in December 2023 and is also a material consideration to this appeal. Having considered the revisions to

¹ Barnet London Borough – Barnet's Local Plan (Core Strategy) Development Plan Document September 2012.

² Barnet London Borough – Barnet's Local Plan (Development Management Policies) Development Plan Document September 2012.

³ Barnet London Borough – Local Plan Supplementary Planning Document: Residential Design Guidance October 2016 (SPD).

the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. Therefore, I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.

Main Issues

6. There is no dispute regarding the limitations set out in paragraph AA.1. Consequently, the main issues are the effect of the additional storey on: -
- the external appearance of the dwellinghouse (AA.2(3)(a)(ii)); and
 - the amenity of the adjoining premises, 3 Rockways, (AA.2(3)(a)(i)).

Reasons

External Appearance

7. The appeal site comprises a detached bungalow and its gardens located in a residential area which includes single and two storey dwellings. It is set further back from the road than No 1a, (a bungalow) but is closer to the road than No 3 (a two-storey house). The road rises in level from the south-east to the north-west and the appeal site is located close to a bend in the road.
8. Due to its location, the existing dwelling is quite prominent especially when viewed from the south-east. However, it sits comfortably within the street scene with its low eaves, hipped roof and lower ridge height than No 3.
9. Adding a floor to this dwelling would significantly alter its appearance and the visual relationship with the neighbouring properties on either side. Although there is a tall hedge between Nos 1 and 1a, these two bungalows add a cohesiveness to the street scene in their similar form, scale and positions in relation to the bend in the road. This would be lost should No 3 be altered from a single storey bungalow to a two-storey house as proposed.
10. Paragraph 124 of the Framework supports opportunities to use the airspace above existing residential and commercial premises for new homes. However, the proposal would not create a new home, it would enlarge an existing one. Furthermore, it would result in the loss of a bungalow which, taking into account the representations received, are much sought after in the area.
11. With regard to the rest of paragraph 124, the proposal would not be inconsistent with others in the area in terms of the height and design features such as windows, roof shape and materials of construction. These factors support the proposal. Notwithstanding this, due to its proximity to the road and the position of No 1, forward of No 3, the alterations to the scale, form and design of No 1 would result in it appearing very prominent and intrusive in the street scene.
12. For these reasons, the additional of storey would have a harmful effect on the external appearance of the existing dwellinghouse (AA.2(3)(a)(ii)) to the detriment of the character and appearance of the surrounding area.

Adjoining Premises

13. Of the two neighbouring properties (Nos 1a and 3 Rockways), No 3 would be most affected. This is due to the position of the appeal dwelling forward of No 3 and the position of windows in the front elevation of No 3. The orientation of the two properties would not lead to a loss of light or overshadowing.
14. The photograph in the appellant's statement does not show No 3's two-storey side extension. No 3 has windows at both ground and first floor levels facing the road, very close to the boundary with the appeal site. Increasing the height of the existing dwelling, as proposed, would result in a larger and more dominant two storey house in close proximity to No 3. The taller building and expanse of brickwork in such close proximity would appear overbearing and visually intrusive and lead to an increased sense of enclosure due to the proposal's size, design, siting and height.
15. For these reasons, the additional storey would have a harmful effect on the amenity of the adjoining premises, 3 Rockways, (AA.2(3)(a)(i)) as it would have an unacceptable effect on the living conditions of the occupants of No 3, with regard to outlook.

Other Matters

16. A Certificate of Lawfulness has been approved for the appeal bungalow which indicates that it could be altered by a roof extension involving a hip to gable, a rear dormer window with Juliette balcony, rooflights and new side gable windows⁴. Taking into account the highlighted legal judgment⁵, plans submitted and the work involved, I accept that there is a reasonable prospect that the fall-back position would be carried out.
17. The gabled roof would balance the shape of the roof. The dormer would be on the rear elevation and so have limited effect on the character and appearance of the bungalow and the surrounding area when viewed from the street. The roof lights would not have a significant effect on the bungalow's overall appearance. The hip to gable would have some impact on the outlook from No 3.
18. Overall, the fall-backs position's impact on the appearance of the dwelling and the character and appearance of the area would be less than that of the proposed additional storey. The dwelling would still appear as a bungalow and the ridge and eaves heights would be unaltered. The outlook from No 3 would be affected due to the alterations to the roof but the increased gable wall and dormer would not be of a scale to unduly harm the living conditions of the occupiers of No 3.
19. Therefore, the fall-back position would not create a worse scenario than the proposed additional floor. The resulting change from a bungalow to a two-storey house by the addition of an extra storey to the existing dwelling would be significantly worse and so I afford the fall-back position limited weight. I note the appeal case highlighted by the appellant⁶ but in that case the Inspector found that the fall-back position would have a significantly greater impact on the character and appearance of the host property and the area than

⁴ LPA Ref: 20/0428/192.

⁵ Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314.

⁶ Appeal Ref: APP/N5090/D/20/3260814.

the appeal proposal. That appeal therefore cannot be directly compared with the circumstances before me. Consequently, the other matters raised do not alter my findings on the main issues in this appeal.

Conclusion

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

J D Clark

INSPECTOR