



Appeal Decision

Site visit made on 13 May 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2024

Appeal Ref: APP/N5090/W/24/3336790 78 Western Way, Barnet EN5 2BT

- 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 Ms Grace Beharry against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/3979/FUL, dated 13 September 2023, was refused by notice dated 8 November 2023.
 - The development proposed is a new detached house, with associated parking, refuse and cycle storage, and changes to the existing extension.
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Decision

1. The appeal is allowed and planning permission is granted for a detached house, with associated parking, refuse and cycle storage, and changes to the existing extension at 78 Western Way, Barnet EN5 2BT in accordance with the terms of the application Ref 23/3979/FUL, dated 13 September 2023, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host property and the area.

Reasons

Character and appearance

3. The appeal site includes a semi-detached house with a full width box dormer to the rear, which sits amongst other semi-detached properties on the southern side of Western Way. An alley to one side provides a pedestrian link to Wyatts Farm Open Space. The appeal site and 80 Western Way are notably wider than most nearby plots, each having a large gap to one side of the house. The front face of No 78 respects the building line of the houses to the east, whilst No 80 and the nearest dwellings to the west are set back further from the road.
4. The proposal would involve the demolition of the host's single storey side extension and detached garage, and their replacement with a house. In contrast to the host and the other houses in Western Way, the proposed dwelling would be detached, and it would have a slightly narrower front face.
5. That said, as illustrated by drawing No 78WW-207, its style and fenestration would respect the other houses in Western Way. It would also be the same height to the eaves and ridge, with matching materials and a similar gabled

roof with the same pitch, compared to the host property; and its appearance would broadly reflect most of the houses in the row to the east. Given that the front of the site is already largely covered by hardstanding and development, the scheme would result in little, if any, loss of landscaping. Viewed from in front of the site, and when approaching along the road from the east the scheme would not therefore appear out of place.

6. Approaching along Western Way from the west, the host's existing flank wall is prominent given its siting forward of No 80. As the proposed house would fill part of the wide gap between these two buildings, its side face would be equally, or slightly more, prominent. That said, the scheme's pitched roof, with a modestly proportioned inset rear dormer, would better reflect the prevailing roof form in the area compared to the host's rather stark, rectilinear side wall. Thus, whilst its gabled form would contrast with the hipped roof at No 80, in those views, and compared to the existing development, the scheme would not appear discordant.
7. Although the side of the proposed house would be much closer to the alley than the existing house, the footpath is already enclosed by boundary features, and the scheme's flank wall, which would be close to only a small proportion of it, would angle away towards the rear. As a result, the proposal would not appear unduly overbearing from there.
8. Verges, front gardens and highway trees contribute to the area's verdant character. However, given that most of the gaps between houses in Western Way are much narrower than between No 78 and No 80, there are not many clear views from it towards Wyatts Farm Open Space. Views of that open space are not therefore a significant characteristic of the streetscene.
9. Moreover, that open space would still be seen through the gap between the proposed house and the house at No 80, which the appellant calculates at nearly 7 metres. I have no evidence before me that a similar development is proposed at No 80, and if one were to be, it would be dealt with on its planning merits. Thus, allowing this appeal would not set an undesirable precedent.
10. For these reasons, the scheme would not conflict with Policy D3 of the London Plan 2021 ('LP'), Policies CS1 and CS5 of the Barnet Local Plan (Core Strategy) 2012 ('BCS'), or Policy DM01 of the Barnet Local Plan (Development Management Policies) 2012 ('BDMP'). Amongst other things, and in general terms, these set out that development should make the best use of land to optimise site capacity, be of a high quality design, and preserve or enhance the local context and character. The Barnet Draft Local Plan (Reg 19) 2021 to 2036 (Nov 2021) takes a broadly similar approach.
11. Neither would it conflict with the advice in the Barnet Residential Design Guidance Supplementary Planning Document 2016 that proposals should respond to local building forms and patterns of development, having regard to matters such as building lines, scale, massing, and the space around buildings; nor with the National Planning Policy Framework ('Framework') requirement for good design which takes account of local character and distinctiveness.

Other matters

12. In its statement of case the Council sets out that consideration should be given to the proximity to the Green Belt. However, the site itself is not within the

Green Belt and, having regard to section 13 of the Framework, the scheme would not therefore conflict with its purposes, nor is it necessary for me to consider whether the scheme would constitute 'inappropriate development'.

13. The scheme would provide one off-road parking space for the proposed house, and one retained off-road parking space for the host. Additionally, both would be provided with a bike storage area. Consequently, notwithstanding the area's poor PTAL rating, I am satisfied that this modest proposal would not significantly exacerbate on-street parking pressures. Based on my visit the width of the proposed crossover would appear to be broadly commensurate with others in the road.
14. The proposed patio would provide an outlook principally to the rear towards Wyatts Farm Open Space, and I thus agree with the Council that it would not result in a harmful loss of privacy to nearby occupiers, or to people using the alley. Neither am I persuaded that the limited length of proposed flank wall close to the alley, which runs in a straight line, would result in a threatening or dangerous environment for pedestrians.
15. Finally, I have no cogent evidence that the scheme could pose a risk to nearby trees or having regard to the existing hardstanding and structures on the site, that it would exacerbate the risk of flooding.

Conditions and Conclusion

16. Turning to the matter of conditions, I have considered those suggested against the Framework's tests. As well as the standard time limit condition, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans. The scheme includes a flat roof to the rear which, if used as a seating area, could result in an elevated view down into neighbouring properties' gardens. I have therefore imposed a condition to prevent such a use.
17. To limit on-street parking congestion, it is reasonable that a condition be imposed requiring that the proposed parking areas be retained for their intended purpose. For a similar reason, and to promote sustainable modes of transport, my condition No. 5 is also necessary.
18. In the interests of the character and appearance of the area, and to ensure that appropriate provision is made for bin storage, I have imposed condition No. 6. Having regard to LP Policy D7, whilst Part M4(2) of Schedule 1 to the Building Regulations 2010 is optional, a condition is necessary in this case requiring that the proposed house is accessible and adaptable in accordance with the development plan.
19. Finally, given the modest scale of the development and the likely short duration of construction works, I am not persuaded from the limited justification provided, that the submission and implementation of a construction logistics plan, to include details such as vehicle routing, construction stages, staff travel arrangements, a contractor compound, interim car parking management and provision of a banksman, is necessary. However, in order to mitigate the impact on local residents during construction, I have imposed the suggested working hours condition.
20. Although the Council has suggested a condition requiring detailed design drawings of the proposed vehicular access, sufficient details are presented for

- planning purposes on drawing no. 78WW-216, to which my condition Nos. 2 and 4 refer.
21. Having regard to the Planning Practice Guidance, conditions should not be used which require compliance with other regulatory requirements. I have not been provided with BDMP Policies DM02 and DM04, BCS Policy CS13, or LP Policy SI 5 to which the Council's suggested sound insulation and water consumption conditions refer. For those reasons, and on the basis of the available evidence, I have not applied them in this case.
 22. As the approved plans show that the small bathroom window in the proposal's flank wall would be obscurely glazed, the Council's obscure glazing condition is unnecessary.
 23. The Planning Practice Guidance is clear that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. I have not been provided with any persuasive explanation as to why the removal of such rights is necessary in this case in order to safeguard neighbouring amenities and the locality.
 24. I have not been provided with LP Policy SI 2, or BDMP Policy DM02 to which the Council's suggested carbon reduction condition refers. BDMP Policy DM01 refers in broad terms to the need for environmental awareness, climate change mitigation and adaptation. However, having regard to a written ministerial statement on 13 December 2023, the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations. On the basis of the limited available evidence, I therefore consider that the condition is unnecessary.
 25. As drawing No 78WW-215, to which my condition No. 2 refers, includes details of proposed materials, including boundary treatment, which would match the host, the Council's suggested materials condition, and its condition relating to the sub-division of amenity space, are unnecessary. The Council has also suggested a condition requiring the submission of a levels plan. However, whilst the site slopes down towards the rear, the approved plans show the height of the proposed house relative to its neighbours either side and include a proposed section. Consequently, that condition is also unnecessary.
 26. I did not observe significant landscaping features within the site which could be harmed by the proposal, and that part of it where the house and parking would be located is largely covered by hardstanding and structures. There would be large garden areas to the rear of the host and the proposed house. On that basis, I am not persuaded that the Council's hard and soft landscaping condition is necessary.
 27. Summing up, I have found that the proposal would not harm the character and appearance of the host property or the area, and that it would not conflict with the development plan when considered as a whole. Consequently, and having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 78WW-100, 78WW-201, 78WW-202, 78WW-203, 78WW-204, 78WW-205, 78WW-206, 78WW-207, 78WW-208, 78WW-209, 78WW-210, 78WW-211, 78WW-212, 78WW-213, 78WW-214, 78WW-215, 78WW-216 and 78WW-217.
- 3) The roof of the building hereby permitted shall only be used in connection with the repair and maintenance of the building, and shall at no time be converted to, or be used as, a balcony, roof garden or similar amenity or sitting out area.
- 4) Prior to the first occupation of the house hereby permitted, the parking spaces and the access from the public highway shall be provided in accordance with drawing no. 78WW-216. Thereafter, the parking spaces shall be retained and used for their intended purpose only.
- 5) Prior to the first occupation of the house hereby permitted, cycle parking facilities shall be provided in accordance with details to be first submitted to, and approved in writing by, the local planning authority. Those facilities shall thereafter be retained.
- 6) Prior to the first occupation of the house hereby permitted, bin storage facilities shall be provided in accordance with details to be first submitted to, and approved in writing by, the local planning authority. Those facilities shall thereafter be retained.
- 7) The house hereby permitted shall be constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace it).
- 8) No construction work shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, nor outside the hours of 08:00 to 13:00 on Saturdays, and 08:00 to 18:00 on other days.