



Appeal Decision

Site visit made on 4 June 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal Ref: APP/N5090/W/23/3332921

67 Westbury Road, North Finchley, Barnet N12 7PB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Ibrahimi against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/2827/S73.
 - The application sought planning permission for erection of a two storey dwelling with rooms in the roofspace following demolition of the existing conservatory and garage. Associated refuse/recycling, cycle store and off-street parking (AMENDED DRAWINGS) without complying with a condition attached to planning permission Ref 22/0932/FUL, dated 29 November 2022.
 - The condition in dispute is No 1 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: Y1041/2021/01 dated June 2022, Y1041/2021/02 dated June 2022, Y1041/2021/03 dated June 2022, Y1041/2021/04 dated June 2022, Y1041/2021/05 dated June 2022, Y1041/2021/06 dated June 2022, Y1041/2021/07 dated June 2022, Y1041/2021/08 dated June 2022, Y1041/2021/09 dated June 2022, Y1041/2021/10 dated June 2022.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In paragraph 6.2 of its Statement of Case the Council accept that its statement that the amended dwelling would not achieve a minimum ceiling height of 2.5m across 75% of the gross internal area was made in error. They accept that, although no sections are provided, the ceiling heights of the proposed dwelling would be unaffected by the amendments. Based on the evidence before me, and the nature of the proposed amendments, I have no reason to disagree with the Council's Statement of Case. As such, my assessment of the living conditions of future occupants will only focus on outdoor amenity space.

Background and Main Issue

3. In 2022 planning permission was granted, subject to a number of conditions, for the erection of a two storey dwelling with accommodation in the attic. The planning permission included Condition 1 which specified the approved plans.

The proposal seeks removal of Condition 1 and its replacement with a condition specifying the plans that reflect an amended design. An amended design was necessary in this instance in order to account for an altered plot boundary.

4. The main issue is whether Condition 1 is necessary and reasonable having regard to:
 - the character and appearance of the area; and
 - the living conditions of future occupants in respect of outdoor amenity space.

Reasons

Character and appearance

5. The appeal site is located in a prominent position on the corner of Westbury Road, a residential street, and a pedestrian access route to the Dollis Valley Greenwalk. 67 Westbury Road (No.67) is a traditional, two storey, semi-detached property that fronts on to Westbury Road. A detached garage is constructed up to the northern boundary of the plot. The properties in the area are varied in terms of detailing and external materials. Notwithstanding this, there is some consistency in the simple rectangular built form of most properties which are semi-detached and feature double height bays. The homogeneous built form and generous corner plots have a positive impact on the appearance of the area and instil a sense of openness.
6. The side boundary of No.67 is angled inwards towards the rear garden and the boundary of neighbouring properties are also angled to accommodate, for example, roads and footpaths. However, while the garden boundaries are angled the built form is not. 82 Westbury Road is an isolated example of a property with an angled flank elevation.
7. Following approval of planning permission in 2022¹ a topographical assessment of the site established that the boundary of the plot detailed on the approved plans was incorrect and included some public land. The proposal is for demolition of the existing garage and the erection of a dwelling with an amended design to reflect the smaller plot size. The previously approved dwelling was two storeys with a single storey element projecting from the side elevation. The flank elevation extended up to the boundary and angled to reflect that.
8. From the front, the amended design would reflect the previously approved dwelling, with only the single storey section on the side elevation being slightly narrower. However, a significantly larger portion of the two storey element of the dwelling would be angled along the side boundary of the plot on account of the amended plot size. The angled element of the scheme would not reflect the established built form of properties in the area. Further, it would result in a larger proportion of the two storey section being on or close to the boundary of the plot; this would erode the open aspect of the corner plot and result in a poor relationship between the proposed dwelling and the public realm. As such the scheme would result in a prominent and incongruous development that would have a harmful impact on the relationship between the site and the public footpath to Dollis Valley Green Walk.

¹ 22/0932/FUL

9. The proposed fenestration and external materials would reflect surrounding properties. However, these aspects of the design do not outweigh the harm I have identified above. Further, the absence of heritage assets in an area does not mitigate harm to its character and appearance.
10. For the reasons detailed above the proposal would have a harmful effect on the character and appearance of the area. Therefore, it is contrary to Policies D3 and D4 of the London Plan 2021 (LonP), Policy CS5 of the Barnet Local Plan (Core Strategy) 2012 (CS) and Policy DM01 of the Barnet Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) which, amongst other things, require buildings to be of a high quality design, with due regard to existing forms and proportions.
11. I note the Council have referred to Policy D1 of the LonP and CS policy CS1 in the first reason for refusal, however, I find that with specific regard to this appeal they are not determinative in my assessment of character and appearance.

Living conditions

12. The proposed property would have five habitable rooms, as the open plan living room and kitchen would be over 20 sqm, under local standards it is counted as two rooms. On this basis Supplementary Planning Document: Sustainable Design and Construction 2016 (SPD) sets out that the outdoor amenity space requirement in this instance would 55 sqm.
 13. Based on the evidence before me the proposed dwelling would have 48.9 sqm of external amenity space, which would not meet the minimum requirements set out in the SPD. Further, as a result of the amended boundary the proposed garden would be narrower than previously approved, resulting in a very narrow garden. The shape of the rear garden would impact negatively on its quality and usability and could not be reasonably enjoyed as an area where a family and children could play, sit, relax, socialise, and dry clothes in privacy. The proposed property would have a rear garden that is insufficient and low quality where the narrow width would be likely to impede day to day family activities.
 14. For the reasons detailed above the proposal would not provide adequate usable garden space for future occupiers. Therefore, the proposal is contrary to Policy D6 of the LonP and Policy DM02 of the DMP which, amongst other things, require that that housing development should include a sufficient area of high quality outdoor amenity space that complies with current development standards. The proposal is also contrary to the SPD which sets minimum requirements and standards for outdoor amenity space.
- CS5 of the CS relates to protecting and enhancing local character and Policy DM01 DMP relates to protecting character and amenity and are not determinative in my assessment of the living conditions of future occupants.

Other Matters

15. The proposed dwelling would meet internal space standards and provide future occupants with an adequate outlook, ventilation, sunlight and daylight. Further it would not have a harmful impact on the living conditions of the occupants of neighbouring properties and the appellant asserts that they have sought to ensure the development would result in as little disruption as possible; any building works would be in accordance with construction, building and

environmental health legislation and regulations. However, an absence of harm in these respects are neutral matters that weigh neither for nor against my assessment of the appeal.

Conclusion

16. For the reasons given above the appeal is dismissed.

C Livingstone

INSPECTOR