



Appeal Decision

Site visit made on 17 April 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/N5090/W/23/3329841

388 Finchley Road, Barnet, London NW2 2HR

- 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 Adil of Cuppacoff Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/1096/FUL.
 - The development proposed is described as the "erection of additional storey to form additional two bedroom residential flat."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
3. Barnet's Draft Local Plan has been through examination under Regulation 24 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Inspector has issued their Interim Findings and Next Steps letter. However, I am not aware of the extent of unresolved objections, whether its policies are considered as consistent with the Framework or when the Plan is likely to be adopted. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.
4. The address on the application form is 388, Flat 1, Finchley Road. As the appeal scheme proposes an additional residential flat and not an extension to Flat 1, I have used the address on the appellant's appeal questionnaire in the banner heading above, as it is more accurate.
5. A revised street scene has been submitted with the appeal. This plan does not alter or amend the appeal proposal and the Council has had opportunity to comment on it through the appeal process. Therefore, I do not consider that any other party would be prejudiced by my acceptance of it, and I have had regard to this plan in the determination of this appeal.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the host building and area.

Reasons

7. The appeal building, 388 Finchley Road, is four storeys high, with a subservient flat roof rear extension, parapet wall and modest roof form. It is located at the end of a regimented terraced row of largely three storey buildings. No 388 occupies a prominent corner plot at the junction of Finchley Road and Pattison Road. As demonstrated by the submitted street scenes, while the height of the built form varies in the wider area, in part due to land level changes, buildings surrounding this junction are predominately three storeys high. Due to its height and location, No 388 is a prominent feature and focal point of this junction and therefore contributes towards the character and appearance of the area.
8. The proposed development seeks to increase the height of the appeal building, through the creation of an additional storey. There is a variety of architectural styles in the area and the appeal scheme would comprise a mansard roof extension, which the Framework supports, of a relatively modest height, set back behind a parapet wall.
9. While the submitted street scenes show the appeal proposal would have a similar height to other buildings, including an approved scheme, in the wider area and noting that corner plots can be focal points, as highlighted in the Local Plan Supplementary Planning Document: Residential Design Guidance October 2016 (SPD), the proposed development would, nevertheless, increase the scale and height of a building that is already noticeably taller than its neighbours. While of an acceptable mansard roof design, the appeal scheme would not be consistent with the prevailing height of neighbouring properties, as required by the Framework.
10. The proposed development would be flush with the rear elevation of the appeal building, thereby significantly extending and eroding the modest roof form of No 388. Moreover, the existing rear extension would be extended to almost the same height as the mansard roof extension and, as such, it would no longer appear subservient to the host building. In view of this, the proposed works would add significant bulk and massing to the rear elevation of No 388.
11. Therefore, the appeal scheme would result in an incongruously tall and dominant building, which would unbalance the built form surrounding the Finchley Road and Pattison Road junction. This would be at odds with, and detrimental to, the host building and prevailing character of the area.
12. A number of nearby buildings have been drawn to my attention. While I do not have the details of the planning background for each site before me, each building, including the approved planning application at 402 Finchley Road, appears to have been developed as a whole, and not as a result of an extension to an existing building that forms part of a terraced row.
13. In addition, 454 and 713 Finchley Road are located some distance from the appeal site, on a larger junction, and therefore have a different site context than that of the appeal site. Furthermore, while Moreland Court is of significant height, it is set back from the highway, on lower land, and partially screened

by trees and vegetation. As a result, these buildings are not directly comparable. In any case, I have considered the appeal on its own merits.

14. The appellant contends that paragraph 84 (e) of the Framework suggests that the wider character of a site should be taken into account. However, while the appellant asserts the proposal is of a high quality design, this paragraph relates to the development of isolated homes in the countryside. As the appeal site lies within an existing settlement, this paragraph is not determinative to the main issue.
15. For these reasons, the proposed development would result in unacceptable harm to the character and appearance of the host building and area. This is contrary to Policy D3 of the London Plan 2021, Policies CS1 and CS5 of Barnet's Local Plan Core Strategy Development Plan Document September 2012, Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document September 2012 and the guidance within the SPD. Collectively, these seek, among other things, to ensure development proposals respond to a site's context and protect and enhance Barnet's character. It is also contrary to the Framework which seeks, among other things, to ensure development is visually attractive and sympathetic to local character.

Planning Balance

16. Paragraph 11 d) of the Framework states that, where the policies which are most important for determining an application are out-of-date, which includes situations where the local planning authority cannot demonstrate a Framework compliant supply of deliverable housing sites, permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
17. The appellant states that, due to the shortfall in housing across London and the Council's inability to demonstrate a housing land supply, the policies which are most important in determining the appeal are out of date. A recent appeal decision¹ has been drawn to my attention, which confirmed the Council did not have a Framework compliant supply of housing at the time of that decision. Given the length of time since that recent appeal decision was issued and in the absence of an up-to-date figure, I cannot be certain that this is still the current position.
18. However, even if I were to conclude there was a shortfall in respect of housing land supply, the policies which are most important in determining the appeal relate to character and appearance. Given the harm identified in respect of the main issue, the proposed development would not accord with the development plan as a whole. The weight to be given to this conflict is significant, as the policies in respect of this matter broadly reflect the provisions of the Framework.
19. The proposal would make a modest contribution towards London and Barnet's housing supply, in an area with good access to public transport, being located within a Public Transport Accessibility Level (PTAL) of 3 and close to PTAL 4. It would also increase housing density and make efficient use of the land.

¹ Appeal decision reference: APP/N5090/W/22/3307073

20. The Government's objective is to significantly boost the supply of homes. The Framework supports the development of windfall sites and great weight should be given to the benefits of using suitable sites within existing settlements for homes. The Framework recognises that small sites can make an important contribution to meeting the housing requirement. The proposal would lead to some social and economic benefits through the construction of the residential unit and the activities of the future residents of the scheme.
21. While there is support for new housing, the benefits in respect of the appeal scheme would be limited, given the scale of development proposed. Therefore, the harm identified in respect of the main issue would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

22. For the reasons given, the proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Consequently, I conclude the appeal should be dismissed.

S Pearce

INSPECTOR