



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: 23 July 2024

Appeal Ref: APP/N5090/W/23/3334102

6 Uphill Drive, Mill Hill, Barnet, London NW7 4RR

- 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 and Mrs Aslam against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/2397/S73.
 - The application sought planning permission for erection of a two storey dwelling following the demolition of existing house, associated refuse/recycling store and new front boundary wall, without complying with a condition attached to planning permission Ref 21/5143/FUL, dated 13 January 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: 6UD-FUL-01, 6UD-FUL-03A Rev A, 6UD-FUL-02A Rev A, 6UD-FUL-04D Rev D, 6UD-FUL-05D Rev D, 6UD-FUL-06D Rev D.
 - 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. The name of the appellants on the application form is Mr and Mrs Aslam and on the appeal form Mrs Zareen Aslam is named as the appellant. The agent acting on behalf of the appellant confirmed that this refers to the same applicant, that only one of the couple was named on the appeal form. They stated that they were happy for the name on the appeal to be amended to reflect the planning application form.
3. It is noted that the proposed plans include amendments showing that the depth of each rear wing is increased; the Council have confirmed that this amendment, submitted under application ref 22/1394/S73, was allowed at appeal¹. Therefore, my assessment will focus solely on the proposed additional balconies.

¹ APP/N5090/W/22/3299507

Background and Main Issues

4. In 2022 planning permission was granted, subject to a number of conditions, for the erection of a two storey dwelling following removal of the existing dwelling. 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 to facilitate the addition of balconies on the front and rear elevations.
5. The main issues are:
 - the effect of the amendments on the character and appearance of the area; and
 - the effect of the amendments on the living conditions of the occupants of neighbouring properties, with particular regard to privacy.

Reasons

Character and appearance

6. 6 Uphill Drive is one of several large, detached properties with generous front gardens, forming a crescent facing Uphill Drive. Each property is unique in terms of design and external materials, and several appear to have been extended in the past. The rear garden of the appeal property is large and bound by mature trees.
7. The amended plans show the addition of external balconies in the centre of the front elevation on the first and loft floors and two external balconies at first floor level on either side of the rear elevation. Juliet balconies were originally approved in the position of each of the proposed external balconies.
8. A defining characteristic of Uphill Drive is the variety of its architecture. However, none of the other nearby properties have external balconies on the front elevation and thus they are not a typical design feature. The scale and position of the central, first floor front balcony would dominate the principal elevation where usually the entrance would be a main focal point. As such this balcony would result in an overbearing and incongruous design element that would not reflect the established character of the area.
9. The proposed building as currently approved is of significant scale and massing, particularly when viewed from the neighbouring properties on either side. The first floor rear balconies would include an extended area of walling on each flank elevation to provide privacy. While it is acknowledged that they would be set in from the outside edge of the flank elevation, they would result in the appearance of a deeper built form at first floor level. This would result in an overbearing built form that would not reflect the scale and massing of neighbouring properties.
10. The external balconies at loft level on the front and rear elevations would be set into the slope of the roof and would appear as a discreet and relatively modest addition. In light of their design and elevated position they raise no concerns in terms of character and appearance.
11. For the reasons detailed above the proposed amendments would have an unacceptably harmful effect on the character and appearance of the area. Therefore the amended scheme would be contrary to Policy D3 of the London

Plan 2021 (LonP), Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP). These policies require that proposals respond to the existing character of a place, create places and buildings of high quality design and respect the scale and mass of surrounding buildings.

12. Policy CS1 of the CS refers to Barnet's overarching place shaping strategy and is not determinative in my assessment of character and appearance.

Living conditions

13. As noted above the proposed external balconies would be in the position where Juliet balconies were previously approved. The external first floor balconies on the rear elevation would be over part of the flat roofs of the projecting flank sections. High walls are proposed which would project forward of the edge of the balcony on the flank facing the neighbours on either side of the plot.
14. The position and height of the walls on the flank elevation of the proposed rear balconies would restrict oblique views towards the neighbouring properties on either side. The rear balconies would allow future occupants mid-long range views over the rear gardens of neighbouring properties and may result in a perception of overlooking. However, they would not result in a material degree of opportunities for overlooking over and above the approved Juliet balconies. Further, trees and mature plants within the rear garden would provide additional screening and further restrict views.
15. The proposed balconies would not allow future occupants to overhear their neighbour, or create noise, to a material degree over and above what would be possible from the approved Juliet balconies and rear garden.
16. The balconies on the front elevation would allow for views over the front gardens of neighbouring properties. As these areas are visible from the highway, they are semi-private and raise no concerns with regard to living conditions.
17. In conclusion the proposed amendments would not have a harmful effect on the living conditions of neighbouring occupants, with particular regard to privacy. Therefore, the amended proposal would be in accordance with Policy D3 of the LonP and Policy DM01 of the DMP. These policies require, among other things, that proposals deliver appropriate amenity and allow for adequate privacy of adjoining occupiers.
18. Policy CS1 of the CS refers to Barnet's overarching place shaping strategy and Policy CS5 of the CS refers to protecting and enhancing character, neither Policy is determinative in my assessment of living conditions.

Other Matters

19. The appellant wishes to utilise the available space on the flat roof to improve internal room layouts and increase their enjoyment of the proposed property. Given that they would have access to a private garden area which would meet current space requirements I attach only limited weight to this benefit.

20. I have found that the amended proposal would have an acceptable effect on the living conditions of the occupants of neighbouring properties. However, the adverse impacts on the character and appearance of the area are decisive.
21. The benefits of the amended scheme would not outweigh the harm I have identified, and the proposed development would conflict with the development plan as a whole. There are no material considerations to indicate a decision otherwise than in accordance with the development plan.

Conclusion

22. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR