
Appeal Decision

Site visit made on 26 June 2024

by Peter D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2024

Appeal Ref: APP/C5090/D/24/3335221

Land rear of Hadley Court, 83 Hadley Road, Barnet EN5 5QX

- 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 Mr Michael O'Sullivan (Misios Trading Ltd) against the decision of the London Borough of Barnet Council
 - The application Ref is 23/4278/FUL
 - The development proposed is demolition of existing garages and erection of house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area of Hadley and Woodville Roads.
 - Whether or not there would be an adverse impact on living conditions for future occupants of the dwelling in terms of the level of private amenity space provided.

Reasons

3. The appeal site is located in a garage court to the rear of Hadley Court a small apartment block on the west side of Hadley Road. Currently the site is occupied by a run of four single storey, flat roofed, brick-built garages. A second, newer, pitched roof garage building lies to the south of the appeal site in the same garage court and would remain in use.
4. I have been referred to other examples of where houses have been introduced into residential backland within Barnet which the appellant considers justifies the appeal proposal in this case. However, none of these cases are within the perimeter street block formed by Hadley, Bulwer, Woodville and Potters Roads or their immediate vicinity, with the cited cases in Plantagenet Road and Abbotts Road being the closest. Moreover, having looked at the plans provided by the appellant, the space available in these cases appears to be more generous and none of the developments would appear to share the space of the garage court with garages still in use which would be the case here. I am not persuaded that the circumstances are sufficiently similar to be relevant in my determination and just because these have been found acceptable in these

locations does not automatically mean that the appeal proposal would be acceptable in its context. Those developments do not therefore indicate in favour of this appeal scheme, which I have determined on its own merits.

Character and Appearance

5. The character of Hadley Road and adjacent roads is one of traditional, two storey, detached and semi-detached housing set behind shallow front gardens with relatively deep rear gardens. At intervals along the roads narrow accesses between the houses lead to small backland garage courts, as in the appeal case, set between interlocking adjacent rear gardens. Other than these garage courts, any development in the backland is limited to domestic outbuildings - sheds, summer houses, garages etc. There are no residential units behind the frontages in the vicinity of the site.
6. The introduction of the dwelling into this backland garage court behind the frontages would result in a material change to the pattern and form of development in the vicinity of Hadley Road and its character. The garden backland to the rear of the frontages is generally an area of ancillary uses to the frontage buildings. Combining an independent dwelling, sharing the space with the remaining garages, would change the area's primary use and would intensify the form of development contrary to the area's low density character.
7. I have been invited to conclude that the proposed house would reflect the built form of the rear gardens and courts, would be appropriate in scale and subordinate to the frontage housing, would use materials that would be generally in keeping and would follow sustainable construction principles. However, the current backland/garden development in the vicinity is typically smaller in scale and height than that proposed. I acknowledge that the garage block to the south with its pitched roof and the outbuilding adjacent to the rear of 78 Woodville Road would not be dissimilar in height to the proposed dwelling but these are exceptions in what is generally a pattern of lower, smaller outbuildings and, in the case of the garage block, this has a small hipped roof with much less mass than proposed on the dwelling. The proposed height would be some 1.3 metres higher than the existing garages which are more typical of the scale of building in the garden backland. The fact that the dwelling can meet technical requirements, proposes materials appropriate to its setting and follows sustainable construction principles is nothing more than would be required of any development and is therefore neutral in the balance.
8. On completion of the dwelling, were it to be allowed, the overall impact would be one of overdevelopment of this small site and intensification of backland development. The space available with the remaining garages retained would be insufficient to adequately accommodate the dwelling with the development appearing cramped as a result.
9. The character of the area is not simply about visual appearance but about how a proposed use impacts on the area as well. The comings and goings to this site by occupants, visitors, delivery vehicles, etc would be likely to be to a higher level than is currently the case in this small garage court, particularly given that the reported use of the garages the house would replace is now storage and not vehicle garaging. The activity which would result would impact on the quiet character of this area of garden backland.

10. For the reasons above, the proposed dwelling would have a detrimental impact on the character and appearance of the area of Hadley Road and its garden backland. It would therefore be in conflict with *Barnet Local Plan (BLP) Core Strategy* Policy CS5 which seeks to ensure that development respects local context and distinctive local character and enhances the Borough's high quality suburbs. There would also be conflict with Policy DM01 of the *BLP Development Management Policies* which set out more detailed requirements on protecting Barnet's character through new development.

Living Conditions

11. The development of the house in the rear garage court would meet the internal space standards for a one bedroom two person unit but the private amenity space (PAS) proposed would be very small (measured by the appellant as 24 square metres. The usable space provided would be a patio/terrace measuring approximately 14 square metres. The balance of the amenity space would be a banked landscaped area on the boundary.
12. The standards expected for houses are set out in the Council's *Supplementary Planning Document - Sustainable Design and Construction (SPD)* and BLP Policy DM02 requires development to apply these standards. Houses, which this proposal clearly is, of up to 4 habitable rooms are required to provide 40 square metres of PAS. The appellant has used the PAS standards for flats of 5 square metres per habitable room and concluded that the provision would be adequate. Given that it is approximately 400-600 metres to the nearest public open spaces the level of provision proposed on site would be inadequate. The SPD stresses that residential units with insufficient garden or amenity space are unlikely to provide good living conditions for future occupiers.
13. The issue of quantity is not the only relevant matter in considering the adequacy of the PAS. The SPD stresses that the usability of the space is important. The small space created would be north facing, heavily shaded by the boundary trees and fencing and, with the banking on its northern side, the patio/terrace would effectively be the only useable space. It is questionable whether it would adequately meet the normal day to day needs for sitting out space, drying clothes etc.
14. I have been referred to another case in Barnet at Union Street where the level of private amenity space considered acceptable by the Council for a dwelling unit was based on the 5 square metres per habitable room standard for flats. However, in that case the dwelling would only be about 100 metres from a public park and is in a much more densely developed location in the centre of Barnet. I am not therefore persuaded that this is a relevant comparison.
15. For the reasons above the limited provision of PAS would be likely to have a limiting, adverse impact on living conditions for future occupants. The proposal would not therefore be compliant with the guidance in the SPD and would be contrary to BLP Policies DM01 and DM02. I do accept that the shortfall in private amenity space alone would not of itself make the proposed dwelling unacceptable but the shortfall adds to the harm identified above.

Other Matters

16. I acknowledge that the proposal would result in the provision of a new modestly sized house. In that way it would make a small contribution to

meeting housing needs in Barnet as a whole. I also acknowledge that it would constitute the effective use of land on small housing sites and previously developed land encouraged by the *National Planning Policy Framework* (the Framework) at Paragraphs 70 and in *London Plan* Policy H2. However, Paragraph 128 of the Framework requires that making efficient use of land must take into account the desirability of maintaining an area's prevailing character and setting and in this case the proposal fails. The *London Plan* requires similar considerations at Policy D3 and BLP Policy DM01 requires development to preserve or enhance local character which, as set out above, it would fail to do.

17. The Council does not have a housing shortfall, having over 5 years supply of housing land and I note that the published *Housing Delivery Target* (HDT) results for Barnet in 2023 (the latest available) show that in the last 3 years the Borough achieved well over its target. Policies for the delivery of housing are therefore up to date and the tilted balance set out in Paragraph 11 of the Framework is not engaged.
18. Third parties have put to me that the appeal proposal if allowed would set a precedent for piecemeal backland development. Whilst each application must be treated on its merits, I saw on my site visit that there are a number of other similar backland garage courts in the vicinity. Therefore, I can appreciate the concern that approval of this proposal could be used in support of similar schemes. Were these other similar sites to be approved there would be cumulative harm from increasing the density of housing on these roads and an intensification of development that would change their low density suburban character and appearance. In these circumstances, precedent is not a generalised fear, but a realistic and specific concern.

Conclusions

19. In reaching my decision I have had regard to the matters before me. Notwithstanding the slight benefit the development would bring in adding to housing supply, this would not outweigh the harm I have identified in respect of character and appearance and living conditions and as such the proposal conflicts with Development Plan policies. Moreover, the above assessment in terms of Paragraph 11 of the Framework shows that the presumption in favour of development would not apply and would not be a material consideration that would justify a departure from the Development Plan policies. For the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR