



Appeal Decision

Site visit made on 8 July 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2024

Appeal Ref: APP/N5090/W/24/3339077

7 Seymour Road, Finchley, Barnet, London N3 2NG

- 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 Chang Zhou against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4452/FUL.
 - The development proposed is extension of first floor. Conversion of first floor into 2 self-contained flats.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans¹ as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
3. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. The amendments relate only to a minor increase in ceiling heights and would not substantially alter the appeal scheme compared to that upon which the Council made its decision. It is not necessary for interested parties to be reconsulted and the Council has had the opportunity to comment on the amended plans. On that basis I find that both parts of the necessary test set out in the relevant case law has been satisfied and I will accept the amendments. Accordingly, I have determined the appeal having regard to the amended plans.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

¹ 2303/221A and 2303/225B

Main Issues

6. The main issues are the effect of the proposed development on the:
- character and appearance of the property and the surrounding area;
 - living conditions of the occupiers of 5 Seymour Road (No 5) with regard to overshadowing and outlook; and
 - living conditions of future occupiers of the appeal property with regard to internal space and privacy.

Reasons

7. The appeal relates to a two-storey semi-detached house with dormer windows to rooms in the roof space. Seymour Road contains a mix of traditional houses and modern purpose-built flats. The appeal property has previously been extended with a single storey rear extension and is currently used as three flats. The proposal would involve a first floor rear extension and the sub-division of the existing first floor flat into two self-contained flats.

Character and appearance

8. The Residential Design Guidance Supplementary Planning Document (2016) (RDG SPD) states that "two storey rear extensions which are closer than 2 metres to a neighbouring boundary and project more than 3 metres in depth are not normally considered acceptable. This is because they can be too bulky and dominant and have a detrimental effect on the amenities of neighbours." It also says that "flat roofs on two storey extensions are not normally acceptable because they do not relate sympathetically to the house."
9. The property has a cat slide roof and staggered elevation to the rear. The extension would project 3 metres beyond the eaves of the catslide roof and sit atop the existing single storey extension. While the extension would be more the 2 metres to the neighbouring boundary of No 5 and project no more than 3 metres in depth from the staggered rear elevation, its position, boxy shape, flat roof and large bulk would be an incongruent and unsympathetic addition to the building, thus harming its character and appearance.
10. The appellant has drawn my attention to other similar first floor and two storey extensions at 12, 14, 15, 17 Seymour Road and 29 - 41 Etchingham Park Road. However, these properties are of a different architectural design to the appeal property and do not have a cat slide roof and staggered rear elevation, so are not directly comparable. Furthermore, I am not aware of the full circumstances of these cases or the policies that applied at the time of their consideration. In any event, I have considered and determined the appeal proposal on its own individual merits.
11. I acknowledge that the fenestration and materials proposed would match the existing building. However, this would not overcome the bulkiness and incongruity of the proposed extension. While the extension would be sited at the rear, it could be viewed from rear gardens and would affect the character and appearance of the property. Although I acknowledge the presence of some bulky extensions in the vicinity, they are not a prevailing characteristic of the surrounding area. Furthermore, these examples do not set a positive design precedent.

12. For these reasons, I conclude that the proposed development would harm the character and appearance of the property and the surrounding area. Accordingly, it would conflict with Policies D3 of the London Plan (2021) (the LP), CS5 of Barnet's Local Plan Core Strategy (2012) (the CS) and DM01 of Barnet's Local Plan Development Management Policies (2012) (the DMP) which require development to achieve high quality design and respond to local context and character. It would also not comply with the RDG SPD which seeks to promote design that respects the character of the area and pattern of development.

Living conditions of No 5 with regard to overshadowing and outlook

13. The appellant argues that the extension adheres to the 45-degree angle. However, neither the Council's planning policies nor guidance refers to the 45-degree angle. In accordance with the RDG SPD, the extension would be more than 2 metres to the boundary of No 5 and project no more than 3 metres in depth. However, the rear elevation of the appeal property is staggered so that it extends further to the rear than the rear elevation of No 5. The ground floor flat of No 5 has a window to a habitable room close to the boundary with the appeal site. The proposed first floor extension would project from a point where the existing elevation is already forward of the elevation of No 5. By reason of its bulk and position on the rear elevation of the appeal property, the proposal would result in a loss of outlook to the ground floor window of No 5 and would have an adverse overshadowing and overbearing effect.
14. For these reasons, I conclude that the proposed development would harm the living conditions of the occupiers of No 5 with regard to overshadowing and outlook. Hence, it would conflict with Policies D3 and D6 of the LP which require development to deliver appropriate outlook and amenity and provide sufficient daylight and sunlight. It would also conflict with Policies CS5 of the CS and DM01 of the DMP which expect development to achieve high quality design and adequate daylight, sunlight and outlook for adjoining occupiers. It would also not comply with principles in the Sustainable Design and Construction Supplementary Planning Document (2016) (SDC SPD) with regard to daylight and outlook.

Living conditions of future occupiers with regard to internal space and privacy

15. Policy D6 of the LP states that a minimum ceiling height of 2.5 metres is required for at least 75% of the gross internal area of a dwelling. The amended plans² to the appeal show that the ceiling height of Flat 2B would measure 2.4 metres for 22% of the gross internal floor area, with the remaining at 2.85 metres. This means that 78% of the gross internal area of the flat would meet the required ceiling height of Policy D6. The Council has suggested that the area shown on the plan as under 2.5 metres is not accurate but accept that it would be close to the threshold sought by Policy D6. Having analysed the plans and taken into account the flexibility within the 78% for a small margin of error, I consider the proposal would broadly meet Policy D6. As such, I find that the proposal would provide adequate living conditions with regard to internal space.
16. Proposed Flat 4 on the ground floor would have a small area of private outdoor amenity space which would protect the privacy of occupiers in the living room

² 2303/221A and 2303/225B

from residents using the communal garden. However, the privacy of bedroom 1 of Flat 4 would be compromised by users of the communal garden.

17. The window to bedroom 2 of Flat 4 faces the side passage which provides access to the communal garden at the rear. There would be inadequate privacy to bedroom 2 due to the need for occupiers of Flats 1, 2A and 2B to use the side passage to access the garden.
18. It is not considered reasonable to require these windows to be obscure glazed as they are the only windows serving these bedrooms, and obscure glazing would result in unacceptable outlook. As such, the proposal will fail to provide adequate privacy to the occupiers of Flat 4.
19. For the reasons above, I conclude that while the proposed development would provide adequate internal space with regard to ceiling heights, it would fail to provide adequate privacy to future occupiers of Flat 4, thus it would have harm the living conditions of future occupiers with regard to privacy. Consequently, it would conflict with Policies D3 and D6 of the LP which require development to deliver appropriate privacy and high quality design; Policy CS5 of the CS which expects development to create high quality places and Policy DM01 of the DMP which requires development to allow for adequate privacy. It would also not comply with the RDG SPD and the SDC SPD which seek to safeguard the privacy of occupiers.

Other Matters

20. Compliance with the development plan in relation to internal space standards will weigh neither in favour or against the proposal and is therefore considered neutral. The appellant has submitted information in relation to soundproofing and state that the proposal would not be harmful to public safety. However, these are not matters in dispute.
21. While the proposal would represent an effective use of land in meeting the need for homes, the Framework also requires development to ensure safe and healthy living conditions. The fact the proposal would only deliver one additional dwelling means that its contribution to the overall housing supply in the Borough would be limited. As such, the benefit of one dwelling would only attract a limited weight and would not alter my conclusions on the main issues.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR