



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: 2nd September 2024

Appeal Ref: APP/N5090/W/24/3339032

46 Mays Lane, Barnet EN5 2EE

- 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 Shaheen Fani and Ms Visha Patel against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4283/FUL.
 - The development proposed is erection of a part single, part two storey house with a basement, with associated amenity space. Change in garden levels for existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.

Main Issues

3. The main issues are the effect of the proposed development on the:
 - character and appearance of the surrounding area;
 - living conditions of future occupiers with regard to outdoor amenity space; and
 - living conditions of the occupiers of 46 Mays Lane (No 46) with regard to outlook.

Reasons

Character and appearance

4. The appeal site comprises former garden land and 46 Mays Lane (No 46) which is a three-storey end of terrace house located on a corner, near the junction of Mays Lane and Elton Avenue. No 46 forms part of a row of four terraced properties of post-war construction in a staggered formation. The surrounding area is predominantly residential containing traditional two-storey houses and a small church to the rear of the appeal site. There are also modern houses and flats on the opposite side of Mays Lane. Elton Avenue, to the side of the appeal site, slopes up sharply from Mays Lane.

5. The erection of a single storey house with basement level was allowed on appeal¹ (the allowed appeal) on the proposed site. The proposal is similar to the allowed scheme, however, an additional storey is proposed which would accommodate a third bedroom. The proposed house would adjoin No 46 and be of a similar width to the other four houses in the terrace. It would be staggered back to reflect the pattern of the existing building line. The additional first storey would be set back atop the ground storey. To the rear, the first storey would extend approximately half the depth of the ground storey and have a sedum roof. Contemporary materials would be used such as grey brick and glass.
6. I have considered the argument that the existing openness of the site is a distinctive feature of junctions along Mays Lane and that the proposal would detract from this. I have noted varying degrees of openness on corner sites in the area, some of which are more open due to large side gardens to dwellings, and some of which are less open, such as the modern housing development directly opposite.
7. I have not interpreted the Inspector's decision on the allowed appeal as one that precludes more than a one storey building on the site or one that considered that the openness of the site was an important feature that should be maintained. Indeed, the Inspector noted the "variety of junction layouts along the road, many of which are less open in character than the one considered here."
8. The proposed development would reduce the openness of the site, but it would not be incongruent with the surrounding area due to the variety of layouts on corner sites, some of which are less open than the appeal site. I acknowledge that the proposal would be more visible than the allowed appeal scheme due to the additional storey. However, this would result in a less dramatic height difference with No 46 which is three storeys. It would also provide more visual interest than the current three storey blank end/ side elevation of No 46. The proposal would not be overly dominant in the street scene or out-of-scale with neighbouring properties given the height of No 46 and the surrounding dwellings which are predominantly two-storeys. Overall, the proposal would complement the existing terrace of houses and would not be incongruous with the diverse range of house designs in the immediate area.
9. For the above reasons, I conclude the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Accordingly, I find no conflict with Policy DM01 of Barnet's Local Plan Development Management Policies (2012) (the DMP) and Policy CS5 of Barnet's Local Plan Core Strategy (2012) (the CS). These policies requires that development achieve good design which respects the local pattern of development in the area and preserves or enhances the character of surrounding buildings and streets. It would also comply with objectives of the Residential Design Guide Supplementary Planning Document (2016) (RDG SPD) which seeks to promote design that respects the character of the area and pattern of development.
10. The Council has referred to Policies D1, D4 and D6 of the London Plan (2021) (LP). However, Policy D1 requires Boroughs to prepare plans to meet growth requirements and undertake character assessments. Policy D4 relates to design

¹ Appeal reference: APP/N5090/W/22/3308021

analysis, design scrutiny and maintaining design quality. Policy D6 relates to housing quality and standards. Policies D1, D4 and D6 of the LP are therefore not directly relevant to this main issue.

Living conditions of future occupiers with regard to outdoor amenity space

11. The proposed amount of outdoor amenity space, at 32 sq m., would fall substantially short of the Sustainable Design and Construction Supplementary Planning Document (2016) (SDC SPD) requirement of 55 sq m. for a three-bedroom dwelling with five habitable rooms. In accordance with the SDC SPD, the open plan living kitchen dining area is considered as two habitable rooms.
12. The exceedance of minimum internal space standards for a three-bedroom house would not compensate for the inadequate provision of outdoor amenity space due to the different purposes of these spaces. While public open space may be available nearby, this would not justify the under-provision of private outdoor amenity space.
13. For this reason, the proposed development would have an adverse effect on the living conditions of future occupiers with regard to outdoor amenity space. This would conflict with Policy CS5 of the CS and Policy DM01 of the DMP which require development to create high quality places. It would also conflict with Policy DM02 of the DMP which requires development to comply with the SDC SPD with regard to outdoor amenity space standards. Consequently, it would not comply with the outdoor amenity space standards set out in SDC SPD.

Living conditions of the occupiers of No 46 with regard to outlook

14. While the first storey of the house would not extend considerably beyond the rear elevation of No 46, its close proximity to a ground floor window to a habitable room on the rear elevation of No 46, and its height above the said window, would result in a loss of outlook and a sense of enclosure when viewed from that window. Despite the proposed lowering of the level of the development site, this would not overcome the harm to outlook due to the proximity and height of the first floor in relation to the ground floor window of No 46.
15. For these reasons, I conclude that the proposed development would harm the living conditions of the occupiers of No 46 with regard to outlook. Hence, it would conflict with Policy CS5 of the CS and Policies DM01 of DM02 of the DMP which require development to create high quality places and be designed to allow for adequate outlook. It would also not comply with the principles of the RDG SPD and the SDC SPD which require adequate outlook.

Other Matters

16. Compliance with the development plan with regard to sustainable construction, highway safety and parking weigh neither in favour or against the proposal and are therefore considered neutral.
17. I recognise that the Framework supports new homes on small sites, however it also requires them to be well designed. 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.

18. I acknowledge that the provision of family sized housing in a location with good levels of public transport access is a clear public benefit. However, the fact the proposal would only deliver one house 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

19. 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