

Appeal Decision

Site visit made on 23 August 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/N5090/W/24/3337789

Ground Floor Flat, 77 Leicester Road, East Finchley, Barnet, London N2 9DY

- 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 Harpal Bhohi, Capital Homes (London) Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4273/FUL.
 - The development proposed is erection of a single storey side and rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has stated that during the lifetime of the application, amended drawings were sought to address inaccuracies with regard to the scale of the plans. Whilst these have not been addressed by the appellant, I have determined this appeal on the plans before me, as did the Council.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the existing and any future occupiers of the appeal property with regard to outlook.

Reasons

4. The appeal property is a ground floor flat with a rear outrigger containing a kitchen and is located in an established residential area of Barnet. The rear bedroom has a set of French doors. The French doors provide a good degree of outlook and sense of space for the users of the bedroom given the ability of views to be attained down the side of the house along the rear outrigger, and to the rear garden.
5. The proposed development would extend the kitchen to the side and rear to create an open plan living/kitchen area. Whilst a gap would be maintained between the side extension and the boundary fence, the side extension would be located directly opposite the rear bedroom and its French doors with limited space between them. This would result in a prominent extension that

would substantially reduce the degree of outlook from the bedroom with a resulting undue sense of enclosure. Consequently, the proposed development would result in significant harm to the living conditions of the existing and any future occupiers of the appeal property in this regard.

6. The appeal property benefits from an extant planning permission for a single storey side and rear extension.¹ Nonetheless, it would extend a lesser distance to the side than would be the case for the proposed development and would thus maintain a reasonable degree of outlook from the rear bedroom.
7. I also note two appeal decisions² relating to previous proposals at the appeal property, one of which was allowed, where outlook was not raised as a concern. Nonetheless, I do not have the full details of these schemes, including plans, to allow any reasonable comparison between them and the proposed development. Moreover, one of these decisions was considered under a different policy context. Accordingly, I cannot be certain they are wholly comparable to the proposal before me. Therefore, none of these consents/examples justify a planning permission in this instance.
8. My attention has been drawn to other extensions at 14 Hertford Road, 69 Leicester Road, and 1-5 Lincoln Parade. However, I do not have the full details of these schemes before me either and therefore do not know the detailed circumstances which resulted in them being granted planning permission. Moreover, the Council states that these properties were single-family dwellings with no ground floor bedroom at the time of the consents. Therefore, they too are not directly comparable to the appeal scheme and do not justify a planning permission.
9. The appellant has also highlighted an extension that has been granted permission in the vicinity of the appeal site at 40 Fortis Green³. Whilst I do not have the full details of the scheme before me, the Council has acknowledged the similarity of it to the proposed development. Whilst I understand the frustration of the appellant with regard to the consent of similar development on a different site, its existence does not provide justification for a development that I consider would result in significant harm to the outlook of the existing and any future occupiers of the appeal property. Moreover, each case should be determined on its own merits.
10. In conclusion, the proposed development would give rise to significant harm to the living conditions of the existing and any future occupiers of the appeal property with regard to outlook. It would therefore conflict with Policy DM01 of the Barnet Local Plan Development Management Policies 2012 which seeks, amongst other things, to ensure that new development does not result in an adverse impact upon the living conditions of occupants. The proposed development would also fail to accord with the principles set out in Barnet's Residential Design Guidance Supplementary Planning Document 2016 which seeks, amongst other things, to safeguard residential amenity.

¹ Planning Application: 23/1399/FUL

² Planning Appeal Reference: APP/N5090/A/11/2160176 and APP/N5090/A/12/2181909

³ Planning Application: 23/3475/FUL

11. Whilst the Council's decision notice refers to Policy CS5 of the Barnet Local Plan Core Strategy 2012, this policy relates to high quality design and character and appearance. Therefore, it is not determinative for this appeal.

Other Matters

12. The appellant highlights there would be no sunlight and daylight impacts, that the proposal would respect the character and appearance of the area and that it would provide additional living space for the occupants of the appeal property. However, these matters would not outweigh the harm I have found. The appellant also notes that no objections have been received relating to the proposed development. Nonetheless, this does not automatically indicate an absence of harm.

Conclusion

13. I have found that the proposed development would give rise to significant harm to the living conditions of existing and any future occupiers of the appeal property with regard to outlook. This would conflict 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, I conclude that the appeal should be dismissed.

B Astley-Serougi

INSPECTOR