

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: 21 October 2024

Appeal Ref: APP/N5090/W/24/3340679

Edera, Hendon Wood Lane, Barnet Gate, Barnet, London NW7 4HS

- 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 Soni against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/003/FUL.
 - The development proposed is Demolition of existing bungalow and construction of a new two storey detached single family dwelling house. Associated hard and soft landscaping, refuse storage, cycle parking and off street car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the development upon the character and appearance of Edera and the surrounding area.
 - The effect of the development on the living conditions of Berbell Cottage, with particular regard to daylight, sunlight and outlook.

Reasons

Character and Appearance

3. Hendon Wood Lane is characterised by a mix of detached properties including bungalows and two-storey dwellings. Additionally, the majority of dwellings are set back considerably from the highway. Together with the regular close spacing of dwellings this results in the streetscape having a pleasant character.
4. Edera is an existing bungalow sited between a bungalow (Berbell Cottage) and a two-storey dwelling (Woodview Lodge). The addition of a two-storey dwelling would not in principle be an incongruous feature within the streetscene due to the mix of dwellings on Hendon Wood Lane.

5. I have been made aware of an earlier appeal decision¹ in respect of a development on the same site. However, the Inspector in that instance would have exercised their judgement on the evidence in relation to that particular case. I must similarly use my judgement in respect of the evidence before me. In the cited case, the dwelling would have spanned the breadth of the plot and thus would not have maintained the characteristic spaces found between dwellings on Hendon Wood Lane. The appeal scheme before me has overcome this by retaining a 1m gap between the proposed dwelling and the boundary of the plot, including the shared boundary with Woodview Lodge. The fact that permission was not granted in the previous appeal is therefore not a consideration of material weight against the proposal.
6. The retention of a 1m gap between the appeal scheme and the boundaries of the plot would result in the development being positioned centrally in the plot. Therefore, the proposal would respect and maintain a prominent feature of the streetscape. With the form of the proposed development also complementing the streetscene the proposal would therefore assimilate and respect the character and appearance of the surrounding area.
7. In conclusion, the appeal scheme would comply with Policy D3 of the London Plan 2021, Policies DM01 and DM02 of the Barnet Local Plan Development Management Policies 2012 and Policies CS NPPF, CS1 and CS5 of the Barnet Local Plan Core Strategy 2012. All of which seek, amongst other things, to ensure a high level of design that is appropriate to the site context and that development assimilates and respects the character and appearance of the surrounding area. The development would also accord with the principles set out in the supplementary planning document Residential Design Guide (SPD) 2016 in regard to new residential development.

Living Conditions

8. Berbell Cottage is located on the northern side of the appeal plot and my attention has been drawn by the Council to two windows located on its south facing side elevation that serve habitable rooms and face the side of the appeal site. There is no substantive evidence before me to suggest that these windows are not currently the sole habitable windows for the respective habitable rooms. I therefore find no reason to disagree with the Council's conclusions on this matter.
9. There is a boundary wall between Edera and Berbell Cottage which results in the habitable windows of Berbell Cottage being partially hidden. However, some aspects of the boundary wall contain wall leaf blocks which allow daylight and sunlight to reach these windows. Daylight and sunlight also enters these windows from the open sky above the height of the bungalow. However, due to the narrow plot and greater height and bulk of the appeal scheme, the addition of a two-storey dwelling in close proximity to the side elevation windows of Berbell Cottage, would result in an adverse impact on the level of daylight and sunlight to the habitable rooms. The proposed 1m gap would not be sufficient to mitigate the significant harm I have identified.
10. Moreover, the considerable bulk of the appeal scheme would result in a feeling of enclosure for the occupants of Berbell Cottage considering the

¹ Planning Appeal reference: APP/N5090/W/23/3333640

close proximity of the proposed appeal development to the habitable windows. Consequently, the appeal scheme would also have an adverse impact upon the living conditions of the occupants of Berbell Cottage, with regard to outlook.

11. My attention has been drawn to the compliance of the appeal scheme with the '45 degree rule' with regard to the rear windows on both Berbell Cottage and Woodview Lodge. This does not however justify the harm I have identified regarding the side elevation windows on Berbell Cottage. Therefore, the appeal scheme would still significantly harm the living conditions of the occupants of Berbell Cottage in relation to daylight, sunlight and outlook.
12. In summary, the appeal scheme would result in significant harm to the living conditions of the occupants of Berbell Cottage with regard to daylight, sunlight and outlook. The development would be in conflict with Policy CS5 of the Barnet Local Plan Core Strategy 2012 and Policy DM01 of the Barnet Local Plan Development Management Policies 2012. Both of these policies seek, amongst other things, to ensure new developments do not have an adverse impact upon the living conditions of neighbouring occupants. Furthermore, the appeal scheme would fail to accord with the safeguarding of residential amenity as set out in the SPD.

Conclusion

13. I am satisfied that the proposed development would not detract from the character and appearance of the surrounding area. Nevertheless, for the reasons given above, I conclude that the proposal conflicts with the development plan considered as a whole 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 therefore be dismissed.

B Astley-Serougi

INSPECTOR