
Appeal Decision

Site visit made on 30 August 2024

by A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/N5090/C/23/3328475

2, 4 and 6 Churchfield Way, London, N12 0FA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) ("the Act").
- The appeal is made by Mr Ebrahim Abbassian on behalf of Silverline Properties Limited against an enforcement notice issued by the Council of the London Borough of Barnet. The notice was issued on 18 July 2023.
- The breach of planning control as alleged in the notice is the material change of use of the property to three self-contained dwellings.
- The requirements of the notice are to: (1) Cease the use of the property as self-contained flats, (2) Permanently remove all bathroom facilities from the property including the toilet, basin and shower, and (3) remove all kitchen facilities (including kitchen units, sinks, cookers and worktops).
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended).

Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of 2, 4 and 6 Churchfield Way, London, N12 0FA, as shown on the plan attached to the notice, for the material change of use of the property to three self-contained dwellings.

Ground (a) on the deemed application

2. The main issue is the effect of the development on: (1) the character and appearance of the locality and (2) living conditions of future occupiers having regard to amenity and noise.

Character and appearance

3. The appeal property is a three-storey building. Planning permission was granted by the Council for alterations of the existing commercial building to form three office units (ref. 17/2049/FUL). The appellant maintains the building had been marketed for office use but was not successfully occupied and it was subject to anti-social behaviour. Instead, three self-contained dwellings with car parking have been created.

4. The Council is concerned about the location of the flats along Churchfield Way and say that the development is at odds with its Residential Design Guidance. However, as paragraph 6.1 explains, an area's character may be derived from a range of attributes. The immediate street scene comprises commercial and light industrial activities, but the locality is characterised with a mixture of commercial and high-density residential development. The site is in proximity to Melville House which is a former office block converted into self-contained flats. There are flats located above retail units along High Road. The development is not totally out of keeping with the mixed commercial and residential character of the street scene.
5. I take the view that the use of the building as three self-contained apartments does not have a detrimental effect upon the character and appearance of the street scene given the commercial and residential makeup of the locality. In my assessment, the scheme does not conflict with the aims and objectives of Policy DM01 of Barnet's Development Management Policies DPD (2012) and the guidance set out in the Residential Design Guidance SPD (2016).

Living conditions

6. Given the site constraints, there are very limited opportunities to provide onsite private amenity space, although I saw a small area could be used as a communal outdoor amenity space. However, the area seemed to be used to store refuse collection containers and is unlikely to be used for private amenity space. Nonetheless, the flats are occupied. I consider that each unit has sufficient usable floorspace providing adequate living and circulation space. The units are not cramped, and future occupiers are likely to use the space for residential purposes without feeling claustrophobic as there is adequate daylight and outlook. Whilst the lack of private amenity space is problematic, this reason alone does not justify dismissal given the available space, layout and design of the flats.
7. I acknowledge the closest outdoor amenity space is the playground in Percy Road about 0.8-mile round trip and it is not adequate or particularly accessible open space for the three dwellings. Additionally, the Woodhouse Open Space is similar distance, but it is larger than a small playground. The Council say the nearest meaningful open space is Glebelands Local Nature Reserve, which is a 1-mile round trip, and it is not an appropriate substitute for lack of on-site provision. However, the nature reserve is within a reasonable walking distance of the appeal site. While public open space cannot provide private amenity space, there is sufficient provision of public open spaces nearby.
8. The appellant has offered to provide a financial contribution to mitigate the private amenity space. That would meet with paragraph 3.2.5 of the Council's Planning Obligations SPD (April 2013). Given the small number of dwellings in this case, I concur with the Council's view that, realistically, it is unlikely any contribution would have any meaningful impact on improving spaces.
9. The appellant has submitted a noise assessment given the Council's concern about the lack of sound insulation. Officers are of the view that the report is unacceptable as it does not provide full calculations and baseline data. However, the acoustic report adequately addresses the potential effect on future occupiers due to external noise. The report has been prepared following British Standard 8233:2014 guidelines.

10. The evidence is that the development meets the internal noise levels of 35dB during daytime hours and 30dB during nighttime hours. This is due to the noise generated externally combined with the built fabric of the appeal building. Additionally, internally measured noise levels at the north and east rooms suggest further mitigation measures would not be required to meet the internal noise levels.
11. Pulling all the above points together, the grant of planning permission results in dwellings without onsite private amenity space but I conclude that the development has no material effect upon the living conditions of future occupiers. Accordingly, the development does not materially conflict with the aims and objectives of Policies CS1 and CS5 of the Core Strategy (2012), Policies DM01, DM02, and DM04 of the Development Management Policies DPD (2012), Policies D3, D6 and D14 of the London Plan (2021), the Residential Design Guidance SPD and the Sustainable Design and Construction SPD (2016).

Conditions and conclusions

12. The noise related condition suggested by the Council is unnecessary given my findings above. I do not consider conditions are reasonable given the design and layout of the flats.
13. While the grant of a planning permission results in dwellings without private amenity space, I attach substantial weight to my finding that the development does not materially affect the character and appearance of the street scene and future occupiers living conditions in terms of noise. I also attach significant weight to the design and layout of the flats. Accordingly, the development complies with the development plan as a whole and the main aims and objectives of the national planning policy framework.
14. For the reasons given above and having considered all other matters, I conclude that the appeal should succeed on ground (a) and planning permission is granted. The appeal on ground (f) and (g) do not therefore need to be considered as the notice is quashed.

A U Ghafoor

INSPECTOR