



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: 3 December 2024

Appeal Ref: APP/N5090/W/24/3340481

88 Dartmouth Road, Hendon, Barnet, London NW4 3HX

- 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 Ezra Cohen against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/5354/FUL.
 - The development proposed is conversion of the existing dwelling into 2no self-contained flats. Associated refuse and recycling, cycle store and amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the existing dwelling into 2no self-contained flats, associated refuse and recycling, cycle store and amenity space at 88 Dartmouth Road, Hendon, Barnet, London, NW4 3HX in accordance with the terms of the application, Ref 23/5354/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council has referred to Flat 2 in its second reason for refusal in the decision notice. However, it is clear from the Council's statement that its concerns relate to the ground floor flat which is annotated as Flat 1 on the submitted plans. I have therefore regarded the reference to Flat 2 in the decision notice to be a typographical error.

Background and Main Issues

3. The appellant has provided amended plans demonstrating that the second bedroom in flat 2 meets the minimum standard as set out in the Policy D6 of the London Plan 2021. The Council has had the chance to consider the amended plans and has confirmed that it no longer wishes to defend the first reason for refusal regarding the insufficient internal floor space and consequent substandard quality of accommodation. Consequently, I am satisfied that this matter has been resolved through amended plans. Therefore, the main issues are as follows:
 - The effect of the proposal on the number of family sized homes in the area.
 - The effect of the proposal on the character and appearance of the area.

Reasons

Policy Context

4. The development plan includes the Barnet Local Plan Core Strategy 2012 and the London Plan 2021. The Council has referred to the Barnet Draft Local Plan 2021-2036 (the BDLP) in its Decision Notice. The BDLP has reached an advanced stage of preparation and has been subject to main modifications. I have been provided with a copy of the Table of Proposed Main Modifications (March 2024) (the Proposed Main Modifications).

Family Sized Homes

5. The proposal would subdivide an existing four-bedroom dwelling into two self-contained flats. Flat 1 would provide 1 bedroom for 2 people and would be approximately 51m². Whilst flat 2 would provide 3 bedrooms for 4 people and would be approximately 92m². Consequently, the proposal would provide a mix of units with flat 2 being suitably sized and laid out to provide family accommodation.
6. Policy D6 of the London Plan requires that a minimum floorspace of 50m² is provided for 1 bedroom accommodation which is to be occupied by 2 people. Flat 1 would meet this minimum requirement.
7. However, the BDLP is specific to Barnet and consequently its policies have been guided by the context of the Borough. Barnet has a high demand for family housing and in particular 2,3 and 4-bedroom properties which is outlined in Table 7 of the Proposed Main Modifications. Policy HOU3, as set out in the Proposed Main Modifications further outlines that following a 3-bedroom family unit, an internal floor space of 61m² minimum should be provided for subsequent accommodation. Flat 1 would not meet this minimum standard.
8. The BDLP has reached an advanced stage and the Proposed Main Modifications have been published. Consequently, there is a reasonable likelihood that Policy HOU3 will be adopted. However, whilst conflict with Policy HOU3 attracts significant weight it does not outweigh the conformity which I have found with the adopted development plan.
9. In conclusion, the proposal would comply with Policies D3 and H10 of the London Plan 2021. These policies seek to ensure, amongst other things, that development optimises site capacity in appropriate areas and that they provide an appropriate housing size mix respectively.
10. Whilst the Council has referred to Policy CS5 of the Barnet Local Plan Core Strategy and DM01 of Barnet's Local Plan Development Management Policies in their decision notice these are not determinative in respect of this main issue because they focus upon the protection and enhancement of Barnet's character and appearance. Additionally, Policy CS1 of the Barnet Local Plan is not determinative either because it focuses, amongst other things, upon a spatial strategy for larger housing schemes.

Character and Appearance

11. 88 Dartmouth Road (No 88) is a mid-terraced property in an established residential area. There is a mix of semi-detached and terraced properties on Dartmouth Road

which are reliant upon on road parking provision. The terraced properties are somewhat uniform in character with a box bay window at ground and first floor.

12. The character of Dartmouth Road is a mix of single-family dwellings and properties that have been converted into flats. The proposed development would not include any external changes to No 88 and therefore would not result in harm to the character and appearance of the appeal property or the surrounding area.
13. Moreover, the subdivision of No 88 to two self-contained flats with a total of 6 occupants would not result in a significance increase of activity in comparison to a single-family dwelling. Accordingly, the proposal would not significantly detract from the single household dwellings near to 88 Dartmouth Road.
14. Policy DM01 outlines criteria for new development with regard to protecting Barnet's character and amenity. DM01(h) states that the '*Conversion of dwellings into flats in roads characterised by houses will not normally be appropriate.*' However, my attention has been drawn to the existence of other houses on Dartmouth Road that have been subdivided into flats. Consequently, there is no compelling evidence before me to suggest that Dartmouth Road is predominantly characterised by family homes. Moreover, as I have identified above, flat 2 would be capable of providing family housing. Consequently, the appeal scheme would not result in harm to the character and appearance of the area.
15. In conclusion, the proposed subdivision of No 88 would not result in harm to the character and appearance of Dartmouth Road. Therefore, the appeal scheme complies with Policies D3 and H10 of the London Plan 2021, CS1 and CS5 of the Barnet Local Plan Core Strategy 2021 and Policy DM01 of Barnet's Local Plan Development Management Policies 2012. These policies seek, amongst other things, to ensure development assimilates and respects local character and context.
16. Furthermore, the proposal would also accord with the Barnet Residential Design Guidance Supplementary Planning Document 2016 which aims to ensure that development respects and assimilates with the pattern and character of development in the surrounding area.
17. Whilst the Council has referred to the Sustainable Design and Construction Supplementary Planning Document 2016 in their decision notice it is not determinative for this main issue as it refers to development standards and performance standards for buildings.

Other Matters

18. Other objections to the development have been made by interested parties. The Council have not referenced highway amenity as a reason for refusal. There is insufficient evidence before me to demonstrate that the appeal scheme would result in a significant increase and consequent harm to highway amenity and the parking of vehicles. Consequently, I find no reason to disagree with the Council's conclusions on this matter.
19. There is no substantive evidence before me with regard to the effect of the development upon the water pressure in Dartmouth Road. Moreover, I have imposed a condition in relation to the sustainable use of water and as such I am satisfied that the development would not result in an adverse impact upon the

water pressure. Additionally, whilst the proposal will create 2 units this is not dissimilar to family dwelling no impact upon refuse collection would result.

20. Interested parties have highlighted a possible adverse impact on their living conditions due to an increase in noise from the property. Given I have previously identified that the development would not be dissimilar to a family dwelling house and the Council have not raised concerns with regard to noise and disturbance, I am satisfied that the development would not have an adverse impact upon the living conditions of neighbouring properties.
21. Whilst my attention has been drawn to potentially inaccurate plans, I am satisfied that the submitted plans along with the evidence before me is sufficiently robust in order to allow me to make a determination.
22. The Council have not referred to the design and colour palette of the front fenestration in their reason for refusal. I find no reason to disagree with the Council's conclusion on this matter.
23. In addition to finding that there would be no unacceptable impact on the character of the area, I have no reason to conclude that the impact on neighbouring living conditions would be significantly greater and unacceptable given that the property and outdoor space is already used as a dwelling.
24. My attention has been drawn to other planning applications both at the appeal site and elsewhere. Whilst I do not have specific details of these schemes before me, based on the very limited information provided, they appear to relate to different forms of development. 70 Dartmouth Road related to the subdivision of the property into 3 flats, a greater number than that proposed in this appeal. One of the previous applications at the appeal site was withdrawn whilst the other application was a prior approval application¹.
25. Concerns regarding party walls, ownership of the passageway, building regulations and gas safety are governed by other legislation. I have given these concerns limited weight, but they do not indicate a decision other than in accordance with the development plan.

Conditions

26. The Council has provided a list of suggested conditions which I have considered against the Framework, and advice contained in the Planning Practice Guidance. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 56 of the Framework.
27. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). A condition regarding the submission of details with regard to cycle parking spaces and storage is required in the interests of promoting sustainable modes of transport (3). In addition, I have imposed conditions requiring the submission of details of refuse and recycling storage (4) as well as details regarding boundary fencing/enclosure of the amenity areas (5) both in the interests of character and appearance.
28. A condition requiring the development to accord with the Building Regulations optional requirement regarding water usage is required to ensure the efficient use

¹ Planning Application References: 23/4464/FUL and 23/5350/PNH

of water (6). Furthermore, a condition with regard to carbon dioxide reduction measures is necessary to ensure sustainable development (7). Finally, I have imposed a condition preventing the addition of windows/rooflights in order to ensure privacy is maintained (8).

29. The Council has suggested a condition regarding materials, parking spaces and noise insulation certificates. However, there are no external changes proposed and therefore I do not consider a materials condition to be necessary. The parking on Dartmouth Road is on road provision and therefore a condition regarding parking spaces is not enforceable. Additionally, there is no compelling evidence before me to suggest that the development would lead to an increase in noise in comparison to the existing dwelling house. Consequently, a condition requiring sound insulation test certificates is not necessary.

Conclusion

30. The proposed development would be in accordance with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, the appeal is allowed.

B Astley-Serougi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos PL1 Rev C01 (Existing and Proposed Ground Floor Plan), PL3A Rev C01 (Existing and Proposed Second Floor / Loft Plan), PL4 Rev C01 (Existing and Proposed Front and Rear Elevations), PL5 Rev C01 (Existing and Proposed Elevation – no. 90 Side), PL6 Rev C01 (Existing and Proposed Elevation – no. 86 Side), PL7 Rev C01 (Long Section) and the Site Location Plan.
- 3) Prior to the occupation of the development hereby permitted details of cycle parking spaces and cycle storage facilities shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation and retained thereafter.
- 4) Prior to the occupation of the development hereby permitted details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation and retained thereafter.
- 5) Prior to the occupation of the development hereby permitted details of the sub-division of the amenity areas including boundary fencing/enclosures shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to first occupation and retained thereafter.
- 6) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 7) The development hereby permitted shall not be occupied until it has been constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/rooflights shall be constructed on the flank elevations and roof form of the development.