



Appeal Decision

Site visit made on 9 December 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2024

Appeal Ref: APP/N5090/W/24/3349709

1049 Finchley Road, Barnet, London NW11 7ES

- 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 Ms Azam Dadgarian, against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/1631/FUL.
 - The development proposed is demolition of existing single storey rear section and construction of a new two storey extension to provide 2no. self-contained flats
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above I have used the description of development taken from the Council's decision notice and the appeal form, as opposed to the application form, as it more accurately describes that for which permission is sought.
3. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. 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.
4. The Council's decision notice refers to policies of the emerging Barnet Local Plan 2021 to 2036 (BLP). The emerging policies carry forward similar objectives to the existing development plan policies. As I have not been notified that the BLP has been adopted I have had regard to current development plan policy in reaching my decision.

Main Issues

5. The main issues are:
 - whether or not adequate living conditions would be created for future occupiers of the proposal, with particular regard to daylight, outlook and privacy, and
 - the effect on the character and appearance of the area.

Reasons

Living conditions

6. The appeal site comprises a three-storey mid-terrace property located in the urban area. The building has a shop front at ground floor which forms part of a parade of shops and commercial premises along Finchley Road. The upper floors of the appeal property and neighbouring buildings are in residential use and are accessed off Portsdown Mews to the rear, which runs parallel to Finchley Road.
7. Internally, the ground floor flat would comprise open plan living accommodation but with a separate shower room. The accommodation would be served by one large window which would have an outlook on to Portsdown Mews and the commercial units opposite.
8. I also observed during my site visit that cars were parked along the road, tight up against the rear boundaries of the appeal property and neighbouring buildings. Waste bins were also stored on the road. In combination these features, as well as the commercial context of the road and buildings, would result in a poor outlook from the window.
9. Furthermore, reasonable levels of footfall and activity along the road can be expected, particularly during the daytime. Therefore, the juxtaposition of the window with the road would allow uninterrupted views into the window from passers-by which would not provide an acceptable level of privacy for the future occupiers.
10. Whilst the window could be fitted with obscure glazing, which may address the issue of privacy, it would not be a satisfactory solution in terms of the outlook from the window.
11. The appellant has submitted a daylight study, which includes details of an additional skylight that could be incorporated into the design of the proposed development to improve natural light into the accommodation. The daylight study suggests that ample daylight would be provided for the proposed ground floor flat, which would comply with daylight standards. As such, and without any substantiated evidence to the contrary, there would be an appropriate amount of natural light for the size of accommodation proposed.
12. There is no dispute between the parties that the proposed first floor flat would provide adequate living conditions for future occupiers and I see no reason to disagree in consideration of that element of the proposed development.
13. Overall, for the reasons outlined above, I conclude on this main issue that adequate living conditions would be created for future occupants of the proposal, with reference to daylight but that adequate living conditions would not be created for future occupants of the ground floor flat, with reference to privacy and outlook. Therefore, the proposal would not accord with Policies D3 and D6 of the London Plan (LP) March 2021, Policies CS1 and CS5 of Barnet's Local Plan Core Strategy (CS) September 2012 and Policies DM01 and DM02 of Barnet's Local Plan Development Management Policies (DMP) September 2012. These, together and amongst other things, seek to secure high quality design and developments that deliver appropriate outlook, privacy and amenity.

Character and appearance

14. Portsdown Mews has a prevailing commercial character, particularly at ground floor level. However, the upper floors of the existing buildings are in residential use and my attention has been drawn to residential accommodation at ground floor level along the road, which I also observed during my site visit.
15. While the proposed development would result in the loss of the small rear yard area, the remainder of the ground floor would retain its commercial floor area, including the shop front. As a result, the commercial character of the ground floor would be largely maintained.
16. In addition, the appearance and scale of the proposed extension would be similar to other extensions along the road. Therefore, although the extension would introduce additional residential dwellings into the street scene, particularly at ground floor, the proposal would be viewed within the context of other residential accommodation along the road.
17. I have considered the other appeal decisions¹ put forward by the Council, which seek to demonstrate that existing commercial uses and spaces should be protected unless it is substantiated that there is no demand for that space. However, the full details of those cases have not been provided and I am not satisfied that those schemes are similar to the appeal scheme before me. As such, a proper comparison has not been possible, and, as I am required to do, I have determined the case before me on the site-specific circumstances and on its own merits.
18. Consequently, on the evidence before me, I conclude on this main issue that the proposed development would not be harmful to the character and appearance of the area. The proposal would therefore not conflict with Policies DM01 and DM12 of the DMP, which together and amongst other things, seek to preserve local character and protect all retail uses in existing local centres, parades and isolated shops.

Other Matters

19. The creation of two additional dwellings in an accessible urban area would contribute to boosting the supply of new housing, as referenced in the Framework. There would also be social and economic benefits to local services during the construction and occupancy phases. The proposal is also designed to meet Building Regulations and would provide level access, ground floor accommodation. Security improvements are also proposed, as is the provision of cycle storage arrangements within the site. However, the benefits of two dwellings in boosting housing supply in the area would be limited and taken together these benefits would not outweigh the harm which I have identified.
20. Also, that the proposal would not be harmful to the character and appearance of the area weighs neutrally in the balance.

Conclusion

21. For the reasons set out above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient

¹ Reference - APP/N5090/W/22/3296329 and APP/N5090/W/22/3295246

weight to indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

N Bromley

INSPECTOR