



Appeal Decision

Site visit made on 25 March 2025

by F P Tinsley MA (Hons) MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/N5090/W/24/3357818

23 Western Avenue, London, NW11 9HE

- 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 Magda Adeyemi on behalf of Nett Assets, against the decision of the Council of the London Borough of Barnet.
 - The application reference number is: 24/3683/FUL.
 - The development proposed is described as 'conversion and extension of an existing one-storey outbuilding to create a self-contained dwelling with associated amenity space.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council of the London Borough of Barnet adopted a new Local Plan on 4 March 2025. The Council has confirmed that the policies from Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) and Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) referred to in the Decision Notice have been superseded by policies from the Barnet Local Plan 2021-2036 (March 2025) (the Local Plan). All parties to this appeal were provided with the opportunity to comment on the new Local Plan in the context of this planning appeal.
3. Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. Policies referred to in the reason for refusal, relating to the planning application subject to this appeal from the Barnet Local Plan 2012, are no longer relevant and are disregarded. A matrix detailing which new Local Plan policies replace which old Barnet Local Plan 2012 policies is provided at Appendix B of the new Local Plan. This indicates that Policies GSS01, CDH01, and HOU03 of the Local Plan are now the policies relevant to the determination of this appeal. The Council has also indicated that the proposal be considered against HOU02, CDH05, CDH07 and TRC01.
4. The appellant has indicated a desire to make minor changes to the design of the proposed development and has lodged additional plans to those submitted with the original planning application. These changes involve the removal of an internal wall to create an open-plan living area. Revised plan, NA-24008-2PL-201 (As Proposed - Floor Plans and Elevations), has been submitted. I have considered this appeal based on both the plans initially submitted with the planning application and the revised plan provided with the appeal. The Council have had the opportunity to review the revised plan.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area.
- whether acceptable living conditions would be provided for future occupiers of the proposed development with regard to privacy and internal living accommodation, including daylight, ventilation, outlook and floorspace.

Reasons

Character and Appearance

6. The appeal site is located in an established residential area, characterised by large detached and semi-detached houses. The rear gardens of these houses play a vital role in separating the rear façades from adjacent properties, while providing valuable amenity space for residents. Spacious rear garden areas serving the main dwellings are a defining feature of the neighbourhood. Many rear gardens, including that of the appeal site, contain outbuildings associated with the main dwelling. Additionally, several houses in the immediate vicinity of the appeal site have been extended at roof level, incorporating dormer windows. Other forms of extensions to dwellings are also evident in the area.
7. The proposal seeks to repurpose and extend the single-storey outbuilding situated at the end of the appeal property's garden. This outbuilding spans the width of the plot and is used for purposes linked to the main dwelling. The application further proposes extending the outbuilding towards the main house, resulting in an "L"-shaped building that would become the new dwelling. The footprint of the new dwelling would be approximately 60% larger than the existing outbuilding, with a modest increase in height. Access to the new dwelling would be directly from Highfield Gardens—a street which does not currently serve as a main entrance to any dwelling. It is also proposed to partition the existing garden of 23 Western Avenue to create an amenity area for the new dwelling. The new dwelling would function independently of the existing house.
8. The proposed new dwelling, particularly the extension accommodating the kitchen area, would represent a substantial built addition to what is currently the rear garden area of the main house. The parapet of the extension would form the highest point of the building facing Highfield Gardens. While the boundary wall would provide some screening, its position approximately 4 metres behind the wall means that the extended roofline—approximately 1.5 metres higher than the boundary wall—would remain visible, especially from the southern side of the street. As a result, the building would appear as a large and incongruous structure, creating a cramped appearance in a rear garden area where outbuildings are generally subservient to the main dwelling and are orientated parallel, rather than perpendicular, to the main house.
9. The openness of the rear gardens of the main houses—which, as noted, is a key feature of the area's character and includes mature vegetation—would be significantly diminished by the new dwelling. This reduction would substantially detract from the character and appearance of the area.

10. The design of the new dwelling would be distinctly contemporary, featuring significant glazed elements compared to other prevalent elevational treatments. This design would represent a marked departure from the established character of development in the area and would appear incongruous.
11. Although the amenity space provided for both the existing and new dwellings would be adequate to serve their respective needs in terms of size, it would not reflect the typical garden sizes found in the area and would therefore be out of character.
12. For the reasons stated, the proposed development would harm the character and appearance of the surrounding area. It conflicts with Policy D3 of the London Plan (2021) and Policies CDH01 and HOU03 of the Local Plan, which require development to respond sensitively to distinctive local character, design, building form, and patterns of development.

Living conditions of future occupants

13. I have assessed the internal living accommodation of the proposed dwelling with regard to daylight, ventilation, outlook, and floorspace. The revisions to the internal configuration of the dwelling, as outlined in the revised plan NA-24008-2PL-201 (As Proposed - Floor Plans and Elevations) submitted during the appeal process, would provide a standard of accommodation that is suitable for occupation in these respects.
14. Notwithstanding this conclusion, I am not persuaded that the proposed external amenity space associated with the new dwelling would ensure adequate amenity and privacy for future occupiers. The rear façade of No. 23 would be approximately 6.5 metres from the new boundary. Despite the provision of a 2.4-metre-high fence to partition the existing garden of No. 23 and create the amenity area for the new dwelling, overlooking from the first floor of No. 23 would significantly compromise the privacy and practical use of the new amenity area. While the total area of the amenity space, at 37 square metres, would be sufficient to serve the dwelling, a substantial portion of this space would be directly overlooked. Any activities within the area would be visible from the first floor of No. 23, resulting in a considerable lack of privacy.
15. Barnet's Residential Design Guidance SPD (2016), which remains a material consideration in the context of the current appeal and the adoption of the new Local Plan, states in Table 2.1 that: 'outdoor amenity space which does not have a reasonable level of privacy will not be considered to be usable.' I am not convinced that the proposed amenity space would offer a reasonable level of privacy and, therefore, its amenity value is inadequate.
16. For the reasons outlined above, the proposal fails to provide adequate outdoor amenity space for future occupiers of the development, owing to the lack of privacy. Consequently, the proposal is contrary to Policy D3 of the London Plan (2021) and Policies CDH01, CDH07, and HOU03 of the Local Plan, which, among other requirements, specify that development should provide an appropriate standard of amenity, including privacy, for potential occupants.

Other Matters

17. I am satisfied that the proposed development would not create a sense of enclosure for the existing residents at No. 23 Western Avenue, nor would it negatively affect the amenity of any other surrounding properties, including No. 21 Western Avenue. I also note that there are no objections on highways, ecological, or environmental health grounds, nor from surrounding residents. However, the absence of harm in these respects does not constitute a tangible benefit weighing in favour of the proposal; rather, it is an expectation of compliance with other local and national planning policies.
18. The appeal site is in a sustainable location with good access to public transport, and in this respect, the principle of development is supported. It accords with Local Plan Policy TRC01 in this regard. The proposed development would provide an additional dwelling, contributing to the Council's housing stock and supporting the Government's objective of increasing housing supply. I acknowledge that Policy H2 of the London Plan (2021) seeks to significantly boost the contribution of small sites to meeting London's housing needs. However, the appeal proposal would harm the character and appearance of the area and fail to provide appropriate living conditions for future occupiers. In this instance, the harm caused by the proposal would outweigh the benefits of the development in this regard.
19. My attention has been drawn to an appeal decision for a nearby proposal under Ref: APP/N5090/W/23/3322535. While I do not have all the specific details of this case before me, it does not appear to be directly comparable to the current appeal, given differences in the building's design and the policies in place at the time of the decision. Furthermore, I have determined the current appeal based on the site-specific circumstances of this case.

Conclusions

20. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

F P Tinsley

INSPECTOR