



Appeal Decision

Site visit made on 11 March 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025

Appeal Ref: APP/N5090/W/24/3349469

2 Tithe Walk, Mill Hill, Barnet, London NW7 2QA

- 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 John McVeigh against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4721/FUL.
 - The development proposed is demolition of existing garage and construction of new detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to comment further. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.
3. An Arboricultural Report prepared by Holt Arboriculture Tree Consultancy (dated 19 July 2024) and a Transport Statement prepared by Paul Mew Associates Traffic Consultants (dated June 2024) were submitted as part of this appeal. Interested parties have had an opportunity to review and make comments on the information submitted. Therefore, I do not consider that the Council or any interested parties would be prejudiced by my acceptance of this information.
4. The Arboricultural Report includes an assessment of the likely impact of the development on the root structure of the trees within the garden of No 486 Watford Way (No 486). The Council is satisfied that the information provided in the report addresses its concerns detailed within refusal reason 4 and I will cover this matter later.
5. The Transport Statement includes a parking stress survey and the Council is satisfied that this addresses their concerns regarding the impact of the development on parking provision and the highway network in the area detailed within refusal reason 5, I will also cover this matter later.

Main Issues

6. The main issues are:
 - the effect of the development on the character and appearance of the host property and surrounding area;

- the effect of the development on the living conditions of the occupants of neighbouring properties with regard to outlook; and
- whether the development would provide suitable living conditions for future occupants, and also the effect of the development of the occupants of 2 and 2A Tithe Walk with regard to external amenity space.

Reasons

Character and Appearance

7. The host property is located on Tithe Walk a gently curving, tree lined, residential street. Most properties are generously spaced and have large front gardens bound by low walls and hedges which gives the area an open and spacious quality. The properties in the locality are two storey and semi-detached and their built form is largely consistent in terms of shape, size, scale and bulk, resulting in a regular rhythm of development. The majority of properties share a palate of external materials which include light render and roof tiles and design features such as shallow double height bay windows and hipped roofs, which create a pleasing uniformity.
8. The host property, 2 Tithe Walk, is two storey and semi-detached with a hipped roof and garden to the rear. The side garden boundary is angled, where it meets the back of the rear boundary of the properties on Watford Way, and the width of the plot increases towards the front. A single storey, flat roofed, detached garage takes up a substantial portion of this side garden.
9. The proposal is for the removal of the garage and the erection of a two storey detached dwelling with parking for two cars and gardens to the front and rear. The dwelling would be of a contemporary design with a flat green roof and would be angled to reflect the boundary of the site. As a result, the proposed dwelling would have an angular shape and would be significantly narrower at the rear. The external elevations would be finished in white render, with oak clad bay windows that would project from the first floor on the front elevation. Part of the dwelling would be set forward of the established building line, at ground floor level.
10. The boundary of the front garden would be marked in part by high timber fencing, which would wrap around part of the front elevation. The close boarded design would reflect the existing rear boundary treatment at 486 Watford Way. Due to its significant height, the proposed fencing would create an area of private garden space to the front of the proposed dwelling; which would not reflect the established pattern of development in the area. Further, the rear boundary fence at No 486 reads as such, continuing the fencing at the front of the proposed dwelling would result in a sense of enclosure. This would also have a harmful effect on openness within the street scene and the positive impact it has on the character and appearance of the area.
11. Although the width of the front elevation would largely reflect the host property, a large section of it would be obscured by the high timber fencing detailed above, giving the appearance of a relatively narrow frontage at ground floor level. Also, the angular shape and overall size and scale of the proposed building would not reflect the established built form of existing properties in the area which is a factor that makes a positive contribution to local distinctiveness. While existing planting in neighbouring gardens, and proposed fencing, would screen views of the angled

side elevation it would be clearly visible from neighbouring properties. My concerns in this regard are not addressed by the height of the building which would be lower than the host property.

12. It is acknowledged that there are instances where infill developments create an opportunity for a unique and contrasting design approach. However, the design features include first floor oak clad projecting bays which combined with the buildings size, siting, scale and bulk would appear as an incongruous and overly cramped form of development on a constrained site; sandwiched between 2 Tithe Walk and the rear gardens of the properties on Watford Way. The separation distance between the proposed dwelling and 2 Tithe Walk does not resolve my concerns in this regard.
13. For the reasons detailed above, the proposed development would have a harmful effect on the character and appearance of the host property and surrounding area. Therefore, it would be contrary to Policy D3 of the London Plan 2021 (LonP) and Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (LPCS) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (LPDMP) which seek to create a high quality environment and require that development proposals should positively respond to local distinctiveness, through their layout, scale, appearance and shape; and respect local context and distinctive local character.
14. Policy CS NPPF of the LPCS relates to the Councils positive approach when considering development proposals in line with the presumption in favour of sustainable development contained in the Framework. Policy DM08 of the LPDMP relates to the Councils dwelling size priorities. Both are not determinative in my assessment of the effect of the development on the character and appearance of the area.

Outlook

15. Based on the evidence before me 2 Tithe Walk comprises two flats. The entrance door serving the ground floor flat and a window serving the first floor flat would face the proposed dwelling and would be in close proximity to its side elevation. The submitted plans do not show the internal layout of either flat. The appellant asserts these openings serve a staircase and a W.C and therefore do not serve habitable rooms. This is a typical arrangement for properties of this type where habitable accommodation is primarily served by larger windows on the front and rear elevations. Based on the evidence before me the appeal scheme would not have a harmful effect on the living conditions of the occupants of 2 Tithe Walk in regard to outlook.
16. The proposed dwelling would extend up to the boundary between the side of the plot and the back boundary of the properties on Watford Way. Due to variance in ground levels the two storey element of the proposed building would be lower at the boundary than typically expected. Nevertheless, it would still be significantly higher than existing fencing and would run along the entire back rear boundary of 484 Watford Way (No 484) and a large section of the back rear boundary of 482 Watford Way (No 482). The separation distance between the appeal scheme and Nos 482 and 484, would not ameliorate the impact of the scale and mass of the built form proposed which would be overbearing and have a harmful impact on the outlook of the occupants of Nos 482 and 484, particularly from their rear gardens,

diminishing their enjoyment of this space. It is acknowledged that the existing garage is in a similar position to the proposed dwelling. However, it is single storey and much lower.

17. Any screening between the appeal site and Nos 482 and 484, from existing planting and ancillary buildings, is varied and I am not satisfied that it would mitigate the impact of the appeal proposal on outlook for their occupants. Existing ancillary buildings within the rear gardens of would obstruct views of the proposed scheme from some points within their rear gardens. However, this would not address the harmful impact of the scale of the built form proposed along the back rear boundary of both of these neighbouring properties.
18. For the reasons given above, the proposal would harm the living conditions of the occupants of Nos. 482 and 484 with regard to outlook. Therefore, it would be contrary to Policy D3 of the LonP, Policies CS1 and CS5 of the LPCS and Policy DM01 of the LPDMP. These policies seek to create a high quality environment, protect and enhance the gardens of residential properties; achieve outdoor environments that are comfortable and inviting for people to use and ensure development proposals are designed to allow for adequate outlook for adjoining occupiers.

Amenity Space

19. The proposed dwelling would have four habitable rooms, as the open plan living room and kitchen would be over 20 sqm, under local standards it is counted as two rooms. On this basis Supplementary Planning Document: Sustainable Design and Construction 2016 (SPD) sets out that the outdoor amenity space requirement in this instance would be 40 sqm.
20. The proposed plans indicate that the proposed dwelling would have private garden areas to the front and rear. For the reasons detailed above the private garden area to the front of the proposed dwelling would not be appropriate in this instance due to its harmful impact on the character and appearance of the area. The appellant asserts that the front garden area of 2 Tithe Walk is currently underused and unsightly. However, I am not certain that the proposed development would be the only means to improve it's appearance.
21. The rear garden area would be long and narrow and an irregular shape. It is indicated that it would cover an area of 32 sqm. The guidance within the SPD states that footpaths should not be included when calculating outdoor amenity areas, as a large portion would be paved, this would reduce the area of amenity space. While it is acknowledged that the appellant could have chosen not to include the footpath, my assessment is based on the plans before me.
22. Taking the footpath in to account the proposed dwelling would have significantly less than 32sqm of external amenity space, which would not meet the minimum requirements set out in the SPD. In addition to this the garden area would be very narrow and the irregular shape would impact negatively on its quality and usability and could not be reasonably enjoyed as an area where a family and children could play, sit, relax, socialise, and dry clothes in privacy. Therefore, the proposed dwelling would have a rear garden that is insufficient and low quality where the narrow width would be likely to impede day to day living.

23. The submitted plans do not include floor plans for Nos 2 and 2A Tithe Walk, as such there is insufficient information before me to demonstrate how many habitable rooms each flat has. The number of habitable rooms is required in order to calculate the required outdoor amenity space as set out in the SPD, which sets a minimum requirement of 5sqm per habitable room. The proposed development would leave a communal private amenity area of 25sqm for both flats. Based on the information before me the occupancy capacity of each flat is also unclear and there is insufficient information to demonstrate that the reduced area of private amenity space would be sufficient to meet the needs of the occupants of both of these properties. It is also unclear that how the resultant arrangement would impact on the privacy of the occupants of both flats.
24. The appellant asserts that the current occupants of the flats find the garden area difficult to manage. However, this does not provide suitable justification for the permanent loss of a large portion of the private amenity space that serves the flats.
25. My attention has been drawn to an instance where an offsite contribution was provided when planning permission was granted for a development with no amenity space¹. However, in this instance a signed planning obligation is not before me to consider as part of my assessment of this appeal.
26. For the reasons detailed above the development would fail to provide suitable living conditions for future occupants of the proposed dwelling with regard to external amenity space. Further, there is insufficient information before me to demonstrate that the development would provide a suitable area of external amenity space for the occupants of 2 and 2A Tithe Walk. Therefore, the appeal scheme is contrary to Policy D3 of the LonP, Policies CS1 and CS5 of the LPCS and Policies DM01 and DM02 of the LPDMP. When read together these policies seek to achieve a high quality environment and require that proposals achieve outdoor environments that are comfortable and inviting for people to use and retain existing outdoor amenity space. The proposal is also contrary to the SPD which sets minimum requirements and standards for outdoor amenity space.

Other Matters

27. The Arboricultural Report concludes that the proposal would not result in significant damage or pressure to remove trees in the garden of No 486. This demonstrates that the proposal would not result in damage or an unacceptable impact on the trees neighbouring the site. I am therefore satisfied that this submission addresses the Council's fourth reason for refusal as it would accord with Policy CS5 of the LPCS, Policy DM01 of the LPDMP and Policy G7 of the LonP which require that developments protect gardens of residential properties and safeguard and retain trees. Policy CS7 of the LPCS relates to the enhancement and protection of Barnet's open space and is not determinative in my assessment of the impact of the development on garden trees neighbouring the site.
28. The Transport Statement concludes that on street parking stress amounts to 61% which is below the maximum amount of 85%. This demonstrates that there would be a sufficient number of on-street parking spaces to accommodate any displacement as a result of the development and it would not lead to a heightened level of parking pressure and congestion. I am therefore satisfied that the Transport Statement addresses the Council's fifth reason for refusal as it would accord with

¹20/4583/FUL

Policies T4, T6 and T6.1 of the LonP, Policy CS9 of the LPCS and Policy DM17 of the LPDMP which require that the impact of developments on the capacity of the transport network are fully assessed to ensure the safety and efficiency of the highway network.

29. My attention has been drawn to The London Plan Housing Design Module D, which include an example of a flat roofed infill house which contrasts with the established built form in the area. This document provides guidance on design and does not form part of the Development Plan. Nevertheless, I am not certain that the example highlighted from this document reflects the appeal scheme in relation to layout, it is also significantly lower than the surrounding buildings. As such I cannot be certain that the circumstances in this instance are the same as the appeal before me.
30. My attention has also been drawn to several examples of where the Council have supported infill houses and/or external amenity spaces did not meet the standards set within the SPD. Full details of all of these examples have not been provided. Therefore, I cannot be certain that the circumstances are the same as the appeal before me. The example of an infill dwelling at 43 Henry Road² included private amenity space at the front of the resultant dwelling. However, it appears that this development was enclosed within what was originally the rear garden of the host property. This is different from the appeal proposal where high fencing would be utilised in what is currently a front garden area.
31. My attention was also drawn to an infill development where the appellant asserts that the private garden area is smaller than the standards set by the SPD³. However, all of the floor plans are not provided, only the ground floor plan which shows an open plan kitchen and living area. There is no substantive evidence before me to demonstrate that there are five habitable rooms in this proposed dwelling. Further, the shape and layout of the garden in this instance is different to the garden area proposed and more user friendly. As such, I am not certain the circumstances are the same as the appeal before me, which I have determined on its own merits.
32. The Council raised no concerns in regard to the internal accommodation proposed, sunlight and daylight. Based on the evidence before me I have no reason to disagree with the Council. However, an absence of harm in these respects is a neutral factor weighing neither for nor against my assessment.

Planning Balance

33. The proposal conflicts with the aforementioned development plan policies, and with the development plan when read as a whole. Proposals that conflict with the development plan should normally be refused unless material considerations indicate otherwise.
34. The appellant has stated that in Barnet there is a shortfall against the Framework's housing land supply requirement. In the absence of substantive evidence before me, I cannot be certain as to the current housing land supply position. If I were to accept the appellant's contention that there is a shortfall in the housing land supply, paragraph 11d) of the Framework would be engaged, and the appeal would fall to be considered against the test set out in paragraph 11d)ii. of the Framework.

² 21/2330/FUL

³ 22/0932/FUL

35. I have identified that harm would arise in relation to the character and appearance of the area, and the living conditions of both future occupants and neighbours. These harms lead to conflict with the Framework, which expects development to provide well-designed places that ensure a high standard of amenity for future and existing users.
36. Benefits would arise in terms of the contribution of an additional dwelling to local housing supply, which accords with the Framework's objective to significantly boost the supply of housing for different groups in the community. The proposal would improve the efficiency of the land by increasing the residential output of the site, in a well-established residential area, with good accessibility to services and facilities. The Framework also recognises that small sites can make an important contribution to meeting the housing requirements of an area and are often built-out relatively quickly.
37. Additional benefits would arise through the creation of construction jobs, and there would be increased local spending and taxation in the longer term. Environmentally, the dwelling could also feasibly achieve high sustainability standards. These benefits weigh in favour of the proposal. However, the contribution that would be made by a single dwelling would be modest, therefore I ascribe the benefits moderate cumulative weight.
38. Taking all of the above into account, and even if there is a significant shortfall in the housing land supply position, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole and having particular regard to the policies referenced in footnote 9. Consequently, the presumption in favour of sustainable development would not apply.

Conclusion

39. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR