
Appeal Decision

Site visit made on 11 April 2025

by **R Gravett BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 May 2025.

Appeal Ref: APP/N5090/W/24/3356069

40 Selborne Gardens, Hendon, Barnet, London NW4 4SJ

- 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 Avi Cohen against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/3468/FUL.
 - The development proposed is: Conversion of dwelling into 2no. self-contained flats. First floor extension at rear with increase in dormer height. Associated amenity space, refuse storage, cycle provision and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for Conversion of dwelling into 2no. self-contained flats. First floor extension at rear with increase in dormer height. Associated amenity space, refuse storage, cycle provision and car parking at 40 Selborne Gardens, Hendon, Barnet, London NW4 4SJ in accordance with the terms of the application, Ref 24/3468/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (2009.LP.200 & 300); Block Plan as Proposed (2009.PR.304); Existing Plans (2009.EX.301); Existing Plans (2009.EX.302); Existing Elevations & Section A-A (2009.EX.303); Proposed Plans (2009.PR.301); Proposed Plans (2009.PR.302); and Proposed Elevations & Section A-A (2009.PR.303).
 - 3) The development hereby permitted shall not be occupied until facilities for the storage of cycles have been provided in accordance with details submitted to and approved in writing by the Local Planning Authority. Thereafter, long stay cycle parking spaces in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards shall be provided and shall not be used for any purpose other than parking of cycles in connection with the development hereby permitted.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the planning application form, save I have corrected a typographical error and removed reference to 'resubmission,' because it is not a description of development.

3. The Council has confirmed that the Barnet Local Plan 2021-2036 (BLP) was adopted on 4 March 2025. It replaces the previous Local Plan (2012), comprising the Core Strategy and Development Management Policies Development Plan Documents. Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. The Council has suggested that policies CDH01, CDH02, CDH04, CDH07, HOU02 and HOU03 of the BLP are now the policies relevant to the determination of this appeal. The appellant has had the opportunity to comment on the implications of this change and I have had regard to the submissions made.
4. The Council has also confirmed that existing supplementary planning documents, in this case the 'Residential Design Guidance Supplementary Planning Document (October 2016)' (SPD), remain extant unless or until they are replaced or updated.

Main Issues

5. The main issues in this case are:
 - whether the appeal property is a suitable location for the proposed development having regard to the development plan; and
 - the effect of the proposed first floor extension on the living conditions of the neighbours at 42 Selborne Gardens, with particular regard outlook and natural light.

Reasons

Location

6. The appeal property is a semi-detached dwelling located on one side of Selborne Gardens, a residential road characterised by a mix of single dwellings and flat conversions. It is proposed to construct a first-floor rear extension and convert the appeal property to two self-contained flats, comprising a 3-bedroom flat at ground floor and a 2-bedroom flat at first and second floor.
7. To optimise the potential for housing delivery, BLP policy HOU03 requires proposals relating to residential conversions, and the re-development of larger homes, to meet criteria A to G of the policy. Criterion A requires sites proposed for residential conversions to have an existing or planned Public Transport Accessibility Level (PTAL) of 3-6 or be located within 800m walking distance of a station or town centre boundary.
8. The appeal property has relatively poor public transport accessibility with a PTAL of 2. It forms part of a wider residential area which lies between the heavily trafficked M1 and A41 and I acknowledge that this highway infrastructure reduces the physical connection between the appeal property and the surrounding area.
9. The Proposals Map for the BLP identifies Hendon Town Centre as being centred around Hendon Central Underground Station, but its boundary nevertheless extends just to the north of the junction of Watford Way (A41) and Rundell Crescent. Using mapping software which is based on satellite imagery, the appellant has submitted evidence which shows that the distance from the appeal property to this junction is just under 800m. The Council's case is that the appeal property is not located within 800m walking distance of Hendon Town Centre, rather it is located 989m from the station.

10. I do not have any evidence before me to form a different view on the respective distances from the appeal property to the boundary of Hendon Town Centre, or to the closest station, Hendon Central Underground Station. However, it is clear from BLP Policy HOU03 Criterion A that a site should be within 800m walking distance of a station *or town centre boundary*, and not only from a station. In that the appeal property is less than 800m (albeit only just) from the boundary of Hendon Town Centre it accords with Criterion A. I observed this distance to be a reasonably straightforward walk, with pedestrians predominantly using the footway to the south side of Watford Way (A41) to and from the town centre, and on to the underground station via the well-lit, busy underpass opposite it.
11. I therefore conclude that the appeal property is a suitable location for the proposed development and would comply with Criterion A of Policy HOU03 of the BLP. The Council do not allege a conflict with the other criteria of this policy, save Criterion D which is dealt with below. The appeal proposal would further accord with BLP Policy CDH01 which, amongst other things, requires new development to optimise the capacity of sites, including consideration of accessibility by walking.
12. Finally, whilst I have been provided with BLP Policy HOU02 which relates to housing mix, the evidence before me does not allege a conflict with this policy and it is not therefore determinative to this main issue.

Living conditions

13. A recently built ground floor extension extends the full width of the rear elevation of the appeal property and projects up to the common boundary with the attached neighbour at 42 Selborne Gardens (No 42). A first-floor extension would be constructed over part of this ground floor extension to accommodate the living area of the proposed 2-bedroom flat. There are two windows at first floor level to the rear of No 42 which serve habitable rooms.
14. The SPD guidance is that two-storey rear extensions which are closer than 2m to a neighbouring boundary and project more than 3m in depth are not normally considered acceptable. Consistent with this guidance, the proposed extension would be offset from either side of the existing ground floor extension by around 1m but would have a depth of less than 3m. Because of this modest depth it would not unduly enclose or restrict outlook from the two first-floor windows of No 42, the closest being offset a reasonable distance from the common boundary. The eaves would broadly align with the upper sills of the first-floor windows of No 42 and the extension would have a hipped roof, which would minimise the height and massing of the proposed extension along the common boundary. It would not appear overbearing and the outlook from the rear windows of No 42 would remain relatively open, principally toward the flat roof of its own ground floor extension and its garden.
15. There is no technical evidence from either party in respect of sunlight and daylight. However, the appellant has used the '45 degree rule' whereby a line has been drawn at an angle of 45 degrees in plan and elevation from sill level of the centre point of No 42's closest window. The extension would not breach this line and, where a proposed development passes this test, it is likely that an acceptable level of daylight and sunlight will be achieved. Nevertheless, I acknowledge that the appeal property is located to the south of No 42 and because of this, and the path of the sun, the proposed extension would likely cast a shadow over part of the

closest window during the morning, particularly in winter. However, because of the large size of this neighbouring window, and the limited projection of the extension, I am satisfied that the loss of sunlight would not be so significant that it would be to the detriment of the enjoyment of the room.

16. I therefore conclude that the proposed first-floor extension would not cause significant harm to the living conditions of the neighbours at No 42, with particular regard to outlook and natural light. It would accord with Policy D3 of the London Plan (2021) and BLP policies CDH01 and HOU03 (Criterion D) which together, amongst other things require development proposals to deliver an appropriate and good standard of amenity allowing for acceptable levels of daylight, sunlight and outlook for adjoining occupiers.
17. I have been provided with BLP policies CDH02, CDH04 and CDH07 but because these relate to sustainable and inclusive design, tall buildings and amenity space and landscaping respectively, they are not determinative to this main issue.

Conditions

18. I have considered the suggested conditions from the Council and have had regard to Paragraph 57 of the National Planning Policy Framework and the National Planning Practice Guidance in terms of the use of planning conditions.
19. In addition to the standard commencement condition, a condition specifying the approved plans is necessary for reasons of certainty.
20. The consultation response from the Council's Highways, Environment Directorate (HED) recommended a condition requiring a scheme be submitted and approved for car parking spaces, including access to the spaces from the public highway. The Proposed Ground Floor Plan shows that the two car parking spaces would be provided on the existing driveway of the appeal property, which has access to the highway via a dropped kerb. A condition requiring submission of further details is not therefore necessary.
21. Whilst the location of cycle storage is shown on the Proposed Ground Floor Plan, details of the type of storage did not form part of the application submission. In the interests of ensuring the cycle storage is successfully integrated into the development, particularly given its location to the front of the appeal property, it is necessary that these details are submitted and approved, and such a condition has therefore been imposed. I have, however, amended the wording of the condition suggested by the HED so that details are only required in respect of cycle storage and they are submitted and approved, and in place, prior to occupation of the development.
22. In the interests of highway safety, the HED has suggested a condition requiring refuse collection arrangements to be in place in accordance with the submitted planning application prior to occupation of the development. There is sufficient space to the front and side of the appeal property for the storage of waste/recycling facilities and I see no reason why refuse would be stored such that it would have an impact on the highway. The suggested refuse condition is not, therefore, necessary. Finally, given the small scale of the proposed development, it is not necessary to impose conditions requiring submission and approval of a 'Construction Management and Logistics Plan' and a 'before' and 'after' condition survey of routes used by construction traffic.

Conclusion

23. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

R Gravett

INSPECTOR