



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/24/3351212

9 Harmsworth Way, Whetstone, Barnet, London N20 8JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs A Hassan against the decision of the Council of the London Borough of Barnet.
- The application Ref is 24/2288/S73.
- The application sought planning permission for demolition of the existing dwelling and erection of a new two storey dwelling with rooms in the roofspace. Associated refuse and recycling storage without complying with a condition attached to planning permission Ref 23/4553/FUL, dated 24 October 2023.
- The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: Ecology Covering Letter dated 21.9.23, 1724.P1.05 REV A Existing Front and Rear elevation, Preliminary Ecological Appraisal September 2023, 1724.P1.02 REV C, 1724.P1.01 REV C, 1724.P1.03 REV C, 1724.P1.04 REV D .
- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and erection of a new two storey dwelling with rooms in the roofspace and associated refuse and recycling storage. Without complying with condition 1 attached to planning permission Ref 23/4553/FUL, dated 24 October 2023 at 9 Harmsworth Way, Whetstone, Barnet, London N20 8JT subject to the conditions in the attached schedule.

Background and Main Issue

2. In 2023 planning permission was granted, subject to a number of conditions, for the erection of a two storey dwelling following removal of the existing dwelling. The planning permission included condition 1 which specified the approved plans. The proposal seeks removal of condition 1 and its replacement with a condition specifying the plans that reflect an amended design that would allow for two narrow dormer windows on the front elevation rather than a single wide dormer.
3. The main issue is the effect that varying the condition would have on the character and appearance of the approved dwelling, including whether it would preserve or enhance the character or appearance of the Totteridge Conservation Area (TCA).

Reasons

4. The appeal site forms part of the TCA and is within Area 4 – Later suburban development (includes Pine Grove, Northcliffe Drive and Grange Avenue and Priory Close); which is one of 5 sub-areas with their own particular characteristics as defined by the Totteridge Conservation Area Character Appraisal Statement 2008 (CAS). The CAS notes that key characteristics of the area are the large detached houses in deep, narrow plots with a regular pattern and well landscaped front gardens. The CAS also highlights inappropriately designed dormer windows as a principal negative feature within Area 4.
5. Based on the evidence before me there are several examples of instances where original dwellings have been replaced with large dwellings in a variety of architectural styles and designs. This includes homes that include multiple dormer windows as part of their design. The significance of this part of the TCA is defined, in part, by the scale and massing of buildings and the pattern of development which gives the area an attractive open and spacious quality; rather than historic unifying design features typically associated with Conservation Areas.
6. The approved dwelling is an attractive design, which appears to draw inspiration from Georgian architecture. It would be set back from the road, maintaining the established building line and layout of development within the street. Thus preserving the significance of the TCA.
7. The erection of two dormer windows rather than one would not be unusual in the area or detract from a unified design approach. The examples of properties in the vicinity with more than one dormer window may be designed in a chalet style. However, multiple dormer windows are a common design feature in a variety of architectural styles. The modest proportions of the dormers would not dominate the roof slope. Further, while they would not be aligned with the windows below them, they would align with feature brick sections running either side of the entrance doors. This is sufficient to achieve a balanced and symmetrical appearance which would not appear as an inappropriate amendment to the design that was originally approved.
8. In conclusion I find that varying the condition would not have a harmful effect on the character and appearance of the approved dwelling, and it would also preserve and enhance the character and appearance of the TCA. Therefore, there would be no conflict with s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy D6 of the London Plan (2021), Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 and Policies DM01 and DM06 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012. When read together, these policies seek to ensure high quality design in development and also to preserve or enhance the character and appearance of Conservation Areas in Barnet.
9. The amended scheme also respects the Framework insofar as it relates to achieving well-designed places and conserving and enhancing Conservation Areas.

Other Matters

10. I have considered the Council's argument that granting the proposed amended design would set a precedent for other similar developments. However, no directly

comparable sites to which this might apply were put forward. Each application and appeal must be determined on its individual merits, and generalised concern of this nature does not justify withholding approval in this case.

Conditions

11. Condition 1 relates to the original time limit for the commencement of the development and condition 2 of my decision replaces condition 1 of the 2023 permission and includes the revised drawings. This is necessary in the interests of clarity and certainty.
12. Conditions relating to the use of approved external materials, submission and implementation of a scheme of hard and soft landscaping, implementation of tree protection, execution of a contract for carrying out the development and the installation of conservation type rooflights have been included to protect the character and appearance of the area.
13. I have also included conditions for the provision of proposed vehicle and cycle parking and the implementation of the development in accordance with the submitted site levels, refuse storage details and the Demolition and Construction Management and Logistics Plan to ensure the free flow of traffic and highway safety.
14. I have also included conditions to restrict permitted development rights and for the installation of obscure glazing to protect the living conditions of neighbouring occupants. Further, a condition requiring the submission and implementation of the means of enclosure has been included to protect the character and appearance of the area and the living conditions of future and neighbouring occupants.
15. A condition requiring the installation of water saving measures has been included to ensure the efficient use of water and a condition requiring the development to be constructed to minimise carbon dioxide emissions to ensure the development is sustainable. Also, conditions requiring the implementation of ecological enhancement features and control of lighting have been included to improve biodiversity and avoid adverse effects to protected species.

Conclusion

14. For the above reasons I conclude that the appeal should be allowed.

C Livingstone

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of the original permission 23/4553/FUL dated 24/10/2023.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans 1724.P1.01 REV C, 1724.P2.03 REV A, 1724.P2.04 REV A.
- 3) The development shall be implemented in accordance with the materials as approved under the discharge of conditions application 24/0805/CON dated 10/04/2024.
- 4) The development shall be implemented in accordance with the details in relation to levels as approved under discharge of condition application 24/0805/CON dated 10/04/2024 and retained as such thereafter.
- 5) The development shall be implemented in accordance with the measures detailed within the Demolition and Construction Management and Logistics Plan REV A dated 03.04.2024 as approved under discharge of conditions application 24/0805/CON dated 10/04/2024.
- 6) Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the wholesome water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. Any use of grey water and/or rain water systems needs to be separate from the potable (wholesome) water system and needs to meet the requirements and guidance set out in Part G of the Building Regulations.
- 7) Prior to the first occupation of the development hereby approved it shall be 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 2013 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
- 8) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.

- 9) Prior to occupation of the development the proposed parking space within the parking area shall be provided as submitted with the planning application and the access to the parking area from public highway shall be provided and maintained at all times. The parking space shall be used only as agreed and not be used for any purpose other than the parking and turning of vehicles in connection with approved development.
- 10) Before the development hereby permitted is occupied, a minimum of 2 (long stay) cycle parking spaces, located to the rear of the site and 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 bicycles in connection with the approved development.
- 11) The development shall be implemented in accordance with the details of the refuse storage and collection arrangements as approved under discharge of condition application 24/0805/CON dated 10/04/2024. The arrangements shall be in place prior to first occupation.
- 12) Before the building hereby permitted is first occupied the proposed window(s) in the first floor flank elevation facing nos. 7 and 11 Harmsworth Way shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.
- 13) Notwithstanding the details shown on the hereby approved drawings, the rooflight(s) hereby approved shall be of a "conservation" type (with central, vertical glazing bar), set flush in the roof.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A,B,C,D, and E of Part 1 of Schedule 2 of that Order shall be carried out within the area of the new dwelling hereby approved.
- 15) a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority.

b) The treatment of boundaries should be permeable to species such as hedgehogs (*Erinaceus europaeus*) and common toad (*Bufo bufo*), with the introduction of a minimum of 1 no 13 x 13cm ground level access 'hedgehog hole' between the application site and each neighbouring piece of land to enable connections and prevent the fragmentation of habitat.

c) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
- 16) Prior to occupancy of the development the details, the specification, location, including height, orientation, of the recommended ecological enhancement features including 2 x purpose built integrated bat roost boxes (within the newly

constructed dwelling), 2 x sparrow terrace, 1 x hedgehog home, and 1 x insect hotel shall be submitted and approved by the local planning authority.

All approved biodiversity enhancement features shall be installed on site prior to first occupancy in accordance with the thereafter approved enhancement plan.

- 17) Prior to the occupancy of works details of a Low Impact Lighting shall be submitted and approved by the local planning authority. Any artificial lighting scheme designed for development including off street lighting, shall be in accordance with Bats Conservation Trust Guidance Note 08/18 Bats and artificial lighting in the UK Bats and the Built Environment series.
- 18)a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development.
- b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
- c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 19) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under discharge of condition application 24/0805/CON dated 10/04/2024 has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.
- 20) The demolition works hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been executed and planning permission has been granted for the redevelopment for which the contract provides. Evidence that this contract has been executed shall be submitted to the Local Planning Authority and approved in writing by the Local Planning Authority prior to any demolition works commencing.

******* END OF CONDITIONS *******