



Appeal Decision

Site visit made on 20 May 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2025

Appeal Ref: APP/N5090/W/24/3357722

554 Finchley Road, Barnet, London NW11 8DD

- 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 554 BYA Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/3238/FUL.
 - The development proposed is the erection of a part single, part two storey side and rear extension, excavation of the basement with associated rear light wells and side facing walk on roof lights, roof extension including the creation of front, side and rear dormer windows and rooflights and the creation of an on-street parking space following the demolition of the two-storey front outrigger. Conversion 4no. self-contained residential units, together with an outbuilding (gym) in the rear garden, with associated external amenity space, cycle storage and refuse & recycling facilities.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by 554 BYA Ltd against the London Borough of Barnet and is the subject of a separate decision.

Preliminary Matters

3. The appeal submission includes additional evidence which was not before the Council at the time of its decision. This includes amended plans, an Appeal Transport Technical Note - Parking Stress Survey¹ and an Internal Daylight Assessment. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
4. I have considered this additional information taking into consideration the principles established by the Courts in Holborn Studios Ltd². In this case, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than significant amendments to the proposal. For this reason, I consider that there would be no prejudice to any party, and I have therefore determined the appeal on the basis of this additional information.
5. Since the Council determined the planning application, it has adopted the Barnet Local Plan 2021-2036 in March 2025 (the BLP). The policies in the new Local Plan supersede policies from the Barnet's Local Plan Core Strategy Development

¹ Prepared by Crosby Transport Planning, dated December 2024

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Plan Document adopted September 2015 and Barnet's Local Plan development Management Policies Development Plan Documents, adopted September 2015 which were included in the Council's reason for refusal of the planning application. Therefore, I have determined the appeal based on the current applicable policies in the BLP.

Main Issues

6. The main issues are:

- Whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to daylight and outlook;
- The effect of the proposed development on protected species;
- Whether the proposed development would provide adequate refuse and recycling storage;
- Whether the proposed development would provide adequate cycle storage provision; and
- The effect of the proposed development on highway safety, with particular regard to parking provision.

Reasons

7. The appeal site comprises a two-storey, semi-detached 1930's built residential property. It is accessed from Fernside which is set back but runs parallel to Finchley Road and has a small front garden. The appeal property together with 556 Finchley Road, are the only semi-detached dwellings located on Fernside, with the remainder all detached dwellings. The surrounding area is predominately residential in character.
8. The proposed development would involve the conversion of the existing dwelling into four self-contained flats, including part single and part two-storey side and rear extensions, excavating the basement with the addition of rear light wells and walk-on roof lights. The proposed works would also involve the extension of the roof with front, side, and rear with dormer windows and rooflights. The two-storey front outrigger will be demolished to make space for an on-street parking space. Additionally, a rear outbuilding would be constructed alongside associated works to provide amenity space, cycle storage, and refuse and recycling facilities.

Living Conditions – Future Occupiers

9. The proposed development seeks to create four self-contained residential units within the existing and extended parts of the appeal property. Both Units 1 and 2 would be located within the ground and basement floors of the building.
10. The appellant has submitted an Internal Daylight Assessment³ with the appeal, which concludes that sufficient levels of light would be achieved in both Units 1 and 2. In the absence of any evidence to the contrary, I therefore find that the proposed development would provide satisfactory living conditions, with particular regard to light.

³ Prepared by T16 Design, dated December 2024.

11. However, due to the accommodation being provided across the ground and basement levels of the property, a poor standard of outlook would be provided. In respect of Unit 1, this would primarily affect the main bedroom, which would be served by a bay window located within a lightwell only. The bay window would be positioned approximately 0.6 metres from the rear of the lightwell wall and therefore would not provide any meaningful outlook for the occupiers of the proposed dwelling.
12. In respect of Unit 2, the primary bedrooms for this unit are located within the basement and would be served only by a shared lightwell at the rear of the property. The larger of the two bedrooms would have less of the lightwell than the smaller bedroom. Therefore, I find that the proposed development would not provide an adequate level of outlook for the future occupiers of Flat 2.
13. In respect of outlook from the kitchen/living room within the ground floor of the building and serving Unit 2, the amended plans submitted with the appeal indicate three high level windows would be added to the side elevation. Whilst these additional openings will improve the levels of natural light, they would do little to improve the outlook. This large, but narrow room would be served by a full height opening to the rear and a further small opening within the kitchen, for which limited details have been provided. Therefore, on balance, given the size and primary use of this room, I find that the proposed development would not provide an adequate level of outlook for the future occupiers of Unit 2.
14. I have had regard to the appellants' case in relation to the previous proposals⁴, in particular that the approved scheme included the provision of bedrooms within the basement. However, although similar they are not identical and furthermore this appeal scheme seeks approval for sub-division into separate residential dwellings rather than as additional accommodation for a single-family dwelling. Therefore, whilst I accept that some of the physical works to the property are the same as those previously granted planning permission, the use of the proposed accommodation has materially changed. In respect of the approved scheme, the occupiers of the accommodation within the basement would also have access to other rooms and spaces within the building as a single dwelling, once converted into separate dwellings this would not be the case. I therefore find that it is appropriate to consider whether the newly created flats would have access to adequate daylight and outlook, even though aspects of the overall scheme have already been approved.
15. For these reasons, I therefore conclude that whilst I have found that the proposed development would provide adequate living conditions with regard to daylight, it would not provide acceptable living conditions for future occupiers, with particular regard to outlook. Thus, it would be contrary to Policy D6 of the London Plan and Policies HOU3 and CDH01 of the BLP, which require amongst other things, high quality design that provides a good standard of amenity for potential occupiers, including acceptable levels of daylight, sunlight, privacy and outlook.
16. Although the Council has referred me to Policies CDH02 and CDH07 of the BLP, these policies relate to sustainable and inclusive design and provision of external amenity space and are not therefore relevant to the above main issue.

⁴ Application Refs: 24/1987/HSE and 24/0777/HSE

Protected Species

17. The Council considers that a Preliminary Roost Assessment is required in connection with the proposed works. This is due to the proposal involving works to the roof of the property and the known presence of bats within the local area. The appellant disputes this on the basis that the Council did not request one for the previous schemes which have been considered at the appeal site. As a result, the appeal proposal is not supported by a protected species survey but would involve works to the roof of the property.
18. Whilst I appreciate that some of the physical works to the property have already been granted planning permission by the Council, this does not alter the duty⁵ placed upon the decision maker to consider whether European Protected Species would be affected by a proposed development.
19. Circular 06/20051 (the Circular) confirms that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
20. In the absence of a assessment, I cannot be certain of the effect of the proposed development on protected species, specifically bats. The Circular is also clear that surveys should only be secured by condition in exceptional circumstances. There are no exceptional circumstances before me which would justify imposing such a condition.
21. For these reasons, I conclude that it has not been demonstrated that the proposed development would not give rise to adverse impacts on protected species, in the case of bats. Thus, it would be contrary to Policy G6 of the London Plan and Policy ECC07 of the BLP, which together require that development proposals manage impacts on biodiversity and seek its retention and enhancement or creation and seek to protect species in accordance with the Natural Environment and Rural Communities Act 2006.

Refuse and Recycling Storage Provision

22. In terms of refuse and recycling storage, each of the proposed flats would need to be provided with a 240l bin for both refuse and recycling. This equates to overall required provision of 960l for general waste and 960l for recycling. However, rather than individual bins, the appellant indicates that a single 1100l bin would be provided for each type of collection.
23. These would be located in bin store at the front of the property and constructed of brick. It would have a flat roof and measure approximately 1 metre in height, so that it would not exceed the height of the adjacent window cill.
24. The Council states that the siting and size of the store would be incongruous and detrimental to the character and appearance of the area. They also raise concerns that a typical 1110l refuse bin would exceed 1 metre in height and therefore would require the enclosure to be larger than shown on the submitted plans.

⁵ The Conservation of Habitats and Species Regulations 2017 (as amended)

25. Therefore, whilst I have had regard to the appellant's suggestion that further details to be secured by condition, I cannot be satisfied that adequate provision could be provided without causing harm to the character and appearance of the area.
26. My attention to other approvals granted by the Council for refuse storage on the front forecourt, including at 548 Finchley Road⁶. However, whilst I note that the Council agreed to a bin store within the front garden of this property, in the case of No.548, the bin store would be smaller in that it would only be required to accommodate storage for 3 residential units and it would be directly comparable to the appeal proposal.
27. For these reasons, I therefore find that the proposed development would not make adequate provision for refuse and recycling storage. Thus, it would be contrary to Policy CDH01 of the BLP which requires amongst other things, high quality design that uses materials of a suitable quality and appearance to respect local character and setting.

Cycle Storage Provision

28. In respect of cycle storage provision, the submitted plans show provision of 7no. cycle parking spaces to the rear of the property. However, Policy T5 of the London Plan requires, amongst other things, a total of 8no. spaces.
29. It is not disputed that there is sufficient space within the rear garden for this amount of cycle parking to be provided. However, the access route to the rear garden would be less than one metre wide, measuring approximately 750mm in width. This would not be sufficiently wide to enable a cyclist to walk alongside their bicycle. Based on the evidence before me and my own observations at my site visit, it has not been demonstrated that the access to the rear of the property would be suitable for providing access to the cycle storage provision.
30. I have had regard to whether further details of the cycle storage provision could be secured by condition. However, in this particular case it has not been demonstrated that there would be an adequate solution available, particularly given the narrow side access and limited space to the front of the property.
31. For these reasons, I therefore find that it has not been demonstrated that the proposed development would provide adequate provision for cycle parking. Thus, it would be contrary to Policy T5 of the London Plan which requires, amongst other things proposals to help remove barriers to cycling and create a healthy environment in which people choose to cycle and secure the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located.

Highway Safety

32. Policy TRC01 of the BLP requires development proposals to promote active travel such as walking and cycling and to ensure that impacts on highway safety and the road network would be satisfactory. Policy TRC03 of the BLP states that the Council will expect development to limit car and motorcycle parking in accordance with the London Plan standards.

⁶ Application Ref: 23/5082/FUL

33. Policy T6 of the London Plan states that car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport.
34. The appeal site is located within an area with a PTAL rating of 6, which indicates excellent access to public transport provision. The appeal proposal shows that one off-street parking space would be provided directly to the front of the property. The site is located within a Controlled Parking Zone (CPZ), which restricts parking for one hour per-day.
35. The appeal is supported by a Parking Stress Survey which demonstrates that there is sufficient capacity within the locality to accommodate on-street parking, in addition to the single space which would be located to the front of the property. Whilst the Council raised concerns about parking provision, and requested that the development be car-free, they acknowledge that given the limited restrictions in place within the CPZ it is likely that the development would not be car-free. However, the Council is satisfied, based on the evidence provided at appeal, that there would be sufficient parking capacity within the local area and as such a legal agreement would not be required. Based on the evidence before me and my own observations, I see no reason to disagree with this conclusion.
36. Therefore, I find that the proposed development would not be harmful to highway safety, with particular regard to on-street parking provision. It would therefore comply with Policy T6 of the London Plan and Policies TRC01 and TRC03 of the BLP, which seek amongst other things, to promote active travel such as walking and cycling to ensure that impacts on highway safety and the road network would be satisfactory and for parking provision to accord with maximum standards having regard to onsite provision and capacity for additional on-street parking.
37. My attention has also been drawn to Policy TRC02 of the BLP. However, as this policy relates to the provision of transport infrastructure it is not relevant to the appeal proposal.

Other Matters

38. My attention has been drawn to examples of converted properties within the area, including but not limited to Nos. 474, 504, 510, 514, 516, 534, Finchley Road. However, the principle of conversion to flats is not disputed. Therefore, this does not alter my above findings.

Conclusion

39. The proposal conflicts with the development plan taken as a whole, and material considerations do not indicate a decision otherwise in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR