



Appeal Decision

Site visit made on 11 May 2009

by **Jim Metcalf** BSc DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
1 June 2009

Appeal Ref: APP/N5090/A/09/2097627

138 Clitterhouse Road, London, NW2 1DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Gehard Ampofo against the decision of the Council of the London Borough of Barnet.
- The application Ref F/03945/08, dated 20 October 2008, was refused by notice dated 11 December 2008.
- The development proposed is the erection of a detached one bedroomed dwelling together with integral garage on land off Brent Terrace.

Decision

1. I allow the appeal and grant planning permission for the erection of a detached one bedroomed dwelling together with integral garage on land off Brent Terrace at 138 Clitterhouse Road, London, NW2 1DN in accordance with the terms of the application Ref. F/03945/08, dated 20 October 2008, and the plans submitted therewith, subject to the conditions in the attached schedule.

Main issues

2. I consider the main issues are the effect of the development on the character and appearance of the street scene along Brent Terrace and the living conditions of neighbours with regard to outlook.

Reasons

3. There are rows of houses on one side of Brent Terrace with their rear yards facing the street. On the other side are the grounds of a school, the rear gardens of houses on Clitterhouse Road and a play area all set back behind a deep verge and screened by an attractive hedge and trees.
 4. At 138 Clitterhouse Road a drive cuts across the verge leading to a garage in the rear garden. The garage would be demolished and replaced with the small house and double garage. The new house would be set back about 13m into the garden and, one and a half storeys high, about 3.65m high at the eaves and 5.55m high at the ridge. The garden is sufficiently wide to allow a driveway at the side of the new house and long enough to accommodate the house and leave small but adequate gardens for both houses, existing and proposed.
 5. The size, position and design of the house, clad in timber boards, mean that it would not be unduly prominent or intrusive when seen from the street, set back and screened by the high hedge and planting in the garden. Although visible the new house would not significantly detract from the character and appearance of the street scene along Brent Terrace. As such I conclude that
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the development would be compliant with Policies GBEEnv1, GBEEnv2, D1, D2, D3, D7 and H16 of the Barnet Unitary Development Plan (UDP).

6. The houses along this stretch of Clitterhouse Road have relatively long gardens. Next door, at No 140 Clitterhouse Road, the garden has a 'dog leg' shape and the end of the garden, that would be immediately adjacent to the new development, is used as a small builder's yard. I have no information regarding the formal history of this use. The appellant submits that it is a lawful and established component of the area and this has not been challenged by the Council.
7. The houses on Clitterhouse Road would face the side wall of the new garages that would be about 3.65m high and clad in brick with vertical timber boarding above. The roof would slope away from the houses. The side wall would be a minimum of 12m away from the Clitterhouse Road houses. This distance, and the height and design of the development would mean that it would not be unduly prominent in the outlook from the rear of the Clitterhouse Road houses or their gardens. I conclude that the development would not significantly detract from the living conditions of neighbours with regard to outlook and would comply with UDP Policies D4, D5 and H16.
8. UDP Policies IMP2 and IMP3 explain that the Council intend to adopt Supplementary Planning Documents regarding the securing of planning contributions from development towards various facilities. However, I have not been provided with copies of any such document. The appellant submits that requirements in this regard are unreasonable. I tend to agree that a requirement to contribute towards education facilities when such a small, one bedroomed house is unlikely to accommodate children, especially of school age, is demanding. So is a requirement for a monitoring contribution that would be more than double the sum required for library facilities. The appellant has not submitted a Unilateral Undertaking. In the absence of specific information regarding the Council's policies I do not regard this as a fatal flaw that would justify the withholding of planning permission.
9. I have considered the conditions that the Council suggest should be imposed in the event of planning permission being granted in light of the guidance set down in *Circular 11/95 'The Use of Conditions in Planning Permissions'*. Conditions that require the approval of further details regarding the level of the house, the materials to be used in construction, the boundary treatment, bin storage and the landscaping of the site are needed to ensure that the development relates satisfactorily to the local environment. I have also imposed a condition to ensure that parking spaces are provided. Because of the relationship of the houses to neighbouring property I have added a condition to prevent the erection of extensions without the prior consent of the Council. I have also imposed a condition to ensure compliance with the Council's policy for sustainable design and construction.
10. I have not imposed conditions requiring the timing of construction work or the provision of wheel wash facilities. Such matters are not normally relevant when considering whether planning permission should be granted. If problems arise during construction they can be addressed using other powers available to the Council. I have not imposed a condition regarding obligations to contribute to

education and library facilities. As explained, and in the absence of further information, I believe that such requirements are unreasonable in this case. In any event, such matters should be dealt with through agreements made under S106 of the Town and Country Planning Act 1990 and not by condition.

Jim Metcalf

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin before the expiration of three years from the date of this decision.
2. Before the development hereby permitted commences details of the materials to be used for the external surfaces of the house shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
3. Before the development hereby permitted commences details of the levels of the houses in relation to adjoining land and any changes proposed in the levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
4. Before the development hereby permitted commences details of the boundary treatment and provision for the storage of bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the houses.
5. Before the development hereby permitted commences a scheme of hard and soft landscaping including details of existing trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out before the end of the first planting season following occupation of the house. 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 first occupation of the house shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
6. Before the development hereby permitted is first occupied the parking spaces and garages shown on plan 0290/04 shall be provided and shall not henceforth be used for any purpose other than the parking of vehicles.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 Schedule 2, Part 1 of that Order shall be carried out without the prior written permission of the Local Planning Authority.

8. The house hereby approved shall be constructed to standards set down in either section 6.11 (EcoHomes) or section 6.14 (Code of Sustainable Homes) of the Council's Sustainable Design and Construction Supplementary Planning Document. Before the house is first occupied a certificate of compliance with the appropriate standard shall be submitted to, and acknowledged in writing, by the Local Planning Authority.