



Appeal Decision

Site visit made on 10 April 2014

by Paul Smith BA(Hons) BSc(Hons) MRTPI

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

Decision date: 3 June 2014

Appeal Ref: APP/N5090/A/13/2208810

43 Sunny Gardens Road, Hendon, London, NW4 1SL

- 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 Derren Hamilton against the decision of the Council of the London Borough of Barnet.
 - The application Ref H/00105/13, dated 7 January 2013, was refused by notice dated 19 June 2013.
 - The development proposed is two storey extension to the flank and rear of existing semi-detached two storey residential building to form 4 no. self-contained flats with associated landscape and car parking, demolition of existing single storey parts of two storey residential building.
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Decision

1. The appeal is allowed and planning permission is granted for two storey extension to the flank and rear of existing semi-detached two storey residential building to form 4 no. self-contained flats with associated landscape and car parking, demolition of existing single storey parts of two storey residential building, at 43 Sunny Gardens Road, Hendon, London, NW4 1SL in accordance with the terms of the application, reference H/00105/13, dated 7 January 2013, subject to the following conditions set out in the Schedule attached to this decision.

Application for Costs

2. An application for costs was made by Mr Derren Hamilton against the Council the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural matter

3. As part of this appeal the appellant has submitted an amended plan (drawing no 1033/02 Revision E) indicating the sound proofing of the party wall between the appeal property and No 41 Sunny Gardens Road. The Council and local residents have had the opportunity to comment on this plan and I am satisfied that these parties would not be disadvantaged by my consideration of the plan in the appeal before me.

Main issue

4. The main issue in this appeal is the effect of the proposal upon the living conditions of occupants of No 41 Sunny Gardens Road in respect of noise generation and disturbance.

Reasons

5. The appeal property is a two storey semi-detached dwelling which has been subdivided into three flats although only two of these flats enjoy a lawful planning use. The front door and approach path to No 43 is alongside those of No 41 separated by a dense hedge. The neighbouring property No 41 is occupied by a single family. Elsewhere on this street, flats converted from dwellings are prevalent including No 45 which comprises two flats.
6. The appeal proposal entails the demolition of part of the existing building, the erection of mainly two storey side and rear extensions and the subdivision of the resultant building into four flats. All these flats would be accessed via the existing front door and a communal hall with the two first floor flats sharing the existing stairwell and hall at its head. The main living room of each flat including their kitchens would directly align with those of the flat above or below although the kitchen of one first floor flat would extend over the main entrance and hallway and adjoin No 41. The hallways and stairs of Nos. 41 and 43 adjoin each other with two proposed bedrooms adjoining No 41 at the rear of the building on both floors.
7. In the absence of substantial evidence to the contrary, I am satisfied that the sound proofing of the party wall in accordance with Building Regulations would ensure that the level of noise transmitted from No 43 would be unlikely to cause significant disturbance to the residents of the neighbouring properties.
8. The proposed communal rear garden, if appropriately demarcated and arranged, would be of sufficient size to meet the functional needs of the occupants of the proposed flats. The erection of a tall boundary fence, as proposed, would adequately screen residents of No 41 from the activities conducted within the communal garden. I am also satisfied that the retention of the front hedge between the main entrances of Nos. 41 and 43 would be sufficient to reduce the effect of the arrival and departure associated with the appeal proposal upon No 41.
9. Other converted properties in the street of a size similar to No 43 have tended to be sub-divided into fewer numbers of flats than is proposed with the appeal proposal. Whilst it is possible that the intensity of occupation of the proposal would be greater than in comparable properties in the area this fact alone is not of sufficient weight to justify alone the rejection of the appeal proposal.
10. My attention has been drawn to an appeal decision relating to the subdivision of No 73 Sunny Gardens Road to three flats. I have been provided with a copy of this appeal decision but not of the details of the scheme to which it relates or the circumstances of its approval. This decision is insufficient for me to determine the relevance of this earlier appeal decision to the current proposal. I note however that in contrast with the appeal before me, No 73 is a mid-terrace property attached to both of its neighbours and that it proposed a tripling of the number of dwellings. In any event, I must consider the appeal before me on its own merits.

11. I conclude that the appeal proposal would not result in a harmful degree of noise and disturbance detrimental to the living conditions of occupiers of No 41 Sunny Gardens Road. Consequently, it would accord with Policy DM04 of the Adopted Barnet Development Management Policies 2012 and the Council's draft Supplementary Planning Document: Residential Design Guidelines which amongst other things combine to resist development that generates unacceptable noise levels being located close to noise sensitive uses.

Other matters

12. Objections have been raised by some local residents to the scale, detailing and practicality of the proposed extensions, their effect upon light to the adjoining footpath and homes, views from neighbouring properties and their monetary value. The proposal would entail a substantial enlargement of the existing building although not to the front nor would it dominate the original building. The proposed rear extension would protrude modestly beyond the rear of No 41 and overall, the proposal would not have an adverse effect upon the character and appearance of the site, the surroundings or that of neighbouring properties. The effect of development upon property values is not a planning consideration to which I can apply weight.
13. Objections have been raised to the degree of overlooking of flats in No 45 and their gardens. However, I consider that the windows and mass of the proposal would be sufficiently distant from this neighbouring property as to avoid harm being caused to the living conditions of occupiers of No 45.
14. The proposal would not provide more car parking than currently exists but it would incorporate a covered area for bicycle storage to facilitate the use of sustainable modes of transport. Further, the appeal site lies within a Controlled Parking Zone (CPZ) which applies some control upon on-street parking in the locality. Whilst, local residents state that the CPZ is ineffective and that the proposal would exacerbate current parking difficulties in the street no substantial evidence has been provided to me to support this assertion. Under these circumstances, I do not consider that the proposal would add such an additional strain upon on-street car parking provision as to justify the dismissal of this appeal. I note that the Council has not objected to the provision for car parking and bicycle storage proposed with this scheme.
15. I do not consider that the planting of trees as indicated on the submitted layout plan would exacerbate safety public or residents given the existing vegetation and lighting in and adjoining the site. The proposed tall close boarded fencing along the appeal site boundary would ensure security to occupants of the proposed development.
16. Third parties point out that the rear ground floor flat proposed would have its privacy compromised by the communal garden. At present, part of the communal garden closest to the building is reserved for the use of the ground floor flat by a wooden fence subdividing the rear garden. The appellant states that the communal use of the rear garden would not be changed from the current situation but the proposal does not show the retention of the dividing fence which ensures a private area for the ground floor flat. I agree with the Council that this point could be resolved by the imposition of a condition requiring details of the subdivision of the rear garden.

17. Although access to this garden for occupants of three of the four flats would be via the side public footpath this arrangement would be little more inconvenient to its users than were access provided within the site alongside the building.
18. From my observations and in the absence of substantial evidence to the contrary I consider that these issues raised by local residents are of insufficient magnitude as to constitute reasons for this appeal not to succeed.

Conclusion

19. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

20. It is necessary to impose the standard implementation condition and for the avoidance of doubt and in the interests of proper planning I shall impose a condition defining the plans with which the scheme should accord.
21. However, I do not consider a condition requiring details of the proposed sound proofing of the appeal property is necessary as this issue would be addressed subsequently under Building Regulations.
22. It necessary to control the details of the proposed constructional materials of the extensions and the provision and retention of the proposed car parking, bicycle and bin storage facilities for the exclusive use of occupiers of proposal to ensure that the proposal is designed to a high standard. To protect the effect upon neighbours' living conditions, it is necessary to restrict the potential intensity of residential occupation of the appeal property by limiting the occupation of each flat to single people or by people to be regarded as forming a single household.

Paul Smith

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall begin not later than three 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, Drawing Nos. 1033/01 and 1033/02 Revision E dated November 2012.
- 3) No development shall take place until details of the materials to be used in the construction of the roofs and external walls of the extensions hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The areas allocated for vehicular parking and the storage of bicycles on the approved plan drawing no. 1033/02 Revision E shall be provided, marked out, retained and kept available at all times for the purposes of parking vehicles and storage of bicycles respectively solely in connection with the residential occupancy of No 43 Sunny Gardens Road.
- 5) No development shall take place until details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and maintained thereafter in perpetuity.
- 6) Before the development hereby permitted is occupied details of the subdivision of the communal rear garden area shall be submitted to and approved in writing by the Local Planning Authority, implemented and retained thereafter.
- 7) The development hereby permitted shall be occupied as self-contained residential units under Class C3(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 and for no other purpose (including any other purposes under Class C3 or C4 of the same Order or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order, with or without modification).