



Appeal Decision

Site visit made on 6 November 2017

by **G J Fort BA PGDip LLM MCD MRTPI**

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

Decision date: 28 November 2017

Appeal Ref: APP/N5090/W/17/3180843
129 The Vale, Childs Hill, London NW11 8TL

- 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 B. Glass against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/7691/FUL, dated 2 December 2016, was refused by notice dated 27 January 2017.
 - The development proposed is a part single part two-storey side and rear extension with pitched roof following demolition of an existing garage, new bay window to the front elevation and the relocation of the front entrance; the extension to roof including 1no. rear dormer window and 1no. dormer window to both sides; conversion of the existing family dwelling into 4no. self-contained units; associated site works including a bin store area at front and cycle storage at rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for a part single part two-storey side and rear extension with pitched roof following demolition of an existing garage, new bay window to the front elevation and the relocation of the front entrance; the extension to roof including 1no. rear dormer window and 1no. dormer window to both sides; conversion of the existing family dwelling into 4no. self-contained units; associated site works including a bin store area at front and cycle storage at rear garden at 129 The Vale, Childs Hill, London NW11 8TL in accordance with the terms of the application, Ref 16/7691/FUL, dated 2 December 2016, subject to the conditions in the schedule to this decision below.

Procedural Matter

2. The Council's decision notice on the scheme included a reason for refusal based on the appellant's failure to enter into a planning obligation to meet the costs of amending the Traffic Order to prevent the future occupants of the proposed development from obtaining parking permits. The appellant supplied a unilateral planning obligation¹ with their appeal documents and the Council confirmed in an e-mail² to the Planning Inspectorate that it had no objections to the obligation, and that it formed a legally sound basis to mitigate the harms anticipated in the reason for refusal. Moreover, as the obligation is necessary in the interests of highway safety, directly related to the proposed development, and fairly and reasonably related to it in scale and kind, it meets

¹ Dated 17 October 2017

² Dated 3 November 2017

the tests given in Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 206 of the National Planning Policy Framework (the Framework). Accordingly, a consideration of the parking and highway implications of the proposal has not formed the basis of a main issue in this case.

Main Issue

3. I consider the main issue in this case to be whether the proposed development would result in the loss of a single dwelling suitable for family housing, with regard to the residential character of the area.

Reasons

4. The appeal site is located on a broadly residential street featuring a range of styles and sizes of properties varying in scale and including short terraces, semi-detached and detached properties. At the time of my site visit construction work was ongoing in relation to previous planning permissions affecting the site. The proposed development, as described above, would provide 4 flats at the appeal site.
5. Policy DM01 of Barnet's Development Management Policies (adopted September 2012) (the DM Policies), amongst other things seeks to manage conversion of dwelling houses to flats and states that conversion of dwellings into flats in roads characterised by houses will not normally be appropriate.
6. The appellant and Council supplied information relating to the presence of flat conversions along The Vale. Whilst individual houses would appear to be the predominant building type along the road, there is a considerable number of flats present, including two examples more or less across from the appeal site itself. As a consequence, the road has a clearly varied residential character.
7. Moreover, the most recent planning permission³ related to the site establishes its conversion to flats. I note that this planning permission is subject to successful completion of an obligation relating to its parking aspects. However, I am mindful that an obligation has been agreed in relation to the appeal scheme, and I have been supplied with no substantive evidence which would lead me to the view that a similar obligation could not be entered into in relation to this recent approval. Consequently, the most recent planning permission in relation to the site is a fall-back position on which I place considerable weight in the overall planning balance, and this permission would clearly lead to the loss of the single family dwelling house at the site.
8. The appeal scheme would supply one additional flat at the site over and above the quantity anticipated by the fall-back position. Both schemes would supply a flat, according to the plans with an internal area of around 72.5 SqM, and another with an area of around 80 SqM. The fall-back scheme would include a flat comprising, according to the Council's figures 110 Sqm, which would not be supplied by the appeal scheme, which instead would include a flat of 64.4SqM and one of 41.7 SqM.
9. I am mindful that the Council considers the fallback scheme would, due to the provision of the larger 110 SqM unit, be more sensitive to the prevailing residential character of the area, and its assertion that most flats along the

³ Council reference: 17/2340/FUL dated January 2017

road are larger than the two smaller units that the appeal scheme would provide. However, the evidential basis of the statement regarding the sizes of other flats is not before me, and I also note the details of a recent planning permission⁴ relating to 107 The Vale, which established its use for three flats, including two 1 bedroom units.

10. The appellant supplied evidence to suggest that the number of occupants that the proposed development would accommodate would be broadly comparable with the number that could be accommodated by the fall-back scheme. As this is based on the bed spaces and the gross internal areas that would be supplied in the flats I consider this a reasonable basis for an assessment. Consequently, in the light of this assessment I consider that the proposed development would not necessarily lead to materially more comings and goings or noise and disturbance than the fall-back scheme. Furthermore, I have been supplied with no substantive evidence to suggest that the proposed development would attract occupants that would be more transient than those who could occupy the fall-back scheme, or indeed a larger single unit. Consequently, taking these considerations together leads me to the view that the proposed development would not introduce a use at variance to the established residential character of its surroundings.
11. Accordingly, for the reasons set out above, I conclude that the proposed development would not lead to a loss of a dwelling suitable for family housing, and would not be at variance with the residential character of the area. As result the proposed development would not conflict with Policy DM01 of the DM Policies insofar as it seeks, amongst other things, to restrict the conversion of dwellings into flats in roads characterised by houses.

Other Matters

12. I note comments regarding the size and design of the proposed development. However, given the variety of building types and scales present in the streetscene, I consider that it would not lead to any materially adverse impacts in this respect. Whilst I note comments regarding the deployment of hard surfacing in the front garden of the appeal scheme, and storage of bins there, I saw that neither of these features of the proposed development would appear out of kilter with the prevailing pattern of development in the appeal site's surroundings.
13. I note concerns with noise and disruption during the building process; however, this would be unlikely to intensify as a result of the proposed development in comparison to other extant permissions affecting the appeal site. Moreover, an appropriately-worded condition limiting the hours of construction would help the proposed development to avoid material harm to the living conditions of the occupants of adjacent dwellings in this regard.
14. The proposed development would supply three car-parking spaces, and the agreed planning obligation would restrict the ability of its occupants to apply for car-parking permits. Consequently, I consider that the proposed development would result in no harmful highway safety effects, or any material increase in pollution or lead to increased pressure for parking to the detriment of the residential amenity of the occupants of adjacent properties. In arriving

⁴ Council reference: 15/04715/FUL

at this view I am mindful that I have been supplied with no objections to the proposed development from the local highway authority.

15. The proposed development would introduce dormer windows within its roof space. However, I saw that dormers were far from uncommon in adjacent dwellings, and all allowed some views towards the rear portions of adjacent gardens. I saw that the depth of the proposed development into its plot combined with the orientation of its rear dormer would restrict views available from there to the rearmost part No 131's garden, leaving the bulk of that property's garden and habitable room windows unaffected. The side dormer which would face towards No 131 would look out onto a blank gable at that latter property and due to its orientation would not provide any depth of view into its rear garden.
16. The distance from the proposed development to No 123, combined with the presence of dormer and other high windows on the rears of adjacent properties mean that the proposed development would lead to no material increase in overlooking to No 123. Consequently, the proposed development would not lead to a material reduction in the privacy available to the occupants of No 123 or No 131, and as a result would avoid harm to their living conditions in this respect. For these reasons also I find no disproportionate interference with the rights enshrined in Article 1 of the First Protocol⁵ and Article 8⁶ of the European Convention on Human Rights, as incorporated into UK law by the Human Rights Act 1998.
17. The proposed development would introduce flank walling and obscured glazing along the boundary with No 131, which would project above the existing fence between these properties. However, the limited projection of the proposed development's flank beyond the rear building line of No 131, its distance from habitable room windows within that property, and its relatively limited scale mean that it would not constitute an overbearing or enclosing structure sufficient to materially deplete the outlook available to the occupants of No 131. Consequently, the proposed development would avoid causing harm in this respect.
18. Whilst I am aware of assertions relating to the drainage arrangements of the site, I have been supplied with no evidence to support the view that the proposed development would lead to any effects in these regards over and above the extant or permitted developments at the site.
19. Consequently, none of these other matters, either taken individually or together alters my conclusions regarding the main issue given above.

Conditions

20. I have assessed the list of conditions supplied by the Council against the tests given in paragraph 206 of the Framework, this states that they should only be attached where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise and reasonable in all other respects. Where I have attached conditions, I have in some instances amended the wording in the interests of clarity.

⁵ Protection of property

⁶ Right for respect for private and family life

21. In the interest of certainty I have attached a condition which specifies the approved plans. In the interests of the character and appearance of the area and the residential amenity of the occupants of adjacent dwellings and the future occupiers of the proposed development I have attached a condition requiring implementation of the bin storage as shown on the approved plans prior to the appeal scheme's first occupation.
22. To ensure that the living conditions of the occupants of adjacent properties would not be materially harmed as a result of noise and disturbance during the development of the site I have attached a condition limiting the hours of construction. In the interests of the privacy of the occupants of neighbouring dwellings I have attached a condition restricting the use of the flat roof for amenity space.
23. In order that the proposed development makes adequate arrangements for cycle parking I have attached a condition requiring provision of this in line with the approved plans prior to its first occupation.
24. I have attached conditions requiring the implementation of the subdivision of the amenity space to ensure that the proposed development makes adequate arrangements for its future occupants in these regards.
25. Part G of the Building Regulations 2010 (as amended) includes optional technical standards in relation to water efficiency requirements. However, these optional standards do not apply to material changes of use for the purposes of the Building Regulations where "the building, which contains at least one dwelling, contains a greater or lesser number of dwellings than it did previously"⁷. Whilst I saw at my site visit that extensive building work was ongoing, the description of development clearly relates to subdivision of an existing dwelling. Consequently, for this reason, the optional water efficiency standards set out in the Building Regulations cannot be applied in this case, and as a result I have not attached the Council's suggested condition requiring compliance with these standards.
26. As compliance with Part E of the Building Regulations is mandatory and thus subject to other statutory controls outside of the planning acts, I consider the condition requiring compliance with it is unnecessary in this case.

Conclusion

27. For the reasons set out above, I conclude that the proposed development would meet the expectations of the development plan, insofar as the above mentioned policy is concerned. Accordingly, for these reasons, and taking into account all other matters raised, the appeal should succeed.

G J Fort

INSPECTOR

⁷ As established in Part G of Schedule 1 and Regulation 5(g) and Regulation 36 of the Building Regulations 2010 (as amended)

Schedule of 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 and details: Site Location Plan; 129TV-PP3-03 Rev A Proposed Floor Plans and Elevations; 129TV-PP3-01 Existing and Proposed Block Plans; Design and Access Statement.
- 3) No dwelling shall be occupied until the screened facilities for the storage and collection of refuse containers shall be provided in accordance with drawing no. 129TV-PP3-03 Rev A Proposed Floor Plans and Elevations. The screened facilities shall thereafter be kept available for those purposes.
- 4) The flat roof hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 5) Demolition or construction works shall take place only between 0800 and 1800 on Mondays to Fridays and between 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 129TV-PP3-03A Proposed Floor Plans and Elevations for bicycles to be parked in cycle storage facilities and that space shall thereafter be kept available for the parking of bicycles.
- 7) The amenity space shall be subdivided as shown on drawing no. 129TV-PP3-03 Rev A Proposed Floor Plans and Elevations before first occupation of the development hereby approved and retained as such thereafter.