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# Appeal Decision

Site visit made on 26 June 2018

**by A Parkin BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28 November 2018**

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**Appeal Ref: APP/N5090/W/18/3198547**

**125 Sunny Gardens Road, Hendon, London NW4 1SH**

- 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 Graham Valentine against the decision of the Council of the London Borough of Barnet.
  - The application Ref 17/6722/FUL, dated 23 October 2017, was refused by notice dated 19 December 2017.
  - The development proposed is basement, ground and first floor extensions and conversion from 1no. house to 3no. self contained flats, with associated parking, bin and cycle storage.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. There is disagreement between the two parties regarding the current use of the appeal property. The Council state that it is a single family house, which is supported by the information contained on the application form. However, the appellant states that planning permission for the conversion of the property into two self-contained flats following the demolition of the existing rear extensions was granted by the Council on 12 February 2018<sup>1</sup>. This application was registered by the Council prior to the decision to refuse planning permission for the appeal development, and was approved subsequently. The appellant submits that work to implement this consent is underway, evidence of which I saw on site.
3. The appellant indicates, and it is not disputed by the Council, that the proposed development would largely replicate the 2-flat conversion, discounting the rear extensions. In this regard there is a greater than theoretical possibility of the approved scheme taking place. Furthermore, this scheme would not be dissimilar to the scheme before me. Therefore I have attached substantial weight to this scheme in my assessment of the appeal before me. I refer to this again within the main reasoning.
4. There are some minor errors in the Council's references to policies and guidance on their decision notice and associated documents. The Council has confirmed that reference to the Residential Design Guidance Supplementary Planning Document (RDGSPD) April 2013 in their second reason for refusal should have been a reference to the RDGSPD 2016. Furthermore, the Council

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<sup>1</sup> Ref 17/7920/FUL

has also confirmed that in the first reason for refusal, reference to *Policy CS NPPF* of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (BLPCSDPD) was intended, instead of to *the NPPF*. I have considered the appeal on this basis.

5. The Government published the revised National Planning Policy Framework (the Framework) on 24 July 2018. The parties were given an opportunity to comment on the implications for the decision. Representations received in relation to the Framework 2018 have been taken into account in determining this appeal.

### **Main Issues**

6. The main issues are the effect of the proposed development on the character and appearance of the appeal property and the wider area, on the living conditions of neighbouring occupiers in terms of outlook, and on the living conditions of the future occupiers of the appeal property in terms of outdoor amenity space, light, outlook and ventilation.

### **Reasons**

7. Sunny Gardens Road is a residential street containing predominantly 2-storey semi-detached houses, on narrow but fairly large plots. The properties typically have small front gardens but much larger gardens to the rear, and there is a vehicular access to the rear via a private road.

#### *Living conditions of neighbouring occupiers*

8. When I visited the site, access was limited due to the presence of stored construction materials. Nevertheless, with reference to window heights and the submitted plans I was able to assess what the impact of the proposed extensions would be.
9. The ground floor rear extension would be located by the boundary with 123 Sunny Gardens Road, which has been converted into flats, but unlike No. 127 or No. 121, has not had a significant ground floor rear extension added. The proposed extension would extend some seven metres from the principal rear elevation of the property, five metres adjacent to the boundary, and then with a one metre set-back, for a further two metres.
10. In paragraphs 3.18 and 3.19 of their statement the appellant says that the extension is only five metres '*at its longest point*'. However, the submitted plan 2015/1292/7B referred to by the appellant clearly shows that the extension would be seven metres maximum distance from the principal rear elevation of the property, albeit with a one metre setback some two metres from the end. It would be visible above the top of the boundary fence and because of its size, bulk and position on the boundary it would create a sense of enclosure and would significantly reduce the outlook from the ground floor habitable room in the rear elevation of No. 123. The outlook from the associated patio area by this room would be similarly affected.
11. I note what the appellant says in relation to what would be allowed as permitted development and that it would not apply in this case, given that the appeal property is no longer a single house. However, in this case, it does not lead me to a different conclusion with regards to the harm that would be

caused to the living conditions of neighbouring occupiers by the proposed ground floor extension in terms of reduced outlook.

12. I also note the photograph of similar sized ground floor extensions to the north of the appeal property in a similar position to what is proposed. I do not have all the details of these cases before me. I am not fully familiar with what is shown, or other details that may not be shown. Nevertheless the photographs suggest that there are differences between these extensions and the appeal situation. The pair of semi-detached properties to the north have similar sized ground floor extensions with consequently similar outlooks. In contrast the proposed extension at the appeal building would be very different to the rear of its joined neighbour No. 123, as set out above. I have in any event considered this appeal on its individual merits.
13. For the reasons set out above I therefore conclude that the proposed extension would be an overbearing and over-dominant feature that would be harmful to the living conditions of the occupiers of the ground floor flat at No. 123. It would therefore be contrary to Policy DM01 (character and amenity) of Barnet's Local Plan (Development Management Policies) Development Plan Document (BLPDMPPDP) 2012, Policy CS5 (character) of BLPCSDPD 2012 and the RDGSPD 2016, and with the Framework 2018, in this regard.

#### *Living conditions of future occupiers*

14. Bedroom 2 of the ground floor flat is within the main building, and under the approved two bedroom flat conversion that is currently being implemented<sup>2</sup> would have a window looking out towards the rear garden area. The appeal development would include a ground floor extension across most of the width of the rear elevation, and would thereby block light and outlook from this window.
15. To address this point, the appellant proposes to install a new window in the side elevation, facing north towards the timber rail-topped fence on the boundary with No. 127 and the blank side elevation of that property. The outlook from this window would therefore be very limited, and at ground floor level with a northerly outlook would generally be in shadow, providing little natural light. The footpath it faces onto is narrow and between the side elevations of the two buildings, which would mean limited natural ventilation to the room should the proposed window be opened.
16. I note what the appellant says in paragraph 3.50 of their statement that the proposed window would be triple aspect receiving light from the front bay, the side and the rear. Nevertheless, the submitted drawings show that it would be a single aspect window facing northwards, and I therefore disagree with this statement.
17. I also note what the appellant says in paragraph 3.51 of their statement about the pre-existing window for the kitchen, and that the kitchen would be used more often than a bedroom. I note that a 'habitable room' as defined in the Sustainable Design and Construction Supplementary Planning Document (SDCSPD) 2016 would include both bedrooms and kitchens. In any event, I can only consider what is before me in relation to this appeal, namely in this case, the provision of a single aspect window to ground floor bedroom 2.

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<sup>2</sup> Ref 17/7920/FUL

18. The provision of four car parking spaces to the rear would limit the amount of communal garden space to the rear to around 55m<sup>2</sup>, which the Council state would be below the minimum standards set out in the SDCSPD 2016. The submitted drawings show twelve habitable rooms, including three kitchen / lounges which I have considered as single rooms. For a flat development this would therefore require 60m<sup>2</sup> of outdoor amenity space. However, taking the terrace and patio areas for the rear basement flat into account, the amount of outdoor amenity space proposed for the development would meet the standards specified by the Council in terms of flats.
19. The appellant has provided revised plans showing an increase in the size of the outdoor amenity space. This would be achieved by a reduction in the number of car parking spaces to the rear, from four to two, although this would be partially offset by an increase in the parking spaces to the front, from two to three. The Council state that the appeal property has a Public Transport Accessibility Level (PTAL) of 0, which is poor. Cars, and consequently car parking spaces, would therefore be important to the future occupiers of the proposed development. I also note that objections from nearby residents have been made in relation to parking issues.
20. With reference to relevant government guidance<sup>3</sup> it would not be appropriate to consider these revised proposals as part of this appeal. I have therefore determined the appeal on the basis of the development that was refused planning permission by the Council.
21. Notwithstanding that the proposed development would not be harmful to the living conditions of the future occupiers in terms of outdoor amenity space, for the reasons set out above I conclude that the proposed development would be harmful to the living conditions of the occupiers of ground floor bedroom 2 in terms of light, outlook and ventilation. It would therefore be contrary to Policies CS NPPF (presumption in favour of sustainable development), CS1 (place shaping) and CS5 (character) of BLPCSDPD September 2012, Policies DM01 (character and amenity) and DM02 (development standards) of BLPDMPDPD 2012, and the RDGSPD 2016 and SDCSPD 2016, and with the Framework 2018, in this regard.

#### *Character and appearance*

22. The proposed first floor extension is not in dispute, and the ground floor extension would not be untypical of the area, in terms of size and massing. The rear basement extension would extend a considerable distance from the rear elevation of the house and across much of the width of the rear garden. It would be visible from upper windows of neighbouring properties, in the way that the rear garden is visible at present. The appearance from these vantage points would be of a ground floor terrace, with part of the 'sunken' patio area beyond leading to the communal garden - features that would not be out of place in a rear garden. As a result of this and because it would be largely hidden from view as a result of boundary fences, planting and its subterranean nature, its impact on the character and appearance of the property and the wider area would be limited and not harmful.
23. The proposed development, by increasing the number of dwellings and the number of occupiers would increase activity levels at the appeal property,

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<sup>3</sup> Annexe M.1.1 and M.2.1 of *Planning appeals – England: Procedural Guide*

which the Council consider would be '*over-development*'. They also state that there would be a consequent increase in '*comings and goings*' at the appeal property, together with associated noise and disturbance, compared to a single house or two flats. However, given that there are other flats in the area, including next door at No. 123, and that planning permission for two flats at the appeal property has already been granted, the proposed development would not be out of character here.

24. Of the six off-street car parking spaces that are proposed, four would be to the rear in what was previously a garden area, and next to the rear gardens of neighbouring properties. I note what the appellant says about some neighbouring properties using their rear gardens to park vehicles, and whilst I did not see this when I visited the site, given the private access road, this is unlikely to be exceptional and would not be out of character with the area. Furthermore, both the garden and the car parking area would be ancillary to the residential use, and so in that sense would be in keeping with the character of the property and the wider area.
25. The appellant refers to an earlier scheme at the property for the conversion into four self-contained flats with associated extensions<sup>4</sup>. This proposal was refused planning permission and was subsequently dismissed at appeal<sup>5</sup> on 30 April 2013. The appellant has drawn my attention to two aspects of the decision: that the Inspector's view was that the single dominant character of the area by the appeal site was formed by single family housing; and that the proposed rear extensions would overwhelm the rear elevation in a visually dominant manner.
26. The appellant considers that the scheme addressed by this appeal is very much apart from the current appeal, although from the plans it seems that in physical form it is not dissimilar. However, I am not fully familiar with this appeal and I have had very limited and non-determinative regard to this decision, which was made more than five years ago, before permission to convert the property into two flats was granted, and before some of the policy guidance used by the Council was written. I have considered this appeal on its individual merits.
27. For the reasons set out above, I conclude that the proposed development would not harm the character and appearance of the appeal property and the wider area and would therefore accord with Policies CS NPPF (presumption in favour of sustainable development), CS1 (place shaping) and CS5 (character) of BLPCSDPD 2012, Policies DM01 (character and amenity) and DM02 (development standards) of BLPDMPDPD 2012, the RDGSPD 2016, and with the Framework 2018, in this regard.

### **Other Matters**

28. The appellant refers to the contribution that the proposed additional flat would make to meeting the Council's housing requirements, and the support that this has from various policies. Whilst the proposed unit would indeed contribute to meeting the Council's housing requirements, in relative terms the contribution would be very small and would not outweigh the significant harm to the living

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<sup>4</sup> Ref H/00658/12

<sup>5</sup> Ref APP/N5090/A/12/2187794

conditions of neighbouring and future occupiers in terms of outlook, light and ventilation that I have identified above.

**Conclusion**

29. Notwithstanding that the proposed development would not be harmful to character and appearance, or the living conditions of the future occupiers in terms of outdoor amenity space, this would not outweigh the significant harm to the living conditions of neighbouring and future occupiers set out above, and the appeal is therefore dismissed.

*Andrew Parkin*

INSPECTOR