



## Appeal Decision

Site visit made on 7 January 2019

**by Alexander Walker MPlan MRTPI**

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

**Decision date: 18<sup>th</sup> January 2019**

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**Appeal Ref: APP/N5090/W/18/3208013**

**Land Rear of 77-79 Hale Lane, London NW7 3RU**

- 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 Ms Emmanouela Pilini against the decision of the Council of the London Borough of Barnet.
  - The application Ref 18/2977/FUL, dated 15 May 2018, was refused by notice dated 13 July 2018.
  - The development proposed is a two storey residential dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. In their reason for refusal the Council refer to the effect of the development on the living conditions of the occupants of 77 Hale Lane. However, in their statement of case they confirm that this reference was in error and their only objection is with regard to the effect on the living conditions of the occupants of 79 Hale Lane.
3. Accordingly, the main issue is the effect of the development on the living conditions of the occupants of 79 Hale Lane, with particular regard to outlook and light.

### Reasons

4. The proposed dwelling would be approximately 2.5m from the close boarded timber fence boundary with 79 Hale Lane and approximately 8.15m from its single-storey rear elevation, which serves a kitchen/dining room. It would be two-storey in height with the north flank elevation measuring approximately 5m in height to the eaves.
5. The two-storey dwelling would rise substantially above the boundary fence, appearing as a dominant feature when viewed from the rear windows in No 79, particularly from the ground floor windows. This would significantly reduce the outlook from these windows resulting in an unacceptable over bearing impact on the occupants of the No 79. Furthermore, No 79 has a small rear garden which is short in depth. Due to its height and proximity, the dwelling would also significantly diminish the outlook from the garden resulting in it having an unacceptably overbearing impact on its occupants.

6. I have had regard to the use of a 'green wall' on the north elevation of the dwelling. Whilst fast growing plants could be planted, even they would take a significant time to establish enough to cover the elevation. In any event, due to the height and proximity of the dwelling I do not consider that, even when fully established, the 'green wall' would adequately mitigate the significant harm to the outlook from No 79 as there would still be a lack of visual depth.
7. In addition, whilst the use of a hipped roof would reduce the effect on outlook, in this instance, due to the height and proximity of the dwelling to No 79, it would not adequately mitigate the overbearing effect it would have on its occupants. I also note the difference in ground levels between the appeal site and that of No 79. However, I do not consider that the slightly lower ground level of the appeal site would materially reduce the harm to outlook.
8. In their reason for refusal, the Council refer to loss of sunlight at No 79. However, they offer no objective analysis as to how this harm would arise. The Daylight and Sunlight Report prepared by Daylight and Sunlight (UK) Limited, dated 1 May 2018, which was submitted with the application, concludes that the proposal would meet the BRE guidelines for daylight and sunlight and that the surrounding buildings and amenity areas will remain adequately lit. On the basis of the evidence before me, including my own observations on site, and in the absence of any substantive evidence to the contrary, I find that the proposal would not have any significantly harmful effect on the amount of light serving No 79, or indeed 77 Hale Lane.
9. I have had regard to the planning history of the site, in particular the previous appeal decisions<sup>1</sup>, which are significant material considerations. I acknowledge that the current proposal has been informed by the previous Inspector's comments for appeal APP/N5090/W/17/3188467 and as a result the dwelling would have less of an effect on the living conditions of neighbouring occupants than the previously dismissed scheme, most notably due to the reduced height of the north elevation and the use of a hipped roof. However, even with these significant changes, the proposal would still have a significantly harmful effect on the outlook from the rear windows of No 79 and its rear garden and as a result have an unacceptably overbearing effect on its occupants.
10. Whilst I find that the proposal would not result in any significant harm to light serving 79 Hale Lane, or any other neighbouring properties, it would nevertheless significantly harm the living conditions of the occupants of 79 Hale Lane, with regard to outlook. As such, it would be contrary to Policy DM01 of the London Borough of Barnet's Local Plan Development Management Policies 2012, which, amongst other things, seeks to ensure that development allows for adequate outlook for adjoining occupiers. It would also be contrary to Policies CS1 and CS NPPF of the London Borough of Barnet's Core Strategy 2012, which, amongst other things, seeks to ensure that development is of the highest standard of urban design. In addition, it would fail to comply with the guidance set out in the London Borough of Barnet's Supplementary Planning Document: Residential Design Guide 2016, which provides advice on ensuring adequate outlook is retained.

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<sup>1</sup> Appeal Refs: APP/N5090/W/16/3153473 and APP/N5090/W/17/3188467

## **Other Matters**

11. The Council raise no objection to the design of the dwelling. Based on the evidence before me and my own observations on site, whilst the dwelling would be smaller than other properties within the locality, it would be of a similar height and width and would largely follow the existing building line of neighbouring properties. Overall, I do not consider that the proposal would have a significantly harmful effect on the character and appearance of the area.
12. The proposal would increase the amount of traffic using the local highway network. However, this increase would be negligible. There is no substantive evidence before me that it would have a significantly harmful effect on highway safety. Furthermore, it would provide two on-site parking spaces, which would adequately serve the dwelling without having any harmful effect on on-street parking provision.
13. I have had regard to the effect of the development on the outlook from 77 Hale Lane. Given that the dwelling would be off-set from the rear of No 77, I am satisfied that adequate outlook would be retained from its windows in the rear elevation and from the rear garden.
14. The dwelling would make a positive, albeit limited, contribution to the local housing supply and be located in an accessible location. However, given the scale of the development I attribute these matters limited weight in favour of the proposal.

## **Conclusion**

15. The proposal would make a positive contribution to the Council's housing supply and would be in an accessible location. However, individually or cumulatively, this does not outweigh the significant harm it would have on the living conditions of the occupants of 79 Hale Lane, with regard to outlook.
16. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

*Alexander Walker*

INSPECTOR