



## Appeal Decision

Site visit made on 6 June 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> August 2023

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Appeal Ref: APP/N5090/W/22/3313797

117 Station Road, Hendon, London NW4 4NL

- 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 Ari Sufrin against the decision of the London Borough of Barnet.
  - The application Ref 22/4356/FUL, dated 26 August 2022, was refused by notice dated 21 October 2022.
  - **The development proposed is described as "conversion of the existing dwelling into 5no. self-contained flats. Associated Velux windows, parking, cycle parking, refuse and recycling store and amenity space."**
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### Decision

1. The appeal is dismissed.

### Applications for costs

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

### Preliminary Matters

3. **Barnet's Draft Local Plan has been submitted for examination under Regulation 22** of the Town and Country Planning (Local Planning) (England) Regulations 2012. However, I am not aware of the exact stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

### Main Issues

4. The main issues are:
  - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to internal space, outlook and noise;
  - the effect of the proposed development on the living conditions of existing occupiers of neighbouring properties, with particular regard to noise and disturbance; and,
  - the effect of the development on the character and appearance of the area.

## Reasons

### *Living conditions future occupiers*

5. Flat 4a in the proposed development would be a one bedroom studio flat. There is disagreement between the main parties relating to the number of future occupiers of this flat. The submitted Design and Access Statement refers to this flat as Flat 4 and states it would be a two-person unit. The occupancy of this flat is reinforced by the submitted plans, which show a double bed. This suggests Flat 4a is intended for occupation by up to two people. I have considered the appeal on this basis.
6. Policy D6 of the London Plan 2021 (LP) requires a one bedroom, two-person unit to have a minimum floor area of 50sqm. Flat 4a has a floor area of 40.1sqm, which is a significant shortfall below the minimum requirements. The extent of the shortfall would result in cramped living conditions for future occupiers.
7. Supplementary Planning Document: Residential Design Guidance 2016 (RDG) provides guidance on minimising the potential for noise transfer between new homes including, amongst other things, vertical stacking of rooms between flats should as far as practical ensure that bedrooms do not overlap living rooms, kitchens and bathrooms on other floors.
8. The living area of Flat 4b would partially overlap the bedroom to Flat 4a, contrary to the guidance in the RDG. In my judgement, this arrangement would be harmful to future occupiers of Flat 4a. In particular, there could be disturbance to those in Flat 4a trying to sleep, when occupiers of Flat 4b are using the living area, with the potential for noise transfer from voices, music or a television, for example. Sound insulation, to be provided in accordance with building regulations, could be dealt with by condition. However, there is no substantive evidence before me that demonstrates this suggested measure would adequately mitigate against the noise concerns raised. The layout of the proposed development would therefore give rise to noise disturbance, to the detriment of the living conditions of future occupiers. This reinforces my view that living conditions within Flat 4a would not be satisfactory.
9. Flat 4b is located in the roof space of the property. It is an open plan studio room served by a dormer window and a number of rooflights. Based on the evidence before me, the two rooflights in the kitchen area, to the front of the property, would be sited low enough to provide future occupiers good outlook. Similarly, the two rooflights in the bedroom area, located to the rear of the property, would also be low enough to provide good outlook. The combination of a dormer window, rooflights and open plan living space is such, that future occupiers of Flat 4b would be afforded good outlook.
10. For the reasons outlined above, I conclude that the development would result in unacceptable harm upon the living conditions of future occupiers, with regards to internal space and noise. However, it would not affect the living conditions of future occupiers in terms of outlook. Nevertheless, the harm I have found regarding the living conditions of future occupiers, in respect of internal space and noise means that there would be conflict with Policy DM04 of **Barnet's Local Plan Development Management Policies Development Plan Document 2012 (DMP)**, Policies D3, D6 and D14 of the LP, guidance within the RDG and Supplementary Planning Document: Sustainable Design and

Construction 2016 (SDC) and the National Planning Policy Framework (the Framework). Collectively, these seek to ensure, amongst other things, that development protects amenity, does not generate unacceptable noise levels, achieves indoor environments that are comfortable, provides adequately sized rooms, mitigates and minimises the potential adverse impacts of noise and creates places with a high standard of amenity for future users.

11. The Council have referred to Policy DM01 of the DMP and Policies CS1 and CS5 of **Barnet's Local Plan Core Strategy Development Plan Document 2012 (CS)** within their reason for refusal. These policies relate to, amongst other things, **Barnet's place shaping strategy and protecting and enhancing Barnet's** character and amenity. As these policies do not refer to living conditions of future occupiers, with regard to internal space, outlook and noise, they are not determinative to this matter.

*Living conditions existing occupiers*

12. The Council have not identified which properties they consider would be affected by the proposed development. Neighbouring properties, 115 and 119 Station Road, have both been subdivided into flats. The wider area is predominately residential and characterised by a mix of single dwellings and flats.
13. The subdivision of No 117 into four flats has previously been established through extant permission reference 21/5074/FUL (the extant permission). An additional residential unit could increase comings and goings to and from the site. However, having regard to the size of the additional unit and number of additional future occupants, movements generated by the scheme are likely to be low. Having regard to this and the mixed residential character of the area, the additional movements would not significantly increase comings and goings to the site to a level that would be unacceptably harmful to the living conditions of existing occupiers through noise and disturbance.
14. For the above reasons, the proposed development would not result in unacceptable harm to the living conditions of existing occupiers of neighbouring properties, with particular regard to noise and disturbance, and I find no conflict with the aims for residential amenity within Policy DM04 of the DMP, Policies D3 and D14 of the LP, the RDG, the SDC and the Framework.
15. The Council have referred to Policy DM01 of the DMP and Policies CS1 and CS5 of **Barnet's Local Plan Core Strategy Development Plan Document 2012 (CS)** within their reason for refusal. These policies relate to, amongst other things, **Barnet's place shaping strategy and protecting and enhancing Barnet's** character and amenity. As these policies do not refer to living conditions of existing occupiers, with regard to noise and disturbance, they are not determinative to this matter.

*Character and appearance*

16. No 117 Station Road is located in a predominantly residential area, comprising a mix of single residential units, properties that have been sub-divided into no more than four residential units and purpose-built flats, which have in excess of four residential units. The character of the area is therefore mixed with respect to the intensification of residential units.

17. Having regard to the mixed residential character of the area, the creation of one additional residential unit, when compared with the extant permission, would not materially increase comings and goings to the site to a level that would be harmful to the areas character.
18. The proposed scheme would not result in any external works to No 117. The appearance of No 117 would therefore remain as a detached two storey property. As such, there would be no harm to the host property or character and appearance of the area as a result of the development proposed.
19. For the above reasons, the proposed development would not result in harm to the character and appearance of the area. This accords with Policies CS1 and CS5 of the CS, Policy DM01 of the DMP, Policies D3 and D14 of the LP, guidance within the RDG and SDC and the Framework. Collectively, these seek to ensure, amongst other things, that development is located in accordance with **Barnet's place** shaping strategy, that conversion of dwellings into flats in roads characterised by houses will not normally be appropriate and protect, enhances and are sympathetic to local character.
20. The Council have referred to Policy DM04 of the DMP within their reason for refusal. This policy relates to, amongst other things, environmental considerations for development. As it does not refer to the character and appearance of an area, it is not determinative to this matter.

#### Other Matters

21. The proposed development would provide a net gain of four additional residential units, on a well located small site. It would contribute to housing land supply in the area, of which there is a shortage. These benefits would accord with policies H1 and H2 of the LP which support housing development. However, there would only be one additional unit compared to the approved scheme for 4 flats. In my judgement, any benefits arising from that do not carry sufficient weight to overcome the harm I have identified.
22. The proposed development would provide an off-street parking space and secure cycle storage. It is unlikely to lead to potential demand for on-street parking. The Council have raised no concerns with regard to these matters and compliance with the development plan in this regard is a neutral matter.

#### Conclusion

23. For the above reasons I conclude that, while the proposal would not harm the living conditions of existing occupiers or the character and appearance of the area, the harm I have identified to the living conditions of future occupiers is determinative. Having considered all the policies drawn to my attention, I find that the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

*S Pearce*

INSPECTOR



## Costs Decision

Site visit made on 6 June 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> August 2023

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Costs application in relation to Appeal Ref: APP/N5090/W/22/3313797  
117 Station Road, Hendon, London NW4 4NL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Ari Sufrin for a full award of costs against the London Borough of Barnet.
  - The appeal was against the refusal of planning permission for development proposed **described as "conversion of the existing dwelling into 5no. self-contained flats. Associated Velux windows, parking, cycle parking, refuse and recycling store and amenity space"**.
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### Decision

1. The application for an award of costs is refused.

### Reasons

2. Parties in planning appeals normally meet their own expenses. However, **Planning Practice Guidance ('PPG')** advises that, **irrespective of the outcome of the appeal**, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG states that awards may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the planning merits of the appeal. This is a substantive application.
3. **The applicant's cost claim asserts that the Council acted unreasonably in regard to their reliance on vague, generalised or inaccurate assertions about the proposals impact, which are unsupported by an objective analysis.** The applicant also asserts that the Council relied upon non-planning matters. The Council have not provided a response to this cost application.
4. In terms of the planning application, which is subject of the appeal before me, **the Council's** Delegated Report provides an adequate assessment of the merits and concerns relating to the proposed development. Furthermore, the reasons for refusal are specific to the proposal, are planning related and refer to local and national planning policy. Also, the Council has further justified its reasons for refusal within their appeal Statement of Case. Therefore, I am satisfied that the Council's **assessment** is supported by sufficient analysis, which is ultimately a matter of planning judgement.
5. The applicant has provided their own analysis of the development proposal, during both the application and appeal, whereby they exercised their own planning judgment regarding the disputed matters.

6. The PPG advises that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. The Council did not behave unreasonably in making their decision using their planning judgement, which was based on the information that they had, in accordance with the development plan and other material considerations.
7. For the reasons set out above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and the application for an award of costs must fail.

*S Pearce*

INSPECTOR