



Appeal Decision

Site visit made on 4 November 2014

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 3 December 2014

Appeal Ref: APP/N5090/C/14/2216789 9–11 Watford Way, London NW4 3JL

- The appeal is made by Chaim Was yng under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/00713/13/H) issued by the Council of the London Borough of Barnet on 24 March 2014.
 - The breach of planning control alleged in the notice is “the carrying out of extension works to form a gable end roof at third floor level with full width rear box dormer and the use of the third floor as two self-contained residential units”.
 - The requirements of the notice are as follows: -
 - “1 Cease the use of the third floor level as two self-contained units of residential accommodation
 - 2 The demolition of the gable end roof and full width rear box dormer at third floor level
 - 3 The permanent removal from the property of all constituent materials resulting from the works in 1 & 2 above”.
 - The period for compliance with these requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g).
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990 for development at 9–11 Watford Way, London NW4 3JL consisting of the carrying out of extension works to form a gable-end roof at third-floor level with full-width rear box dormer and the use of the third floor as two self-contained residential units, subject to the following conditions: -
 1. If within 1 month of the date of this decision full details of a scheme specifying the steps to be taken to control noise emanating from each flat, together with a timetable for the implementation of the scheme, has not been submitted in writing to the local planning authority for their written approval, and if the approved scheme is not carried out as approved within 3 months of the local planning authority's written approval, the use of the flats shall cease until such time as such a scheme is approved in writing and carried out as approved. If no such scheme is approved in writing within 9 months of the date of this letter, the use of the flats shall cease until such time as such a scheme approved in writing by the local planning authority has been carried out

as approved. All matters carried out in accordance with the approved scheme shall be retained as approved.

2. If within 1 month of the date of this decision full details of the works to be carried out for the external storage of the refuse and recycling bins used by the occupiers of each flat, together with a timetable for the implementation of the works, have not been submitted in writing to the local planning authority for their written approval, and if the approved works are not carried out as approved within 3 months of the local planning authority's written approval, the use of the flats shall cease until such time as such works are approved in writing and carried out as approved. If no such works are approved in writing within 9 months of the date of this letter, the use of the flats shall cease until such time as such works approved in writing by the local planning authority have been carried out as approved. All matters carried out in accordance with the approved works shall be retained as approved.

Reasons for the decision

Ground (a)

2. The main issues in deciding whether planning permission should be granted for the development concern its effect on the character and appearance of the property and its surroundings and the acceptability of the living conditions provided by the flats.
3. This locality is characterised by properties with parade frontages and an assortment of building works at the rear. Most ground floors are in commercial use and there is a variety of office and residential uses on the upper floors.
4. Planning permission was granted in 2009 (application No: H/03278/09) for development at the property, comprising "Creation of new gable end roof with roof lights to front and rear elevations, and two rear dormer windows to create additional two new self-contained flats". The development appears to have been carried out as approved at the front, with a pitched roof over the original flat roof, but at the rear it differs from the approved pitched roof with dormers.
5. The development is clearly more bulky at the rear than it would have been if it had been built as approved. Here, it is tantamount to the construction of an additional storey, which is flat-roofed and has four water tanks on the roof. Its roof is, however, no higher at its highest point than it would have been and it remains at a height that is consistent with the height of adjoining buildings. Other buildings substantially screen views of the rear of the development from the side. The direct view of the rear from the service road is tempered by the fact that the development is set back behind the pre-existing high projections at the rear of the property. In my opinion, the development is not particularly prominent in its surroundings and does not look out of keeping with the property as a whole.
6. The living conditions provided by the one-bedroom flats approved in 2009 were considered to be acceptable at the time. The flats as built are still one-bedroom flats, but the departure from the approved plans has resulted in them having more headroom at the rear and, as a result, an increase in the useable floor space. The Council now state (applying space standards that have come into

effect since 2009 and after the flats were built) that the flats should be treated as having double bedrooms. They maintain that single bedrooms are defined in the Mayor of London's 2012 Housing Supplementary Planning Guidance as "being between 8-12sqm, whilst bedrooms of more than 12 sqm are considered double or twin rooms", requiring a minimum overall floor space greater than that which has been shown to have been achieved in the flats. As a result, the Council state that the flats fail to provide adequate living space.

7. The 2012 Guidance does not define bedrooms in the way the Council have interpreted it. It simply states that as a matter of good practice "The minimum area of a single bedroom should be 8sqm. The minimum area of a double or twin bedroom should be 12sqm". A single bedroom does not become a double or twin bedroom just because it has a floor space greater than 12sqm.
8. The 2011 London Plan states that developers are encouraged to exceed minimum standards and Barnet's Sustainable Design and Construction Supplementary Planning Document 2013 promotes the provision of a good standard of headroom. The Council's approach to the flats takes no account of this encouragement or of the improvements in living conditions that the extra headroom and useable floor space have created for the occupiers.
9. The London Plan provides that "developers should state the number of bedspaces/occupiers a home is designed to accommodate rather than, say, simply the number of bedrooms". The appellant has indicated that the flats have been designed for single-person occupancy. The Plan sets out a minimum standard of 37sqm of floor space for a one-person, one-bedroom flat. The flats achieve this standard and I saw on my inspection that they provide acceptable living conditions for their occupiers.
10. I have considered the objection made by a neighbour about the lack of parking spaces for the occupiers of the flats. In view of their central location, the flats were treated in 2009 as being acceptable without the provision of parking spaces and I do not consider that the changes made in their construction have affected that conclusion.
11. In the circumstances I have described above, I do not consider that the development as built fails to comply to any substantial extent with the planning policies and guidance referred to by the Council. The appeal has therefore succeeded on ground (a) and planning permission has been granted.
12. It has not been suggested that any planning conditions should be imposed in this event. However, it has not been demonstrated in the appeal that adequate sound insulation or external storage facilities have been provided and I have therefore imposed conditions dealing with these matters, in order to protect residential amenities and the appearance of the locality.

Grounds (f) and (g)

13. In view of the success of the appeal on ground (a), the notice has been quashed. Grounds (f) and (g) no longer fall to be considered.

D.A.Hainsworth

INSPECTOR