

Appeal Decision

Site visit made on 11 October 2016

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 10th November 2016

Appeal Ref: APP/N5090/W/16/3155371

31/33 Dollis Avenue, Finchley, London N3 1BY

- 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 Parul Scampion, Fruition Properties against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/2399/FUL, dated 13 April 2016, was refused by notice dated 13 June 2016.
 - The development proposed is demolition of existing buildings. Redevelopment to provide a total of 9 flats (8 x 3 bed and 1 x 2 bed) in a single building with accommodation at lower ground, ground and first floors and within the roof space. Basement car park including 14 car and 18 cycle parking spaces plus waste and recycle store. Landscaping at front of site with 3 surface level parking spaces. Changes to existing front boundary treatment.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Parul Scampion, Fruition Properties against the Council of the London Borough of Barnet. This application will be the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the surrounding area; and
 - ii) the living conditions of adjacent occupiers with particular regard to privacy, outlook, noise and disturbance; and
 - iii) the living conditions for future occupiers with particular regard to outlook.

Reasons

Character and appearance

4. Dollis Avenue is a quiet, well established residential street characterised by semi-detached and detached properties on generous plots. Whilst most of the houses appear to be in single family occupation, there are a number of purpose built apartment blocks which form part of the character and built fabric of the
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street. The appeal site straddles two generous plots which share a drive and rear garden, one comprising of a pair of 3 storey semi-detached houses and the other comprising a detached property which has been subdivided into five flats. The appeal property is bound by and separated from 29 Dollis Avenue by a public footpath.

5. The proposal encompasses the demolition of the existing properties and the erection of a two storey apartment complex with rooms in the roof space and basement level. The Council have not objected to the principle of additional flats on the site and given the presence of other flatted developments in the locality I have no reason to disagree.
6. The adjacent properties on this side of Dollis Avenue follow a similar pattern of development with houses of comparable footprint fronting the highway with generous rear gardens. Spaces between the dwellings vary but combine with the generous road width to give the area a characteristic sense of spaciousness. I accept that the height of the proposed building would respect that of adjoining properties. However, the overall footprint, depth and bulk of the building would be much greater with the space between the building and 35 Dollis Avenue visibly reduced. As a result of the visual bulk, scale and mass of the building and limited gap between the properties, the proposal would result in a large and deep building which would have an unduly cramped appearance, materially diminishing the spacious character and prevailing pattern of development on this particular part of Dollis Avenue. Whilst I acknowledge the site is not a corner plot, its prominence would be exacerbated by the proximity to the junction with Church Crescent.
7. I spent some time at my site visit observing the numerous flatted developments in the locality which have been drawn to my attention by the appellant. Whilst I note some parallels, there are differing individual attributes between the sites either in terms of plot size and shape, design, number of storeys or relationships with adjacent properties. Furthermore, there are certain characteristics of these developments which persuade me that particular care needs to be taken when integrating such proposals into a well-established residential street. In any case, I have assessed the appeal proposal on its own merits.
8. I note that the design of the existing semi-detached properties is not of particular architectural merit and is somewhat at odds with the character of dwellings in the vicinity. Whilst there is no objection to their demolition, their removal is insufficient justification to negate the harm that I have found above. I also accept that proposed landscaping to the forecourt would improve and soften the frontage of the site. Nonetheless, these matters do not negate the harm identified above.
9. I therefore conclude that the proposed development would have a materially harmful effect on the character and appearance of the surrounding area and fails to accord with Policies CS1 and CS5 of the Barnet Local Plan Core Strategy (2012) (CS) and Policy DM01 of the Barnet Local Plan Development Management Policies (2012) (DMP) and guidance within the Residential Design Guidance Supplementary Planning Document (2013) (SPD). These seek, amongst other things, that development is of a high quality and respects local context including the appearance, scale, mass, height and pattern of surrounding buildings.

Living conditions- neighbouring residents

10. The proposed development includes a rear terrace and a number of balconies, some of which would have approximately 1.8 metre high side screens. I noted at my site visit that the existing properties have rear balconies and acknowledge that a degree of overlooking already exists towards neighbouring gardens, particularly that of No 35. However, despite the scope for incorporating privacy screens, the proposed development would result in a substantial increase in the number of balconies affording its users a more open and elevated view of the neighbouring gardens, particularly that of No 35. Given the above, the occupiers of the adjacent garden would be aware of people using the balconies and would experience the perception of being overlooked. In my view this would lead to an unacceptable loss of privacy for the occupiers of No 35.
11. The Council have also expressed concerns that side facing windows on the proposed property would cause overlooking of the side facing dormer window on the adjacent property. However, I noted at my site visit that neither adjoining property has a side facing dormer window. Moreover, given the location of the windows in relation to the flank walls of the adjoining properties I am of the view that these windows would not unacceptably harm the privacy of the occupiers of the adjacent properties.
12. Whilst the building would be considerably deeper than those properties immediately adjacent, there would be no material harm to the outlook for the occupants of No 29 due to the separation distance and intervening footpath. The degree of projection of the closest point of the proposed building together with the separation distance to the nearest windows of No 35 would mean that the proposal would not result in an unacceptable effect on the outlook for the occupiers of this property.
13. The Council are concerned that the intensification of the site for 9 flats would lead to an unacceptable level of noise and disturbance due to the increase in potential car trips, comings and goings and use of the rear garden. The appellant disputes this assertion and has submitted a Traffic Impact Assessment and Noise Environmental Statement in support of their appeal. The reports show the proposal would result in one additional two way car journey in the AM peak time and one additional two way journey in the PM peak time and that the existing noise climate would not be significantly affected by the proposed increase in residential units.
14. I note residents' concerns regarding the outcomes of these reports and I share the view of the Council that the apartment complex has the potential to accommodate 50 residents if fully occupied. However, the TRICS database is an industry standard tool for determining trip rates and the Council has not disputed the validity of the reports nor has it provided evidence to the contrary. Furthermore, there is no evidence before me that similar developments in the locality give rise to such disturbance or complaints of this nature. Given the above, in the absence of any substantive evidence to the contrary, there is no reason to believe that the proposal would give rise to unacceptable levels of noise and disturbance.
15. Although I have found that the proposal would not materially harm the living conditions of occupiers of neighbouring properties with respect to outlook, noise and disturbance, I have concluded that there would be material harm

with respect to privacy. The proposal is therefore contrary to Policy DM01 of the DMP, Policy CS5 of the CS and 7.6 of the London Plan (2016) and guidance within the SPD, which seek, amongst other things, to protect residential gardens and ensure development does not cause unacceptable harm to the amenity of surrounding buildings. Policies CSNPPF and CS1 are more general policies which are of limited direct relevance to this issue.

Living conditions – future occupiers

16. The Council has raised concerns with regard to the outlook for future occupiers of the flats particularly in relation to the windows of bedroom 2, flat 2 and bedrooms 2 and 3 of flat 5 which are either high level or obscurely glazed in order to avoid overlooking of the adjacent property. I agree with the appellant, that given the position of the windows in relation to the flank walls of the neighbouring properties and the absence of windows on adjoining properties, there would be no necessity for these windows to be obscure glazed and thus there would be no significant harm to their outlook.
17. I therefore conclude that the proposal would not cause material harm to the living conditions of future occupiers and find no conflict with, in this respect, Policies 3.5 and 7.6 of the London Plan (2016), Policy CS5 of the CS and Policies DM01 and DM02 of the DMP and guidance within the Sustainable Design and Construction Supplementary Planning Document (2012). These seek, amongst other things, high quality indoor spaces with adequate standards of living, including outlook, for potential occupiers.

Planning Balance and Conclusions

18. The appellant has stated that the Council do not have enough land identified to meet their housing targets and this has not been disputed. However, it is not clear from the evidence whether the Council has a 5 year supply of deliverable housing land. That said even if, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), relevant policies for the supply of housing are out of date, the adverse impacts that I have identified in relation to character and appearance and living conditions and the conflicts with the development plan in these respects would significantly and demonstrably outweigh the benefits. These benefits are primarily the contribution that an energy efficient development in a reasonably accessible location would make towards housing supply. Thus it is not the sustainable development for which the Framework makes a presumption in favour. In reaching this conclusion I have borne in mind paragraphs 47 to 49 of the Framework, as well as its guidance that planning should always seek to secure a high quality of design (paragraph 17); that good design is a key aspect of sustainable development (paragraph 56) and should respond to local character (paragraph 58); and that it is proper to seek to promote or reinforce local distinctiveness (paragraph 60).
19. For the reasons given above I conclude that the appeal should be dismissed.

Caroline Jones

INSPECTOR