
Appeal Decisions

Hearing held on 25 October 2016

Site visit made on 15 November 2016

by Michael Boniface MSc MRTPI

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

Decision date: 01 December 2016

APPEAL A

Appeal Ref: APP/N5090/W/16/3149782

Brookdene, Holden Road, London, N12 7DR

- 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 HGS Properties (Brookdene Holden Road) Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 15/04857/FUL, dated 31 July 2015, was refused by notice dated 5 November 2015.
 - The development proposed is redevelopment to provide a four storey building comprising 43no self-contained flats plus undercroft parking for 47 cars and 74 cycles. Associated bin stores, hard and soft landscaping to development site.
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APPEAL B

Appeal Ref: APP/N5090/W/16/3157290

Brookdene, Holden Road, London, N12 7DR

- 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 HGS Properties (Brookdene Holden Road) Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/1553/FUL, dated 9 March 2016, was refused by notice dated 23 May 2016.
 - The development proposed is redevelopment to provide a four storey building comprising 37no self-contained flats plus undercroft parking for 47 cars and 74 cycles. Associated bin stores, hard and soft landscaping to development site.
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Decision

1. Both appeals are dismissed.

Preliminary Matters

2. As set out above there are two appeals on this site. They differ in the number of flats proposed and the design of the proposed buildings. They are subject to the same reason for refusal by the Council, though Appeal A contains further reasons which are not applicable to Appeal B. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. It is common ground between the parties that no development is proposed to take place within the woodland area of the site. This includes the laying of paths and erection/installation of furniture which no longer forms part of the

proposal. It was agreed that reference to these features should, therefore, be removed from the description of development in the case of Appeal A. I have used the updated description in the heading above.

4. Prior to the Hearing, the main parties agreed a series of Planning Obligations necessary to make the development acceptable. The Council confirmed that, subject to these obligations being secured by way of a legal agreement, this overcame its concerns with respect to refusal reason 4 of its decision in the case of Appeal A. Completed Unilateral Undertakings have since been provided and I have considered the appeals on this basis.

Main Issues

5. The main issues are the effect on the character and appearance of the area in respect of both appeals; and with respect to Appeal A only, whether acceptable living conditions would be created for future occupants of the development and the effect on the living conditions of neighbouring occupants.

Reasons

Character and appearance

6. The appeal site is located on a predominantly residential street comprising a mix of building styles, heights and forms. The street presents the character of a typical London suburb with a pleasant appearance, enhanced by the numerous traditional period terraces and mansion houses of significant visual interest and architectural quality. Of equal importance are the large street trees and views available through gaps between buildings towards gardens and greenery. All of these features help to create a verdant, spacious and leafy appearance. This is particularly so on the west side of Holden Road in the vicinity of the site owing to the woodland area that provides a backdrop to buildings in the street scene.
7. This is notwithstanding a number of insensitive and relatively modern additions to the street, including a large number of flatted blocks. Whilst these have eroded the traditional character of the street scene, its original form and grain remains appreciable. The existing buildings on the site are two storey, accommodating flats. It is common ground between the parties that these buildings are of little architectural merit and do not make any significant positive contribution to the street. As such, redevelopment of the site represents an opportunity to improve the character of the area.

Appeal A

8. Appeal A seeks to introduce a four storey building with an H-shaped plan, providing 43 flats. The building would span almost the entire width of the site, coming close to the site boundaries and the neighbouring buildings on either side, both of which are three storey flatted developments. Coupled with the significant height of the building, which would be well above that of the buildings either side, which are themselves large, the building would become a prominent and imposing feature in the street. Although the fourth floor, contained within a mansard roof, would be set back from the parapet and may not be visually prominent from all locations within the street, it would undoubtedly be visible on long views within the street and would readily be seen protruding above the neighbouring buildings.

9. The width and continuous frontage of the building would be a stark contrast to the existing buildings which allow views through the site towards the woodland at the rear, which is also visible above the roofline. I have already identified the important contribution made by the trees to the character of the area but this is also highlighted by the designation of an area Tree Preservation Order, suggesting public amenity value. The development would significantly diminish the gaps between the buildings in this part of the street and its green and spacious character.
10. This would be exacerbated by the significant depth of the building, which would extend backwards to cover the developed area of the site (over an existing car park) in very close proximity to the woodland. Other flatted schemes in the area have rear projections, including those either side of the appeal site, but I noted these to be of a much smaller scale and height and located much further from the side boundaries than is proposed in this case. Furthermore, the buildings either side benefit from much deeper plots and incorporate garden areas and open space surrounding the rear protrusions. This would not be the case for the appeal site where substantial woodland would stand directly behind with limited intervening garden space. The H-shaped plan form of the building might serve to reduce its mass and bulk on views between buildings in the street scene and from neighbours, but the protrusion would still be visible and the bulk, height and mass of the rearmost part would be an incongruous and visually intrusive anomaly, severely limiting any opportunity of public views to the woodland.
11. The buildings either side of the appeal site are large modern buildings and whilst they provide a degree of precedence for larger buildings in the street, I do not consider that they should be seen as good examples of modern development. Quite the contrary, they are incongruous with the otherwise traditional character of the street. Many more examples of large modern buildings were identified by the appellant in the vicinity of the site, including many with substantial rear protrusions, but their presence does not diminish the need for good design that reflects the positive attributes of the local context. Furthermore, I saw none that were directly comparable to the appeal scheme or the unusual site context, which I have described, in this case.
12. The development would introduce a building of significant height, size, scale, bulk and mass between two other substantial buildings. This would erode the green and spacious character of the street scene and fail to reflect the scale, form and rhythm of the more traditional buildings in the area. Whilst the scale and mass of the scheme is not dissimilar to other flatted developments in the area, many of these are insensitive and at odds with the traditional character of the street. The proposed development would become a further insensitive addition to the street that would exacerbate the harm already done to its traditional character and appearance. This is particularly so in combination with the neighbouring buildings because a very long stretch of large buildings would dominate the street. The National Planning Policy Framework (the Framework) is clear that poor design that fails to take the opportunities available for improving the character and appearance of the area and the way it functions should be refused permission.
13. I acknowledge that the site falls close to a transport hub (Woodside Park tube station) where residential development should be optimised and that the Council's Characterisation Study (2010) identifies the area as containing a

large number of flats. However, nowhere is it suggested that objectives for optimisation or the presence of other flats should lead to lower design standards.

Appeal B

14. Appeal B involves a lesser number of flats (37) which has been achieved through a redesign of the building, primarily at roof level where the mansard has been set back from the front elevation of the building and reduced in its overall spread. However, the width and height of the building remain very similar, as does its depth and plan form. The alterations at roof level would reduce the scale and mass of the building when viewed from close by in the street scene, though long distance views are likely to remain possible, resulting in an increased height and scale towards the rear of the site. This would be in contrast to the otherwise diminishing scale of rear protrusions seen in neighbouring buildings.
15. Whilst the reduced height and mass at the front of the site would reduce its overall impact on the street scene, the combined width, continuous frontage and depth would still create a building of extremely large scale and mass. As a result, the issues of visual intrusion, incongruity and erosion of spaciousness in the street would again result in unacceptable harm to the character and appearance of the area.
16. I note that other changes have also been made to the design of the building that reduce its visual massing, including a reduction in the height of the stair cores, a recessed area above the car park entrance and reductions at third floor level. However, these are not sufficient to overcome my fundamental concerns with regard to the combined height, width and depth of the building and the resulting impacts on the street scene.

Appeal A

17. In relation to appeal A only, the Council raises further concerns with respect to the detailed elevational design of the scheme and the proposed materials. In considering these matters I have had regard to the submitted Design and Access Statement (July 2015) and the Appeal Statement of John Assael (August 2016). I note that the development seeks to introduce a modern form of architecture that is pleasing in its own right.
18. I heard that the design had taken inspiration from the more traditional buildings in the area including the verticality created by its various protrusions and recessions, along with the large portrait windows which are said to reflect the opposing locally listed church. Features such as pre-cast window opening details are also to be included. Whilst noting these features, they would bear little resemblance to the ornate detailing and tall form of the opposing church and the pre-cast window features are unlikely to create any strong reference to the area given the distinctly different form of the building.
19. That said, the building would appear unashamedly modern and such an approach is not in itself undesirable. A high quality contemporary approach which avoids a pastiche copy of period buildings in the area could serve to enhance the character of the area, particularly where large flatted schemes are already a feature. As such, I do not share the Council's concerns with regards to the detailed appearance of the building; it is the excessive and insensitive

scale and massing which causes the harmful incongruity in this instance. Whilst the mansard roof is not a common feature of the area, I noted that there is some variety in roof designs and the proposed form need not necessarily appear inappropriate if part of an otherwise well designed contemporary building.

20. In terms of materials, I note that a standing seam zinc, or similar, roof covering is not a common feature of the area but I do not find it objectionable in the context of a contemporary building that would be seen as a contrast to more traditional buildings in the area. Furthermore, a condition could readily be used to obtain samples and a detailed specification for the roof covering to ensure an appropriate appearance.

Both appeals

21. Overall, the development proposed in both appeals would fall short of the good standard of design sought by the Framework and would harm the character and appearance of the area. As such it is in conflict with Policies CS1 and CS5 of the Local Plan Core Strategy (2012) (CS), which seek the highest standards of urban design which respects local context and distinctive local character; and Policy DM01 of the Local Plan Development Management Policies (2012) (DMP) which seeks, amongst other things, design that reflects local characteristics and respects the scale, mass, height and pattern of surrounding buildings, spaces and streets.

Living conditions for future occupants – Appeal A only

22. The Council suggest that the amount of development proposed is such that inadequate living standards would be created for future occupants. Whilst no objection is raised to the quantity of private and communal amenity space, its quality and usability is questioned. The development would be served by two areas of communal open space provided within the enclosed areas of the H-plan of the building. Whilst these would be enclosed on three sides by the proposed building, views would be available to the side, albeit that the neighbouring building and various tree planting exist at a distance. I see nothing unusual about an area of communal open space being located close to a flatted building or that it would be overlooked by numerous windows and balconies; to my mind the level of privacy expected in a communal garden is much less than in a private garden.
23. These areas would be landscaped for communal use and whilst they are likely to be overshadowed for much of the day by the building, the south facing area in particular would be likely to receive a reasonable amount of sunlight and I do not consider that a lack of prolonged direct sunlight would render the areas undesirable or unusable.
24. These areas would be supplemented by a further communal area to the south west that is planned to accommodate a children's play area. The significant tree planting on the boundary of the site may cause this to be overshadowed for much of the day at various times of the year but I have established that other areas are available for those seeking direct sunlight. In addition, the majority of flats would be served by private balconies that would provide usable space on a more private basis, with further opportunities for sunlight throughout the day.

25. Whilst the communal areas would need to be accessed via long internal corridors or external alleyways, the private balconies would be readily accessible to future occupants. I do not consider that the prospect of the modest walk necessary to access these areas would be likely to dissuade those looking to utilise them. All of the areas proposed, considered together, offer a range of opportunities for utilising outside space and overall, I consider that the quality of these facilities would satisfactorily serve future occupants in accordance with the Council's Sustainable Design and Construction Supplementary Planning Document (SPD) (2013).
26. The rear elevation of the building would be located in very close proximity to the woodland area which comprises very large trees. As such, the outlook for future occupants would be onto these trees, which would be particularly prominent from the lower level flats. That said, even the ground floor flats would be elevated over basement level parking and the ground levels within the woodland fall steeply away from the site. The visual impact would lessen with each storey higher within the building and the appellant explained that the majority of living rooms in the rear elevation are dual aspect so as to provide a choice of outlooks.
27. Where rooms do exist with a single window to the rear, it is unlikely that a view of woodland, even in proximity, would be seen as offensive or intrusive provided sufficient levels of light remain available. In this respect, the appellant has provided a Daylight and Sunlight Report (July 2015) that considers the levels of light likely to reach individual rooms. This concludes that the vast majority of units would be served by levels of daylight and sunlight which fully satisfy BRE Guidance¹. Whilst there would be some exceptions, this would represent a small proportion of the proposed rooms. The Council does not dispute the findings of the Daylight and Sunlight Report and do not raise a concern regarding the level of light reaching specific units or rooms. I have no reason to take a different view.
28. There would be a number of single aspect dwellings but none of these would face north where levels of sunlight are much reduced. The Council highlight the benefits of dual aspect dwellings, which are encouraged by the London Plan and the Council's Sustainable Design and Construction SPD. However, neither document precludes single aspect dwellings and the appellant has ensured that units adjacent to the woodland, where overshadowing might occur, are dual aspect. The Council has not provided any evidence to demonstrate a specific concern arising in respect of any of the single aspect units and there is nothing before me to indicate that these units would provide substandard accommodation. Again, single aspect units make up a small proportion of the units proposed.
29. The H-shaped plan form of the building is such that windows will face towards one another between opposing units at a distance of around 15 metres. The Council's Sustainable Design and Construction SPD suggests that a distance of 21 metres is necessary between habitable room windows in order to avoid mutual overlooking. It seems to me that there is some potential for overlooking at the distance involved but the appellant suggests that this can be overcome using measures such as appropriately sited privacy screens on balconies, obscure glass where appropriate or oriel type windows that could

¹ Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, Building Research Establishment (2011)

direct views away from other windows. This solution is accepted by the Council in the case of Appeal B (which has the same relationship between windows) and I see no reason why such a scheme could not be secured by condition.

30. Overall, whilst there are some deficiencies in the standard of accommodation in some units these are relatively minor issues that would not significantly undermine the otherwise good standard of accommodation provided. The development would, therefore, provide appropriate living conditions for future occupants. As such, I find no conflict with Policies CS NPPF, CS1 and CS5 of the CS, which reiterate a presumption in favour of sustainable development, seek to create an attractive environment for people to live in through high quality development; or Policies DM01 and DM02 of the DMP which require, amongst other things, adequate daylight, sunlight, privacy and outlook for future occupiers of development in accordance with relevant standards.

Living conditions of neighbouring occupants – Appeal A only

31. The site currently accommodates 8 flats and the proposed development would significantly intensify the residential use of the site. Such intensification would lead to increased activity and associated noise and disturbance. Whilst this is so, the proposed residential use would be entirely compatible with the surrounding land uses in terms of the pattern and nature of activity given the flatted residential developments either side. It is common ground between the main parties that the development would not be expected to generate unacceptably high levels of noise and disturbance to an extent that would harm the living conditions of neighbouring occupants² and I concur with this position.
32. I have already identified that the development would be of significant height, scale and mass and that it would stand close to the site boundaries with neighbours. As such, it would become highly visible from the windows and garden areas associated with the neighbouring properties. However, the H-shaped plan of the building is such that much of the buildings mass would be removed from the central portions of the buildings, instead being focused at the front and rear of the site. As such, the visual impact of the building is significantly reduced when viewed from rear facing windows and the garden areas most closely associated with the neighbouring buildings.
33. The rear most element of the proposed scheme would stand close to the boundaries but this is further removed from the neighbouring buildings and the immediate garden areas. Clearly, the building would have a significant visual impact from lower portions of the gardens but this would not be so harmful as to material impact on the living conditions of neighbouring occupants by way of overbearing impact, particularly given the presence of tree screening on the boundaries that would assist in filtering views.
34. Overall, the development would not harm the living conditions of neighbouring occupants. As such, I find no conflict with Policies CS NPPF, CS1 and CS5 of the CS, which reiterate a presumption in favour of sustainable development and seek to create an attractive environment for people to live in through high quality development; or Policies DM01 and DM02 of the DMP which require, amongst other things, that an adequate outlook be maintained for adjoining occupiers and users.

² Paragraph 7.49 of the Statement of Common Ground

Other Matters

35. The submitted Planning Statements (July 2015 for Appeal A and March 2016 for Appeal B) identify a range of benefits that would arise from the development. These include the efficient redevelopment of brownfield land in an accessible location, facilitating delivery of a significant number of residential units. In the context of the Framework's objective to boost significantly the supply of housing, I attach this matter significant weight (notwithstanding the Council's undisputed housing land supply position), along with the financial contribution that would be secured towards much needed affordable housing in the area. I also attach limited weight to the benefit that might arise from appropriate woodland management in accordance with the submitted Woodland Management Plan. However, these benefits are not sufficient to outweigh the significant harm I have identified with regards to the first main issue.
36. The appeals are accompanied by completed Unilateral Undertakings. However, given my conclusion with regards to the main issues, it is not necessary for me to consider these further.

Conclusion

37. I have determined in the case of Appeal A that the development would provide acceptable living conditions for future occupants and would not harm the living conditions of neighbouring occupants. However, the development proposed in both Appeal A and Appeal B would unacceptably harm the character and appearance of the area.
38. In light of the above, and having considered all other matters, the appeals are dismissed.

Michael Boniface

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Neil Cameron QC	Counsel
Peter Bovill BSc (Hons) MA Dip Surv MRICS MRTPI AIEMA	Planning Consultant
David Mabb BSc (Hons) MSc MRTPI	Planning Consultant
John Assael DipArch GradDip(Consv)AA MSc RIBA FRSA	Independent Architect
Simon Cottingham BA (Hons) Arch DipArch RIBA	Scheme Architect
Peter Murphy BSc (Hons) CEng MICE MCIPD	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Graham Robinson	Planning Manager
Dominic Dear	Planner

INTERESTED PERSONS:

Robert Newton	Local resident
Dianne Murphy	London Wildlife Trust
Peter Pickering	Chairman of Finchley Society
Cllr Caroline Stock	Ward Councillor
Mike Gee	Greenacre Project
Sophia McEwen	Local resident
Juliet Leader	Local resident
Brenda Barrett	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Core Documents 1.1-8.5 for appeal A and 1.1-8.6 for appeal B
- 2 Statement of Common Ground dated 24 October 2016 - appeal A
- 3 Statement of Common Ground dated 21 October 2016 – appeal B
- 4 Completed Unilateral Undertakings for appeal A and B
- 5 Representation of Robert Newton dated 19 October 2016

DOCUMENTS SUMITTED AFTER THE HEARING

- 1 Supplementary Unilateral Undertaking for appeal A and B