
Appeal Decision

Hearing held on 15 November 2016

Site visit made on 15 November 2016

by Y Wright BSc (Hons) DipTP DMS MSc MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/N5090/W/16/3143961

655 Watford Way, Mill Hill, London NW7 3JR

- 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 SSBB LLP against the decision of the Council of the London Borough of Barnet.
 - The application Ref 15/03897/FUL, dated 22 June 2015, was refused by notice dated 14 September 2015.
 - The development proposed is described as retention of 52 sqm of A1 retail at ground floor fronting Watford Way, demolition and redevelopment of rear building to provide a three storey sui generis house in multiple occupation consisting of 7 bedrooms with shared kitchen/dining/living space, plant space, cycle store, refuse store, landscaping works and amended access provisions.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A separate appeal, reference APP/N5090/W/16/3144198 for development proposed as alterations to ground floor incorporating access to proposed new building at rear and change of use from A3 (restaurant/café) to A1 (retail) and demolition of existing building to rear and erection of 2 storey house in multiple occupation including shared amenity space, cycle and refuse storage and landscaping, was to be considered at the same time as this appeal. However this was withdrawn by the Appellant during the Hearing and was confirmed in writing on 18 November 2016 by email.
 3. An agreed Statement of Common Ground (SoCG) was submitted at the Hearing (Document 1).
 4. Since submission of the appeal the Appellant has secured planning permission on the site for a change of use of ground floor from class A3 (Restaurant/Café) to class A1 (Retail) fronting Watford Way, demolition at rear existing building and redevelopment to provide a two-storey house of multiple occupation (HMO) consisting of 5 bedrooms with shared kitchen/dining/living space fronting Scout Way, cycle store, refuse store, landscaping works and amended access provision (Council reference: 16/3080/FUL) (Document 2). Parties agreed at the Hearing that it was highly likely that the appellant would implement this permission should this appeal be dismissed. As a result it is the harm that may result from the additional floor and the effect that this would
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have on the character and appearance of the area and living conditions that needs to be assessed.

Main Issues

5. The main issues are:

- The effect of the development on the character and appearance of the surrounding area;
- The effect of the development on the living conditions of neighbouring residents in relation to outlook, light and privacy; and
- Whether the proposal would provide acceptable living conditions for future occupants with regards to overlooking and privacy.

Reasons

Character and appearance

6. The site forms part of a terrace of three and four storey properties which front on to Watford Way. These have commercial use at ground floor with residential use above. The site comprises a four storey property with a large two storey rear extension. The property is occupied by a restaurant at ground floor level and two no. 5 bedroom HMOs above.
7. Access to the rear of the site is gained via Scout Way, a narrow vehicular lane which leads to the service areas at the rear of the commercial properties and surrounding residential blocks and houses. Immediately opposite the site on Scout Way is Sovereign House, a large purpose built block of flats three storeys in height.
8. Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) seeks, amongst other things, to protect local character. Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) seeks development that respects local context and distinctive local character and is of high quality design.
9. On my site visit I saw that the existing two storey rear extension, together with the adjacent service yards have an overall unsightly and poor quality appearance and do not contribute aesthetically to the street. These service yards contain predominantly single and two storey extensions of varying sizes as well as some parking areas for vehicles. In contrast the opposite side of Scout Way is dominated by two and three storey residential blocks and dwellings.
10. The Council confirmed at the Hearing that their main concern in relation to this main issue related to the height of the property and the impact that this would have on the street scene.
11. Although the existing rear extension within the appeal site does not contribute aesthetically to the architecture of the street, its existing lower height forms part of the smaller scale and more open character that exists between the adjacent taller buildings. This subordinate built form provides a more open and welcome breathing space within what is a fairly dense built up location.

12. The proposal would, by contrast, introduce a three storey scale of development which, although smaller in height than some adjacent buildings, due to the difference in site levels and its design, would nevertheless be out of keeping with the subordinate character of existing buildings within this part of the street. Whilst the development would be set back from Scout Way and there would be around a separation distance between facing properties would be retained, the height of the proposal, when viewed from neighbouring properties and the lane, would appear visually prominent and dominant within the street scene.
13. I recognise that the development would be built on a smaller footprint than the existing extension and it would not extend to the side boundaries providing circulation space around the building. I also note that the contemporary design would be acceptable in this locality. Nevertheless, based on the evidence that is before me, these factors do not alleviate my substantial concerns over the impact of the height and scale of the building within the street scene.
14. In this regard I am mindful that the Framework places great importance on development being of good design and responding to local character to ensure the integration of new development into the existing environment. Overall I consider that the appeal proposal would appear as an intrusive and isolated addition that would appear at odds with the prevailing lower building level and more open character of this part of the street.
15. Therefore taking the above matters in to account, I conclude that the development would result in material harm to the character and appearance of the surrounding area. Accordingly the proposal would conflict with DMP Policy DM01 and CS Policy CS5 and the Framework in this regard.

Living conditions for occupiers of neighbouring properties

16. The development would introduce a higher built form than the existing rear extension and the existing occupants, particularly those in the first floor bedrooms to the rear of the main building, would look directly out on to the proposed rear elevation. However the development would be set in from both side boundaries, which would retain some views of the surrounding area from these windows. I also note that the difference in site levels would result in the existing first floor being generally level with the third floor of the appeal proposal.
17. Furthermore the development would create a separation distance of around 13m between the buildings which I consider would not result in material harm to outlook for existing occupants, especially as such distances are not unusual between rear facing properties within urban areas. I also do not consider that the use of privacy screens and obscure glazing within the development would materially harm outlook for existing residents.
18. Whilst there would be no direct overlooking between existing and proposed habitable rooms the inclusion of a rear terrace has raised concerns. Nevertheless I consider that the difference in height levels between the main building and the appeal proposal, together with the imposition of a suitably worded condition to provide appropriate screening, would ensure satisfactory levels of privacy.

19. In addition I consider that though the outlook for occupants of Sovereign House would change, the design of the appeal proposal together with a separation distance of around 17m between the buildings would ensure that there was no material detriment in this regard.
20. In relation to concerns raised about potential loss of light, the Appellant's daylight and sunlight assessment demonstrates that the development would be acceptable. At the Hearing the Council did not contest this evidence and I have no reason to disagree with the findings. In relation to noise and disturbance I note that the Council is satisfied that the development would be acceptable in this regard and I have no reason to disagree with this view.
21. I note that the Framework seeks, amongst other things, to secure a good standard of amenity for all existing occupants of buildings. For the above reasons I consequently conclude that the appeal proposal would not result in material harm to the living conditions of the occupants of neighbouring properties in relation to outlook, light and overlooking. Accordingly the proposal would comply with the Framework in this regard and DMP Policy DM01 which includes seeking development which protects living conditions.

Living conditions for future occupiers

22. The Council's concerns on this main issue, as set out in their reasons for refusal, relate to issues of overlooking and loss of privacy to proposed bedrooms 1, 2 and 3. However at the Hearing the Council agreed that their concerns could be adequately overcome through the provision of suitably worded conditions relating to the provision of obscure glazing, privacy screens and other appropriate boundary treatments. I concur with this view.
23. I therefore conclude on this basis that the living conditions for future occupiers of the development would be acceptable in relation to overlooking and privacy. Accordingly the proposal would comply with DMP Policy DM02 which includes seeking development which protects living conditions. It would also accord with the Framework in this regard as it seeks, amongst other things, to secure a good standard of amenity for all future occupants of buildings.
24. Whilst reference has been made by the Council to DMP Policy DM09 in its reason for refusal relating to living conditions, this seeks to prevent harm to '*amenities of the surrounding area*'. On this basis I do not consider that the policy is relevant to this main issue. This does not alter my overall conclusion on living conditions for future occupiers of the development.

Other matters

25. I recognise that no car parking spaces would be provided on-site as part of the development and that the proposal could therefore add to on-street parking demand. However the appeal site is located within easy access to public transport and there is some on-street parking available within the vicinity of the site. The Highway Authority and Council do not object to the proposal on the grounds of car parking and I have no reason to disagree. Consequently this matter does not affect my findings on the main issues.
26. In addition it has been suggested that the proposal would set a precedent within the locality. However, my findings in this appeal must be based only on the planning merits of the case that is before me. The circumstances of other sites are likely to be different and if proposals came forward elsewhere within

the locality they would be assessed in the light of the factors relevant to that case. Therefore I consider the concern about precedent does not offer a basis for resisting the scheme.

Planning Balance

27. I have considered the benefits of the proposal put forward by the Appellant, including the removal of an existing extension that makes a negative contribution to the aesthetics of the street and the proposed improvements to the existing accommodation. I also recognise that the Framework and London Plan both seek to significantly boost the supply of housing including the provision of additional HMO accommodation to the required standards. This weighs in favour of the proposal.
28. I have found no demonstrable harm on living conditions for both existing and future occupiers and no material harm on other matters. However an absence of harm would have a neutral effect which carries limited weight.
29. Overall I find that these matters are not sufficient to outweigh the harm I have identified on character and appearance, to which I attach significant weight. I therefore conclude that overall the presumption in favour of sustainable development does not apply to the proposal. Accordingly the appeal proposal would not accord with the development plan and Framework when considered as a whole.

Conclusion

30. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be dismissed.

Y. Wright

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Paul O'Neill
Ms Mary Fortune
Mr Chris Savva

Metropolis Planning and Design
Metropolis Planning and Design
Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Dominic Dear
Miss Elizabeth Sutherland-Thomas

London Borough of Barnet Council
London Borough of Barnet Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Agreed Statement of Common Ground
- 2 Planning application decision of May 2016 for the site (Council ref: 16/3080/FUL)