

Appeal Decision

Site visit made on 29 November 2016

by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA

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

Decision date: 17 February 2017

Appeal Ref: APP/N5090/W/16/3157594

49-51 Beresford Avenue, Whetstone, London N20 0AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to determine within the required period an application for planning permission.
 - The appeal is made by Millen Homes Limited against the Council of the London Borough of Barnet.
 - The application Ref 16/3054/OUT was dated 30 April 2016.
 - The development proposed is described as demolition of No 51 to facilitate new access drive and a residential redevelopment comprising 9 houses (2 detached 4x semi-detached, 3 x terraced) and a replacement garage and driveway to no 49.
-

Decision

1. The appeal is dismissed.

Background, Preliminary Matter and Main Issues

2. The current scheme, like its predecessor is in outline form with layout and access included for consideration. The previous application for residential development on the appeal site was refused by the Council on 16 February 2016. That decision is a material consideration in this appeal.
 3. No 49 is included within the application site: after demolition of No 51 it would be remodelled on its flank elevation, the garden reduced in size, and a detached garage erected and driveway constructed within the plot. Therefore the proposed redevelopment would comprise in all, ten houses.
 4. The Council provided no appeal statement and there was no committee report or delegated officer's report for the appealed application. From what I have read including the appellant's statements, representations of interested persons and my inspection of the site, the main issues are:
 - a. The effect of the proposal on the character and appearance of the area;
 - b. The effect of the proposal on highway safety and the free flow of traffic;
 - c. Whether adequate provision is made for affordable housing;
 - d. The effect of the proposal on living conditions of nearby residents; and
 - e. The impact of the proposal on landscape features, biodiversity and protected species habitats.
-

Reasons

Character and appearance

5. The proposal includes the demolition of one half of a pair of semi-detached houses in a cul-de-sac with some positive suburban characteristics including buildings with regular spacing and gaps between them. From the computer generated image (CGI) submitted the flank wall of No 49 would be rendered with a finish in keeping with local character. However the pair of semi-detached houses assists to define the character of the cul-de-sac and the proposal would introduce an incongruous type of development not already present. The demolition of No 51 would make the surviving house look ungainly and out of place in the street scene. The new access would abut the corner of the front and side elevations of No 49 where traffic from the new development would pass close to its ground floor window and front elevation.
6. Substantial garden areas to the rear of the appeal properties would be lost due to the development, areas that add to the low density and suburban character of the area. The layout of the building blocks has not substantially changed from the previous scheme but two detached garages are proposed for the generous plots of the two new detached houses. By contrast other blocks to the south and east of the site appear cramped. New front garden areas would be small and the layout does not show how storage and collection of waste, including recyclable waste, would be achieved.
7. A gate would be placed across the new access road, the function of which is not clear. It is not explained how this "gated" form of development would maintain links or facilitate social interaction to create healthy, inclusive communities as sought by the National Planning Policy Framework (Framework).
8. The Council's Residential Design Guidance (RDG) advises that streets should be designed as public spaces with the needs of all users considered. The winding course of the new access is to limit traffic speed but there are other ways this could be achieved. I read that the area is sociable with strong community spirit and there are no private gated developments in the area. The new properties would appear somewhat isolated and would not fit well with the RDG's aim to achieve well-connected streets which improve movement patterns, ensuring that design and layout is legible and is oriented around the needs of pedestrians, cyclists and connectivity to the public transport network.
9. I conclude on this issue that the demolition of No 51 would unacceptably undermine the overall architectural integrity of its host and the wider street scene. It would also result in a cramped form of development that would not integrate successfully with the existing character and appearance of the area. It would thus fail to comply with the essential aims of the RDG and Policy CS5 of Barnet's Core Strategy 2012 to respect local context and distinctive local character. It would also fail to comply with Policy DM01 of Barnet's Development Management Policies 2012 (DMP), and Policies 7.4 and 7.6 of the London Plan 2015 that seeks new development of high quality design.

Highway safety

10. The new 4.5m wide access would be served from a crossover onto Beresford Avenue and lead through the site for about 50m. I disagree that the gradient of the site is relatively flat or that existing ground levels fall about 300mm only from the highway to the end of the proposed turning head. The turning head

would also lead further into the site to parking to the south and where the fall is in the region of 2m. At the south-east boundary the ground level is some 4m to 6m lower. The information provided does not explain how the ground levels of the site would be contoured to achieve a satisfactory access or layout.

11. The appellant's highways statement relates to the earlier refused scheme which is said to be supported by the highway authority. Despite a highways-related reason for that refusal the stance of the highway authority on the proposal is unconfirmed. Average hourly vehicular movements are based on the earlier scheme of 13 dwellings. Based on 47 dwellings in Beresford Avenue, up to 19 peak hour movements are estimated and it is argued that the additional movements from the development would not materially change traffic conditions in the street. The figures on traffic movement are challenged by interested persons but there is no evidence to contradict the TRICS data.
12. A 6m wide road would generally be adequate to cope with these additional movements. That said I was struck by the fact that although there was ample off-street parking provided within the plots along Beresford Avenue, on-street parking makes the street in effect a single lane for traffic. There are no designated spaces and pavement parking has resulted in some pedestrians, for example those with pushchairs, being forced to walk on the road.
13. The extra traffic due to the proposal would be somewhat less than the 20% increase calculated from the earlier scheme. MfS¹ refers to the ability of vehicles to manoeuvre through the streets and the vehicles expected to use them. Larger vehicles must stay facing the same way that they came in, including refuse lorries. A turning head in the site may have benefits over the current situation; however I have concerns with the awkward approach through the new access so close to No 49. Also the cul-de-sac would remain for turning and whilst due care would no doubt be exercised, the curve of the access road would make oncoming traffic less foreseeable.
14. Evidence from interested persons includes an informed assessment, which is not disputed, of the likely movements of heavy goods vehicles of different types necessary to construct the scheme, and the likely duration of activities which would cause noise and disruption. Although this would be temporary, a period of at least 18 months seems likely and the disruption and increased risk to safety posed to residents by regular and frequent movements along Beresford Avenue is an added concern.
15. I find on this issue that the proposal contains unsatisfactory and inadequate details as to the design of the new access including information as to how it would relate to the gradients to the site and the potential impact on adjacent highways. In the absence of this information the proposal would be detrimental to the aims of highway safety and free flow of traffic contained within CS Policies CS, CS1 and CS9 and DMP Policy DM17.

Affordable Housing

16. The new units would meet the medium priority need for market housing identified in DMP Policy DM08. The appellant says that as the proposal is now under 10 units on a site area of below 0.4ha it is below the threshold to make a contribution towards affordable housing. Representations from interested

¹ Manual for Streets, Department for Transport March 2007; Manual for Streets 2 Chartered Institution of Highway & Transportation, September 2010

- persons express concerns on this issue, including that the reduction in number of units proposed purposely avoids application of the relevant requirements.
17. CS Policy CS4 seeks sets a minimum target of 5,500 new affordable homes by 2025/26 and 40% affordable homes on sites "capable of accommodating ten or more dwellings." The London Plan also expects sites capable of delivering 10 units or more to provide affordable housing. DMP Policy DM10 seeks maximum reasonable amounts of affordable housing on site, subject to viability, where sites provide 10 or more units gross or cover an area of 0.4 hectares or more. Exceptionally, off-site housing or a commuted sum might be provided in lieu.
 18. The Council's Supplementary Planning Document: *Affordable Housing 2007* (SPD) advises that the threshold should be calculated for the total number of units proposed in the final development, and that it applies equally to schemes involving the redevelopment of existing residential property where "it will be the gross number of units, i.e. the number of units proposed in the application, which will determine whether the site is above or below the threshold for seeking an element of affordable housing."
 19. No 49 is included in the application site and the subject of proposed modifications. The site currently provides two units and as developed would provide ten units. This triggers the application of the Council's affordable housing policies. In any event I would have residual concerns whether the application site is incapable of providing ten units.
 20. The appellants suggest that the site is not suited for onsite affordable housing as future residents will mostly use private vehicles for their trips. Whether this is true or not, a financial viability appraisal of an off-site commuted payment is not provided. I therefore regard the proposal as contrary to SPD, CS Policies CS4, CS15, and DMP Policy DM10 in omitting to provide this information.

Living Conditions

21. Matters of appearance are reserved and the overall size and details of the blocks and elevations shown are indicative. With regard to No 53 there is the potential for overlooking and some loss of privacy as between that property and the rear garden of Plot 1. No 53 does have a long rear garden that would mitigate any loss of privacy that may result. The separation distances between elevations closest to No 53 make it unlikely that living conditions would be so oppressive as to be unacceptable.
22. The indicative scale of new houses at Plots 2 and 3, with high ridge lines and dormer windows could result in overlooking the gardens at 38-46 Weirdale Avenue. I also have concerns about the possible overshadowing to these areas but there is no assessment of the effects of the proposal in this regard.
23. A noise survey is submitted but it refers to the earlier refused development. The dominant noise source at the site is from the railway. It is not clear what measures would be taken, over and above the normal standards of insulation of openings, that would appear to be necessary for predicted regular individual noise events at night that can cause sleep disturbance. Furthermore the survey does not take account of vibration that is also known to interfere with living conditions of residents of nearby homes. Overall I am not persuaded that it would be possible to resolve these issues on the information submitted.

24. On this issue I find that the proposal has insufficient information for me to be confident that it would not result in unacceptable noise or vibration to future residents from the railway use, or create adverse impacts of overlooking or overshadowing of adjacent properties and the garden of new Plot 1. In this respect the proposal would not comply with RDG or DMP Policy DM04 that aim to secure acceptable living conditions for occupiers of neighbouring properties and of new development.

Landscape and ecology

25. The site is not in a conservation area and the trees in it are not protected by a tree preservation order. An plan is supplied which proposes the removal of several trees of low quality whilst retaining most trees of moderate and all trees of high quality, including those with landscape qualities.
26. There are no designated statutory or non-statutory wildlife sites on site. A site of interest for nature conservation south west of the site is separated by an adjacent garden. The ecology survey concludes that habitat connectivity is good and recommends that any new development allows access across the site where possible through small gaps in the fences at the rear of the gardens.
27. An adequate assessment has been made of the potential impact of the development on protected species and trees of special amenity value such that although several trees would be removed that currently contribute to the character of the rear garden areas, the proposed development would be unlikely to result in a loss of important landscape features, biodiversity or protected species habitats. The proposal would therefore comply with DMP Policy DM01 and DM16, Policy 7.19 of the London Plan and the Framework.

Other Matters

28. The appeal site is above a national rail tunnel dating from the mid 19th c. From what I have read it is uncertain to what extent Network Rail has made a full examination of the safety implications for future residents and the wider public of this particular appeal proposal, and this adds to my concerns.
29. I read that the Council's 5 year housing supply assessment in May 2015 projected a surplus of housing land supply against annual targets set out in the development plan. Some of the over-supply appears to originate from a substantial number of proposed homes at nearby North London Business Park.
30. The nearby residents' comments have been carefully considered and mostly relate to the main issues in this appeal. Information relating to surface water drainage and energy reduction are matters that could be satisfactorily secured by means of conditions. I note there may be restrictive covenants affecting development on the appeal site, however this is essentially a private matter between the parties affected and not something I can deal with in this appeal.

Planning Balance

31. The proposal would result in substantial harm to the character and appearance of the street scene due to the demolition of No 51, as well as a poor design that would not integrate with the wider community, and cause moderately severe adverse impacts on the adjoining highway in terms of highway safety and the free flow of traffic. In addition the proposal fails to provide information from which I can be satisfied that the Council's standards for adequate living

conditions would be met. Overall these matters amount to a fundamental conflict with development plan policies and the Framework' aims to encourage new development that is of a high design quality.

32. No viability assessment for affordable housing is provided but the proposal would contribute to the Council's housing land supply requirements, particularly given the lack of information as to programming and delivery of the large housing development proposals nearby. That said the extra accommodation and associated social and economic benefits would not outweigh the harm caused due to the conflict with the development plan.

Conclusion

33. For the above reasons and having regard to all other matters raised the appeal is dismissed.

Grahame Kean

INSPECTOR