
Appeal Decision

Site visit made on 13 March 2017

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 22nd March 2017

Appeal Ref: APP/N5090/W/17/3166516

Brookfields Garage, Victoria Lane, Barnet EN5 5UN

- 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 Mr B Merner against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3583/FUL, dated 31 May 2016, was refused by notice dated 27 July 2016.
 - The development proposed is erection of 4 new dwellings and new office building.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues for this appeal are:
 - the effect of the proposed development on the living conditions of occupants of properties on Fitzjohn Avenue and Normandy Avenue taking particular account of privacy and outlook;
 - whether satisfactory living conditions would be provided for occupants of the proposed dwellings taking particular account of outlook; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

3. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise¹. The appeal site is previously developed land within a predominantly residential area although there are some commercial uses nearby. There is good access to public transport and to a range of shops, services and employment opportunities. On this basis I conclude that the appeal site is in a sustainable location. The provision of offices and residential units would meet those aims of the development plan² and of the National Planning Policy Framework (the Framework) that seek to increase the supply of housing and retain B Class

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

² The Mayor of London Plan 2016 (the MLP) and the Barnet's Local Plan Development Plan Document Core Strategy (the CS) and Development Management Policies (the DMPD) September 2012

uses³ and would be acceptable in principle provided other material planning considerations are satisfied.

Living Conditions

4. The appeal site is an irregular shaped piece of land in use as a vehicle repair garage and car park. It adjoins another site used for vehicle repairs and a public car park accessed from Fitzjohn Avenue. There are houses and gardens adjoining three sides of the site.
5. The proposed dwellings would be arranged in two pairs of three storey semi-detached houses with the side elevations close to the rear boundaries of Nos 15/17 Fitzjohn Avenue and Nos 14/16 Normandy Avenue. There are fences along the boundaries and mature vegetation in the neighbouring gardens including some evergreen hedges/shrubs.
6. The proposed houses would be of an unusual and somewhat complex design with the living/dining/kitchen room of each house partially sunk into the site. The main doors would be at the sides of the houses and would be raised up giving access at first floor level. Some but not all of the plans show an exterior lift to the main doors. Parts of the upper floors are set back to reduce overlooking of neighbouring properties.
7. The Supplementary Planning Document "Sustainable Design and Construction" (the SDCD) seeks 10.5m between habitable room windows and garden boundaries. The submitted plans have few annotated dimensions and I have seen no topographical survey or existing/proposed levels in relation to surrounding land. Two of the proposed houses would have large expanses of windows in the flank elevations in close proximity to the boundaries of neighbouring gardens albeit to long landings rather than habitable rooms. Those entering and leaving these two houses would be able to see over most fences into the adjoining gardens from the raised access points. Although not specifically referred to on the decision notice the issue of overlooking from the raised access on the same flank elevations was drawn attention to by local residents.
8. I acknowledge that there are some tall hedges outside the appeal site that would currently provide a degree of privacy but relying on vegetation outside the site to make the proposal acceptable does not amount to good design. Moreover, the proposed houses, even though partially set below existing ground levels, would have tall walls close to the boundaries which would have an enclosing and shadowing effect on the outlook from those gardens, particularly given the block style of the design, creating a gloomy and oppressive environment.
9. For the above reasons, even though the habitable room windows of adjacent houses would not be materially affected due to the relatively long back gardens, I consider the proposed development would result in an unacceptable loss of privacy and outlook from the adjacent gardens. This would cause unacceptable harm to the living conditions of occupants of those properties. The outlook for the occupants of No 14 Normandy Avenue would be further affected as the proposed office building would be relatively close to their side boundary adding to the sense of enclosure.

³ Business Uses Town and Country Planning (Use Classes) Order 1978 as amended

10. I have considered whether obscure glazing and fixing shut of the windows would overcome these concerns. However, as the areas of glazing are large I consider there would still be a perception of the possibility of being overlooked and the overlooking from the raised access to the main doors would still remain. Moreover, obscure glazing such large expanses would be likely to reduce the internal environment of the proposed dwellings to the detriment of future occupants. On balance I do not consider the issue of overlooking could be satisfactorily resolved by obscure glazing.
11. The plans show the proposed rear amenity space would be split over two levels, enclosed by retaining walls and partly overhung by the first floor accommodation. Boundary treatments whether fences/walls or hedges would add to the feeling of enclosure creating a gloomy and unsatisfactory outlook from the proposed living/dining rooms at lower ground floor level notwithstanding the additional light that would be provided through the roofs of the glazed recesses. Moreover the outlook from the kitchen areas of the lower ground floors would be limited to high level windows that would be at ground level at the front of the houses. This does not amount to good design in new buildings. For the combination of these reasons I consider the proposed development would not provide satisfactory living conditions for future occupants of the proposed dwellings.
12. The existing activities related to vehicle repairs and parking can result in noise and disturbance for nearby residents and the current appearance of the site is not particularly attractive. Whilst I acknowledge that the removal of these activities would be beneficial to the living conditions of occupants of the adjacent houses this would not overcome the harm identified in respect of loss of privacy and outlook.
13. For the reasons set out above I conclude that the proposed development would have an unacceptable effect on the living conditions of the occupants of Nos 15/17 Fitzjohn Avenue and Nos 14/16 Normandy Avenue and would not provide satisfactory living conditions for future occupants of the proposed dwellings. In these respects the proposal would therefore conflict with those parts of Policy 3.5 of the MLP; Policies CS NPPF, CS1 and CS5 of the CS; Policies DM01 and DM02 of the DMPD; the RDG, the SDCD and the Framework that seek a good standard of amenity for existing and future occupants of land and buildings.

Character and appearance

14. The proposed buildings would have flat roofs and an appearance of stacked blocks. Although most nearby houses are of more traditional design there are also examples of flat roofed and modern buildings nearby. In principle, there would be no objection to a more modern design for development on the appeal site although I have seen little evidence to demonstrate how the particular design promotes or reinforces local distinctiveness.
15. Some of the design features demonstrate an innovative approach in relation to glazed areas in close proximity to boundaries and bringing light into the proposed rooms. However, overall I consider that the design is somewhat contrived in endeavouring to accommodate four houses of the footprint and scale proposed given the particular shape and size of the appeal site. Moreover, there appears to be some discrepancies between the plans and I cannot safely conclude that the relationship between the proposed buildings as shown on

plan Ref 1069 183 could be achieved or that the rear garden sizes shown would meet the 55sqm sought by the SDCD for houses with five habitable rooms⁴.

16. On balance I consider the proposed development, due to the bulk, size, mass, and scale of the buildings, with relatively little distances between them and in such close proximity to the site boundaries, would appear cramped and contrived. Moreover, whether or not the proposed garden sizes would meet the desired standards of the SDCD, they would be significantly smaller than and out of character with the surrounding gardens. Whilst the garden sizes alone might not amount to a reason for refusing the proposal, it adds weight to the concerns that the proposal would amount to over-development.
17. The proposed development would remove buildings described by the appellant as "tired looking" and "ramshackle" and large areas of hard standing. This would improve the appearance of the site but such an improvement does not rely on the particular development as currently proposed. Moreover, the extent of dilapidation of buildings would not be a reason to allow an otherwise unacceptable development and so I give this benefit relatively little weight in my assessment.
18. For the reasons set out above I conclude that the proposal would amount to over development of the site; would not be good design and would be detrimental to the character and appearance of the area. Accordingly it would conflict with those parts of Policies CS NPPF, CS1 and CS5 of the CS; Policy DM01 of the DMPD; the guidance in the RDG and those principles of the Framework that seek good design that respects the character of the local area.

Other considerations

19. Policy DM14 of the DMPD seeks to protect business land. The proposed development would result in the loss of a garage/workshop site. The existing buildings/structures are of some age and are unlikely to provide the functional capabilities of a modern vehicle repairs garage. The proposal would provide alternative business premises in the form of a modern office block. The Council considers this satisfies the requirements of Policy DM14. From all I have read and seen I see no reason to come to a different view.
20. I have taken account of matters raised by neighbours including the effect of excavations on surrounding trees; parking; access; whether the offices could be converted to residential in the future; the High Barnet/Wood Street Conservation Area some distance away; and the location within an Area of Special Archaeological Significance. None of these matters lead me to any different conclusions. Land ownership and the blocking of access rights are matters for the relevant land owners.

Planning Balance

21. Planning policies can pull in different directions. The proposed development would provide a positive, albeit small, contribution to the housing stock of the Borough whether or not the Council can identify a five year deliverable supply of housing land. This weighs in favour of the proposal. Previously developed land would be redeveloped but there may be other ways in which the land could be used and I accord this little weight in my considerations. There would

⁴ The Council in the Officer Delegated Report states that the gardens would be 5m by 7m

be some benefits to local residents in the removal of an unattractive site and noise and disturbance associated with vehicle repairs and parking.

22. I have found that the proposed development would result in the potential for overlooking and a poor outlook for occupants of Nos 15/17 Fitzjohn Avenue and Nos 14/16 Normandy Avenue; would provide an unsatisfactory outlook for occupants of the proposed houses; would be out of character with the area and would not amount to good design. These matters weigh against the proposal.

Conclusion

23. On balance taking all the above matters into account I conclude that the benefit of four additional dwelling and office block would not outweigh the effect on the living conditions of existing and future occupants of land and buildings or the harmful effect on the character and appearance of the area.
24. The proposal would comply with parts of the development plan. However, in failing to comply with all the criteria of Policy 3.5 of the MLP; Policies CS NPPF, CS1 and CS5 of the CS and Policies DM01 and DM02 of the DMPD the proposal would not comply with the development plan taken as a whole. For the combination of reasons set out above, and taking into account all other relevant matters raised, I conclude that the appeal should not succeed.

SDHarley

INSPECTOR