
Appeal Decision

Site visit made on 13 March 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 23 March 2017

Appeal Ref: APP/N5090/W/16/3165527

38-40 Sydney Grove, Hendon, London NW4 2EH

- 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 J Hayeem against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3397/FUL, dated 9 May 2016, was refused by notice dated 13 July 2016.
 - The development proposed is the demolition of the existing detached buildings and the construction of a two storey detached building with rooms in the roof space and basement to provide 5 No self-contained flats, including associated refuse and cycle storage and 3 No off street parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing detached buildings and the construction of a two storey detached building with rooms in the roof space and basement to provide 5 No self-contained flats, including associated refuse and cycle storage and 3 No off street parking spaces at 38 Sydney Grove, Hendon, London NW4 2EH in accordance with the terms of application Ref 16/3397/FUL, dated 9 May 2016, subject to the attached schedule of conditions.

Main Issue

2. The main issue is whether or not the proposal has adequate off street car parking provision and hence the effect that the proposal would have upon the free flow of traffic and pedestrian and highway safety.

Procedural Matters

3. The appeal site relates to No 38 and No 40 Sydney Grove as per the Council's refusal notice and the appellant's appeal form. However, the planning application form incorrectly refers only to No 38 Sydney Grove. I have used the site address of 38-40 Sydney Grove as this correctly describes the appeal site address.
 4. I have obtained clarification from the Council about the reason for refusal. They have confirmed that it should read "*the proposal does not provide adequate car parking provision on-site*" rather than the current wording which states "*the proposal does not provide adequate car parking provision off-site*". The appellant's statement of case relates to an assessment of "*on site*" provision and I have also determined the appeal on this basis.
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5. The appellant has stated that No 40 Sydney Grove has been altered to form four flats and that *"this subdivision has been the subject of an investigation by the Enforcement Team who have concluded that no enforcement action can be taken in relation to the works"*. As part of this appeal, I afforded the Council and the appellant an opportunity to provide additional information about this matter. The Council did not provide any additional information, but the appellant has forwarded me a link to the Council's Planning Enforcement portal (Enforcement Reference ENF/01133/15) which states that the *"case is closed"* and that there is to be *"no further action (lawful)"*. Therefore, whilst I have not been provided with a lawful development certificate relating to the use of No 40 Sydney Grove as four flats, I have determined this appeal on the basis that the Council would permit the continued use of No 40 Sydney Grove as four self-contained flats and that no enforcement action would be taken.

Reasons

6. The appeal site comprises two detached properties within an established residential street. No 38 Sydney Grove is a dwelling house and No 40 Sydney Grove has been altered to form four flats (1 two bed and 3 one bed). The area includes a mixture of detached and semi-detached residential properties and the existence of highway trees and vegetation to some front gardens adds positively to the verdant character of the area.
7. It is proposed to demolish the existing properties and to erect a two storey (plus basement) detached building to provide 5 No self-contained flats (2 two bed and 3 three bed) with on-site provision for the parking of three cars.
8. I note the representations made by other interested parties about the effect of the development upon the character and appearance of the area and the living conditions of the occupiers of neighbouring residential properties. However, an identical planning application (other than in respect of car parking provision) was considered and refused by the Council in 2015 (Ref 15/05543/FUL), and I have no reason to disagree with the conclusions reached by the Council that the proposal would be acceptable in terms of design and that significant harm would not be caused to the living conditions of the occupiers of residential properties.
9. The appeal proposal includes 3 on-site car parking spaces. Taking into account Policy DM17 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP DMD), there would be a requirement to provide a maximum of about 7 on-site car parking spaces. The Policy does not include a minimum number of car parking spaces for sites, but at paragraph 18.8.2 of the reasoned justification to the policy it states that the policy allows for some flexibility and that the accessibility of individual locations will be considered based on the level of public transport accessibility (PTAL), parking stress including the level of on-street parking control, population density and parking ownership, location, ease of access by walking and cycling and other considerations (eg whether the proposal is a conversion of an existing use).
10. There is no dispute between the parties that the Public Transport Accessibility Level (PTAL) score is 2 (poor). However, I do acknowledge the appellant's comment that it would actually be a score of 4 (good) if the additional six bus services which are a further 100 metres from the identified walking distance were taken into account. I attach some weight to this matter and consider that

the site is within reasonable walking distance of a range of good bus services. I also note the references made to other developments in the area where the Council has approved similar car parking ratios (for example 34 Heriot Road and No 8 Sydney Grove), and I have no reason to doubt the information provided by the appellant indicating that car ownership is low in the ward. Given these factors, there would be some scope for allowing car parking provision which is marginally less than the required maximum 7 on-site car parking spaces. However, as only 3 on-site car parking spaces would be provided, I consider that it is reasonable to conclude that this would not represent a marginal shortfall in the maximum on-site car parking provision. Therefore, the proposal would not accord with the on-site car parking requirements of Policy DM17 of the DMP DMD.

11. Notwithstanding the above, Policy DM17 goes on to state that *"residential development may be acceptable with limited or no parking outside a controlled parking zone (CPZ), but only where it can be demonstrated through a survey that there is sufficient on-street parking capacity"*. At planning application stage, the appellant did not submit car parking survey data. However, car parking survey information has been submitted by the appellant (prepared by Royal Haskonig DHV) as part of this appeal. The Royal Haskonig DHV report concludes that *"the local area experiences high parking stress and is operating at capacity during periods of peak demand overnight during the week and during the commuter peak periods, no doubt exacerbated by Hendan Central station being nearby and the absence of CPZ in the locality"*.
12. Whilst the above survey data has revealed that there is on-street parking stress in the immediate area, it is necessary to take into account the fact that the proposal would replace one form of residential development with another. In this case, No 38 Sydney Road is used as a single dwelling house and No 40 is used as four flats. When Policy DM17 car parking standards are applied to the existing residential units, there would be an almost identical requirement for on-site car parking provision. Therefore, whilst it is acknowledged that when the proposed development is considered in isolation there would be a shortfall in on-site car parking provision (and there is existing on-street car parking stress in the area), the proposal would not make matters worse when compared to existing residential development on the appeal site. Furthermore, I note that the proposal includes cycle storage facilities and therefore this would seek to discourage car use.
13. For the reasons outlined above, I conclude that whilst there would be some conflict with the car parking standards in Policy DM17 of the DMP DMD, this has to be weighed against the fact that when compared to the existing development on the site the proposal would not give rise to a material increase in on-street car parking demand. This is a weighty material planning consideration and outweighs any conflict with the aforementioned policy. For this reason, the proposal would provide adequate car parking provision on-site, would not result in increased demand for on-street car parking and would not be detrimental to the free flow of traffic and pedestrian and highway safety. In this respect, the proposal would accord with the highway safety and traffic management aims of Policy CS9 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012.

Other Matters

14. I have taken into account the representations made by other interested parties. In respect of on-street car parking pressure, the width of the road and traffic generation, I have concluded that the proposal would not be significantly different to the current use of the appeal site.
15. Some have commented that the proposed residential units (i.e. flats) would be larger than existing flats and hence there would potentially be more occupants and hence more cars. The maximum car parking standards are not based on the size of each residential unit, but instead are based on the type of property and number of bedrooms.
16. Comments have been made that the proposal would result in subsidence and therefore adversely affect surrounding properties. I have not been provided with any evidence to indicate that there are land stability issues in the area. Furthermore, and in any event, this is a matter which would need to be considered at Building Regulations stage.
17. It is suggested that the appellant should complete a planning obligation which would mean that the occupiers of the development could not purchase a car parking permit if the area was designated as a controlled parking zone (CPZ). The site does not currently fall within a CPZ and, in any event, given my overall conclusion it would not be reasonable to request such a planning obligation.
18. None of the other matters raised outweigh my conclusion on the main issue.

Conditions

19. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
20. Planning permission is granted subject to the standard three year time limit condition. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
21. In the interests of the living conditions of the occupiers of the proposed flats and neighbouring properties, it is necessary to impose planning conditions relating to hours of construction; refuse/recycling bins; details of a demolition, construction and traffic management plan and restricting use of the property to use Class C3(a) only.
22. In the interests of the character and appearance of the area, a planning condition is necessary in respect of external materials. In order to promote the efficient use of water, a planning condition is necessary which ensures that each dwelling has a water meter and includes water efficiency measures to enable water consumption to meet the standard of 105 litres per head per day or less. In order to discourage use of the private motor vehicle, a planning condition is necessary relating to the provision of cycle parking facilities.

Conclusion

23. For the reasons outlined above, and taking into account all other matters raised, I conclude that whilst there would be some conflict with the development plan for the area in terms of the overall number of proposed on-site car parking spaces for the new development, this is outweighed by the fact that the proposal would not place a significantly greater demand on the need for on-street car parking provision taking into account the existing development on the site and the Council's Enforcement Team investigation conclusion relating to No 40 Sydney Grove. These are very weighty material planning considerations and therefore the appeal should be allowed.

Daniel Hartley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following plans: Site Location Plan; Site layout S.01/B; Basement plan proposed SK.01/A; Ground floor plan proposed SK.02/D; First floor plan proposed SK.03/C; Second floor plan proposed SK.04/E; Roof plan proposed SK.05/C; Section A-A Proposed SK.06/D; Streetscene elevation proposed SK.07/A; Side elevation (W) proposed SK.08/D; Rear elevation proposed SK.09/D; Side elevation (E) proposed SK.10/B; Section B-B proposed SK.11/A.
- 3) Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building and hard surfaced areas hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.
- 4) No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days.
- 5) Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins and/or other refuse storage containers where applicable, together with a satisfactory point of collection, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided at the site before the development is occupied and thereafter retained.
- 6) No site works or works on this development including demolition or construction work shall commence until a Demolition, Construction and Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. All works must be carried out in full accordance with the approved details.
- 7) The property shall be used as self-contained units as shown in the hereby approved drawings under Class C3(a) and no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).
- 8) Before the development hereby permitted is occupied, cycle parking spaces shall be provided in accordance with London Plan cycle parking standards and that area shall not thereafter be used for any purpose other than for the parking of cycles associated with the development.
- 9) Prior to the first occupation of the flats hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each of the flats shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 litres per head per day or less. The development shall be maintained as such in perpetuity.