
Appeal Decisions

Site visit made on 27 March 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 02 May 2017

Appeal A Ref: APP/N5090/W/16/ 3162418 5-7 Parson Street, Hendon, London NW4 1QD

- 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 Leonardo Development Enterprises Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 16/0806/FUL, dated 4 February 2016, was refused by notice dated 1 August 2016.
 - The development proposed is the demolition of existing building and erection of 3 storey building with rooms in roofspace containing 9 no. self-contained flats and retail unit to ground floor, 3 no. off-street parking spaces, cycle storage and amenity space.
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Appeal B Ref: APP/N5090/W/16/3165349 5-7 Parson Street, Hendon, London NW4 1QD

- 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 Zekaria of Leonardo Development Enterprises Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 16/5966/FUL, dated 12 September 2016 4 February 2016, was refused by notice dated 8 November 2016.
 - The development proposed is the demolition of existing building and erection of 3 storey building with rooms in roofspace containing 8 no. self-contained flats and retail unit to ground floor, 4 no. off-street parking spaces, cycle storage and amenity space.
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Decision

1. Appeal A Ref: APP/N5090/W/16/3162418 is dismissed.
2. Appeal B Ref: APP/N5090/W/16/3165349 is allowed and planning permission is granted for the demolition of existing building and erection of 3 storey building with rooms in roofspace containing 8 no. self-contained flats and retail unit to ground floor, 4 no. off-street parking spaces, cycle storage and amenity space at 5-7 Parson Street, Hendon, London NW4 1QD in accordance with the terms of the application, Ref 16/5966/FUL, dated 12 September 2016, subject to the following conditions included in the Schedule at Annexe A.

Procedural Matters

3. As set out above there are two appeals on this site. They differ mainly in the number of self-contained flats, number of car parking spaces and amount of outdoor amenity space proposed. 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.
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4. I have used the description of the proposal for Appeal A from the Council's decision notice as it provides an accurate location and description of the development as a whole. Authority has been given by the appellant for the change of description to be made.

Main Issues

5. The main issues in both appeals are:
 - (i) the effect of the proposed development on the character and appearance of the area; and
 - (ii) the effect of the proposed development on highway safety, with particular regard to parking pressures; and whether a planning obligation in this respect is required to make the proposal acceptable in planning terms.
6. The Council also refused Appeal A in relation to the poor quality of outdoor amenity space and the subsequent harm in relation to future occupiers living conditions. This matter will be returned to within Other Matters.

Reasons

Character and appearance

7. The appeal site is a two-storey building with a dual pitched roof, with a commercial unit located on the ground floor and a residential unit on the first floor. The site is located in a mixed use area, within the designated secondary retail frontage within Brent Street Town Centre. The height of the surrounding buildings vary, with Ferrydale Lodge at the junction of Parson Street and 9 Parson Street, both being taller than either of the two appeal proposals. In contrast, the mainly two-storey terraced dwellings on Florence Street are modest in scale and would be lower in height than either of the proposals.
8. Due to the significant height, scale and massing of a number of buildings on Parson Street, it is considered that the front elevation of both appeal schemes would be well-assimilated into this section of the street scene and would not represent an overly dominant or intrusive addition.
9. The appeal building is considered to have some local historic interest due to the existing sash widows, brick creasing, gable detail and date plaque. As such, the Council state that the building could be considered to be a non-designated heritage asset. The Planning Practice Guidance (PPG) sets out that local authorities may identify non-designated heritage assets. Local lists are given as one useful way of identifying these assets but it is clear that not being on a list would not preclude a building from being considered. Such assets have a degree of significance due to their heritage interest that merits consideration in the planning process.
10. Paragraph 135 of the National Planning Policy Framework (the Framework) states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
11. It is appreciated that the building is of some architectural interest. Nevertheless, it is also evident that it has undergone a significant number of

alterations, including an expanse of blank rendered wall, a significant shop front and single storey rear extensions. As such it cannot reasonably be described as a 'landmark' building or having a significant impact in the immediate area. Overall, based on the evidence in this case, the significance of the building, whilst of some limited local heritage interest, does not weigh significantly in favour of retention.

12. Both appeal schemes would result in the total loss of the building. However, considering the reasons given above, there would not be an adverse impact on the character and appearance of the locality from such a loss. This has been taken into account and with this in mind; the wider effect of the schemes on the character and appearance of the locality is to be considered.
13. It is accepted that both schemes would result in development extending west at the rear of the appeal site, which would front onto Florence Street. Amendments to Appeal A were made following the withdrawal of a planning application for an similar 9 flat scheme in 2015¹ and a further planning refusal for another scheme of 9 flats also in 2015². The appellant contends that the amendments made to both subsequent schemes aim to address the concerns regarding both the potential dominance on Florence Street, outdoor amenity space and car parking requirements.
14. Despite the amendments made, Appeal A would result in the introduction of a development of considerable mass and bulk. In particular, the scheme would result in a development which is taller than the building at 9 Parson Street, which fronts onto Florence Street. In addition, due to the relative narrowness of Florence Street, the introduction of such a degree of bulk and mass would be visually prominent and represent an overbearing and overly dominant feature within the street scene and wider locality.
15. Accordingly, the effect of the Appeal A scheme on the character and appearance of the area would be harmful and thus would not accord with Policy CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (the CS), Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (the DMP) and Policies 7.4 and 7.6 of The London Plan 2016 (TLP). When taken together these policies, amongst other things, seek to ensure that development considers local character and has an appropriate relationship in terms of the location and physical context of the locality.
16. With regard to Appeal B, additional amendments were made to the scheme following the refusal of planning permission for the Appeal A scheme. The overall height of the scheme has been lowered by approximately 30cm and with regard to the elevation facing Florence Street, a reduction in height of approximately 2 metres has been made.
17. Despite the further amendments, the Appeal B scheme would remain approximately 1.5 metres taller than the rear of 9 Parson Street. However, the amendments made would also result in a relatively significant reduction in terms of massing and bulk.
18. Taking these factors into account, it is considered that the reduced size, bulk and mass of the Appeal B scheme is acceptable and would be well assimilated

¹ Council reference 15/02349/FUL

² Council reference 15/05955/FUL

into the surrounding suburban character. Consequently, for the reasons set out above, it is considered that Appeal B does not result in material harm to the character and appearance of the surrounding area. As such the development complies with Policies CS NPPF, CS1 and CS5 of the CS, Policy DM01 of the DMP and Policies 7.4 and 7.6 of TLP.

Highway safety

19. The appeal site is located within a Controlled Parking Zone (CPZ) and is sited within an acceptable walking distance of bus stops, national rail and underground facilities. In addition, a number of services and facilities required for daily living, including banks, a pharmacy and supermarkets are close to the site. As such, the site is considered to be in a relatively accessible location.
20. Policy DM17 of the DMP states that for proposals in close proximity to the edge of a CPZ, a survey will be required to demonstrate that there is sufficient on street parking capacity on streets outside the CPZ. Furthermore, the supporting text of Policy DM17 acknowledges that, particularly in town centre locations, new developments may have difficulty in fulfilling the stated parking requirements. In such situations, the Council may show flexibility with regard to the assessment of parking requirements. In addition, in CPZ's the Council may restrict the occupiers from obtaining car parking permits through a legal agreement, with the aim of reducing congestion in town centres for other users.
21. Parking surveys were undertaken on behalf of the appellant, the scope of which was agreed with the Council. From the submitted information in relation to these surveys, it is evident that for both appeal schemes, the impact on parking capacity would be negligible. For both schemes, the on-street parking utilisation would be around 80%, below the 90% threshold where car parking stress is likely to result.
22. From observations made during the site visit, on-street car parking was available in surrounding streets outside of the CPZ. It is accepted that this is only a snap shot in time, however given the lack of parking restrictions on these streets; it is considered that sufficient on-street parking is available to safely accommodate the level of parking likely to arise from the appeal schemes. Accordingly, given the survey evidence, and from observation made, due to spare parking capacity, it is not considered that either proposal would materially impact on the availability of on-street parking for the existing residents within the locality.
23. Consequently, it is unlikely that the proposal would cause highway safety problems for vehicle users or pedestrians. Nor, taking into account the potential level and nature of vehicle movements and the arrangements of available parking spaces, is it likely that there would be any materially adverse effect on the free flow of traffic.
24. In accordance with Policy DM17 of the DMP, the appellant has submitted two planning obligations under S106 of the Town and Country Planning Act 1990, in the form of Unilateral Undertakings³ (UU), in relation to both appeal schemes. Both UU's provide that the landowner of the appeal site undertakes not to

³ Unilateral Undertakings dated 22 March 2017

apply to the Council for a parking permit nor knowingly permit any Occupier of the land to apply to the Council for a parking permit.

25. Consequently, as a result of the submission of the UU's, it is noted that the Council is no longer defending their reason for refusing both schemes with regard to car parking provision.
26. Paragraph 204 of the Framework states that where planning obligations are sought, they must meet all of the three tests. The three tests are also set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). The tests require that planning obligations should be necessary to make the development acceptable in planning terms; directly related to the development; and be fairly and reasonably related in scale and kind to the development.
27. Both UU's are directly related to the development and would be reasonably related in scale and kind to the development. Nonetheless, it is evident that on-street car parking capacity exists in the streets surrounding the development. As such, no significant harm in relation to highway safety would occur as a result of either appeal scheme. Accordingly, I do not consider that a planning obligation is required to make the development acceptable in planning terms. Therefore, I am not satisfied that the obligation sought by the Council would meet the all three tests set out in paragraph 204 of the Framework and Regulation 122 of CIL.
28. Accordingly, despite a technical breach of Policy DM17 of the DMP with regard to the provision of a planning obligation, the site specific circumstances of both Appeal A and Appeal B results in both appeal schemes complying with the overall parking management and provision of safe travel objectives of Policy DM17 of the DMP and Policies CS NPPF and CS9 of the CS.

Other Matters

29. In relation to Appeal A, the appellant outlined that they would be willing to complete a UU in relation to a financial contribution of £9,000 towards the refurbishment and enhancement of the play area and sport court facilities at Sunny Hill Park. The Council confirmed that such a financial contribution would be acceptable and that subject to the UU being submitted, the level of amenity space would be acceptable. As such, it is noted the Council are no longer defending the reason for refusal relating to outdoor amenity space.
30. However, the UU in relation to Appeal A does not include any details of a financial contribution in relation of facilities at Sunny Hill Park. Nevertheless, as Appeal A is failing on the substantive issue of character and appearance, it is not necessary to consider this matter further.

Conditions

31. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Government's PPG. I find the majority to be reasonable and necessary in the circumstances of this case; however some have been combined or edited for precision and clarity.
32. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans in order to provide certainty. A Demolition and Construction Method

Statement (including hours of construction works and deliveries) is necessary in the interests of highway and pedestrian safety and the living conditions of nearby residents.

33. Details relating to levels are required to ensure an acceptable relationship with the highway and adjacent land in terms of drainage, character and appearance and for the safety and amenity of users of the site. Refuse and recycling collections arrangements are to be submitted and approved in the interests of the appearance of the site and the protection of the amenity of the surrounding area.
34. To ensure a satisfactory appearance for the development and to protect the amenities of the area, it is necessary for a condition requiring details of a extraction and ventilation system to be submitted for the Council's approval. In the interests of highway safety a condition is required to ensure that car parking spaces are provided in accordance with the Council's standards and retained for their intended use at all times thereafter.
35. A condition to secure details of the provision of cycle parking and storage is required to ensure adequate provision is made in the interests of promoting sustainable transport modes. A condition relating to boundary enclosures is necessary in the interests of protecting the character and appearance of the locality and the living conditions of the occupiers of neighbouring properties.
36. The restriction of uses of the site is necessary in order to protect the amenities of neighbours. 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. The London Plan and the Mayor of London's Housing SPG (2016) require all new residential developments to meet M4(2) of the Building Regulations. This will ensure the dwellings are capable of adaptation for accessibility in the future if appropriate. A condition ensuring that the standard is implemented and that the development is retained as such thereafter is considered necessary.
37. Conditions relating to carbon dioxide emissions, air pollution mitigation and plant noise are required in order to safeguard the living conditions of both occupiers of neighbouring properties and future occupiers of the development.

Conclusion

38. For the reasons given above, taking into account all other matters raised, I conclude that Appeal A should be dismissed and Appeal B is allowed.

Helen Cassini

INSPECTOR

Annexe A - Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Locality Plan; Site Plan PS16-PP102; Existing Layouts PS16-PP103; Existing Elevations PS16-PP104; Proposed Layouts PS16-PP201 Rev D; Proposed Roof Plan and Elevations PS16-PP202 Rev C; Comparison Diagram Viewed From Florence Street PS16-PP203 Rev B.
3. No development or site works, including demolition, site clearance and ground works, shall take place on site until a Demolition & Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including delivery hours; loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution. The development shall thereafter be implemented in accordance with the measures detailed within the approved details.
4. No development, other than demolition, site clearance and ground works, shall take place until details of the levels of buildings, roads and pathways in relation to the adjoining land and highway, and any other changes proposed in the levels of the site hereby permitted, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved levels.
5. Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins, 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 development shall be implemented in accordance with the details as approved prior to the first occupation and retained as such thereafter.
6. No development, other than demolition, site clearance and ground works, shall take place until details of the extraction/ventilation system, including a technical report detailing all calculations and baseline data, have been first submitted to and approved in writing by the local planning authority. The extraction/ventilation system shall be carried out in accordance with the approved details prior to the commencement of the use hereby approved. The extract/ventilation system shall thereafter be retained in the approved form.
7. No part of the development hereby permitted shall be occupied until the car parking spaces have been provided in accordance with the approved plan Proposed Layouts PS16-PP201 Rev D. The car parking spaces shall be retained and kept available for their intended purposes thereafter.
8. No part of the development hereby permitted shall be occupied until details for the bicycle parking/storage of bicycles has been submitted to and approved in writing by the local planning authority. The bicycle parking/storage shall

thereafter be provided in accordance with the approved details and shall thereafter be retained in the approved form.

9. No part of the development hereby permitted shall be occupied until details and locations of the boundary enclosures, including boundary treatments, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall be retained thereafter.
10. With the exception of the ground floor residential self-contained unit, the ground floor premises shall be used for retail use and for no other purpose (including any other purpose in Class A1 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).
11. The first, second and third floor premises, and the residential unit on the ground floor, shall be used as self-contained residential units and for no other purpose (including any other purpose in Class C3 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).
12. Prior to the first occupation of the dwelling houses (Use Class C3) 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 they shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 litres of water per head per day or less, and shall thereafter be retained.
13. Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwelling houses permitted under this consent, they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in thereafter.
14. Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 6% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirement of the 2010 Building Regulations. The development shall be maintained as such thereafter.
15. The level of noise emitted from the proposed plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

16. No development, other than demolition, site clearance and ground works, shall take place until a scheme for proposed air pollution mitigation measures have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the buildings and retained as such thereafter.