
Appeal Decision

Site visit made on 6 June 2017

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 06 July 2017

Appeal Ref: APP/N5090/W/17/3170861

**Factory to the rear of 45 to 51 Woodhouse Road, North Finchley,
London N12 9ET**

- 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 Adam Shafron, VFUND against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/3759/FUL, dated 7 June 2016, was refused by notice dated 13 October 2016.
 - The development proposed is the demolition of existing buildings and erection of three storey building with 8no two bed flats, with landscaping, car parking, cycle and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of three storey building with 8no two bed flats, with landscaping, car parking, cycle and refuse storage at Factory to the rear of 45 to 51 Woodhouse Road, North Finchley, London N12 9ET in accordance with the terms of the application, Ref 16/3759/FUL, dated 7 June 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues raised by this appeal are the proposed development's effect on the character and appearance of the area and on the living conditions of occupiers of neighbouring residential properties with particular reference to any overbearing effects.

Reasons

Character and appearance

3. The appeal site is currently occupied by a vacant factory with a serrated, 'north light' roof profile. This extends to the rear of a taller mixed use block at 45 to 51 Woodhouse Road. The site is bounded by blocks of single storey garages to the east and enclosed by the rear gardens of surrounding residential properties on other sides. Those properties are predominantly two storey albeit that some have sizeable rear dormer type extensions to the rear.
 4. The proposed three storey building would appear distinct to, and be taller than, the factory, although it would be a similar height to the rear wing of No 45-51 from which it would be separated by open space and car parking areas. It would occupy a smaller footprint than the factory, appearing as a detached
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structure separate from No 45-51. The building would be clearly seen from the rear of surrounding residential properties. However, other than passing glimpses being afforded along the access and through gaps between intervening buildings, it would be largely discreet from public views as a result of its location.

5. Notwithstanding the garage court, the industrial character of the former factory is in marked contrast with the predominantly domestic and residential character which exists to the rear of the perimeter of properties formed by Woodhouse, Lambert, Castle and Grove Roads. The proposed private and communal amenity spaces within which the building would be set would take on a character comparable with those surrounding gardens. As a consequence this aspect of the proposal would reinforce and enhance this garden character.
6. Whilst taking on a taller form than the single storey garages and outbuildings in some of adjoining rear gardens it would be set back far enough from the surrounding two storey properties for its height not to be jarring or intrusive. It would have a relatively subservient relationship to the taller and more substantial built form of the four storey part of No 45-51 behind which it would be situated. Although the flat roof configuration would give the proposed development a more bulky appearance than the existing serrated factory roof, the rectilinear shape of the building would be broken up by vertical and horizontal set-backs, including stepping down to two storey scale at the point farthest from Woodhouse Road. This would mean that the built form would not appear overly massive, awkward or incongruous within this setting.
7. The nearest existing properties to the west at 39, 41 and 43 Woodhouse Road have substantial rear roof extensions with the effect that their rear elevations have taken on aspects of a three storey appearance. The three storey, flat roof form of the proposed building would not be at odds with this existing context or that of the three and four storey buildings to the south and east on Woodhouse Road. Even though its shape would differ from the pitched roofs of other more distant surrounding properties, the distance between them and the coherent design and residential character of the proposed flats would prevent such a contrast being discordant.
8. Overall the proposal would represent high quality design which responds positively to the character of the area and as such would comply with the design and character requirements of Core Strategy¹ Policy CS1 and Development Management Policies² (DMP) Policy DM01, as supported by Council guidance³. For the same reasons the proposal would also avoid conflict with the National Planning Policy Framework (the Framework) which anticipates the rejection of poor design.

Neighbours' living conditions

9. The site and the existing factory building are apparent from windows on the rear of surrounding residential properties on Woodhouse, Lambert and Grove Roads as well as from some of their gardens. As mentioned above, the proposed building would be notably taller than the existing buildings on the site, albeit occupying a markedly smaller footprint. From properties on Grove

¹ Barnet's Local Plan (Core Strategy) Development Plan Document, 2012.

² Barnet's Local Plan (Development Management Policies) Development Plan Document, 2012.

³ Local Plan Supplementary Planning Document: Residential Design Guidance, 2016.

Road its scale relative to the single storey rows of garages it would adjoin would appear greater than the existing arrangement.

10. Whilst it would be conspicuous and introduce a change in the built landscape, it would not impinge on the outlook from those properties or create an intrusive or overbearing effect as a result of the considerable distance between the rear aspects of the majority of surrounding dwellings and the proposed building.
11. 43 Woodhouse Road is a residential property whose flank elevation lies adjacent to the site access and whose rear garden runs along part of the west side of the site. Notwithstanding two large trees within its garden which would screen and soften views of the proposed development depending on the time of year, parts of the proposed building would be visible from various rear windows and from within the garden. However, the building would be situated farther away from No 43 than the closest parts of the existing factory. Considering the scale and height of the development, it would not be so close to either the rear elevation of No 43 or its garden (or indeed those of its neighbours to the west) that it would appear domineering or have an overbearing effect.
12. Interested parties responding to the application and the appeal have raised concerns relating to other potential effects of the proposal relating to their living conditions. The building would be configured to avoid harmful overlooking of surrounding properties and their gardens. Whilst balconies on the north elevation could allow some limited views into the ends of rear gardens to a limited number of properties on Grove Road, this would not be extensive and would not result in a material loss of privacy to the occupiers of those properties. The building's removed situation from surrounding gardens would avoid significant overshadowing or loss of light to those gardens. Any noise and disturbance generated by the proposed residential use of the site would be of a different and less intrusive character than the continued use of the site for industrial uses would have the potential to generate.
13. The proposal would not result in the material harm to the living conditions of surrounding occupiers. As such the proposal would comply with DMP Policy DM01 which, amongst other criteria, requires development to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers. The proposal would also avoid conflict with the Framework's core planning principle of always seeking to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

14. The Council note that the site is within a Controlled Parking Zone and in an area of medium public transport accessibility. The proposed flats would be situated close to bus services using Woodhouse Road and in easy walking distance of the shops, services and leisure facilities in North Finchley as well as being provided with storage for bicycles. The Council estimate the development to generate a parking demand for ten car spaces with only four being provided on site.
15. The appellant's Technical Note concludes that the on-street parking available in the vicinity could readily accommodate any overspill parking associated with the development. However, the Council consider that the car parking survey informing that Technical Note is insufficient in that it does not cover the

evening period when competing demands of residents and visitors to the nearby town centre may overlap.

16. In the absence of such information the Council considered that the proposal would be acceptable if a planning obligation prevented future occupiers acquiring resident parking permits. The lack of a planning obligation in this regard did not form part of the Council's reason for refusal although the Council point out that the absence of a highway objection was on the basis that there would be such an obligation. The appellant has submitted an obligation in the form of a unilateral undertaking in that respect as part of his appeal.
17. There is the potential that during the evening period any overspill parking that may arise from the development could contribute to any parking stress that might exist at that particular time. However, there is no substantive evidence as to what material harm would arise as a result of the development even if there were to be less on street parking available during the evening period which was not assessed by the appellant.
18. The Framework requires that planning obligations need to meet three tests including that they would be necessary. Considering the accessible location of the site and the absence of substantive evidence that significant adverse effects would arise in its absence, it has not been demonstrated that the undertaking would be necessary to make the development acceptable in planning terms. As such, I have not afforded the undertaking any weight and so it has not been a reason for granting planning permission.
19. An interested party has suggested that the site would be better used for small commercial or creative uses. However, I have been presented with no substantive reasons to disagree with the Council's conclusion in their committee report that, in light of the appellant's marketing evidence, there would be no conflict with policies which seek to manage the loss of business uses. I have been presented with no convincing evidence that would lead me to disagree with the Council's conclusion that the size of the scheme would mean that it would not be necessary to provide affordable housing. Any effects on the structural integrity of the garages which presently abut the factory would be a private matter for the respective owners to address.
20. These other matters do not, therefore, lead me to consider that the proposed development would not be acceptable.

Conditions

21. The Council have suggested (without prejudice) a number of conditions in the event the appeal was to be allowed. I have considered these in light of the Planning Practice Guidance, amending them where appropriate. It is necessary to specify the approved drawings and details of levels as this provides certainty. In order to ensure the health and safety of future occupiers it is necessary to investigate the site for potential contamination and to remediate the site if contamination is found. In order to avoid unnecessary disturbance to neighbours and harm to highway safety from demolition and construction work it is necessary to restrict construction hours and require that a management plan is adhered to.
22. External materials, those of the green roof and details of landscaping need to be approved to protect the character and appearance of the area. Cycle

parking needs to be provided to ensure that occupiers have access to a range of transport options. The proposed car parking needs to be provided and retained to limit the need for off-site parking. As the site is adjacent to commercial uses on Woodhouse Road and the Council advise the site lies within an area of low air quality, it is necessary that mitigation measures, informed by an assessment in the case of noise, are incorporated to protect the living conditions of future occupiers of the development.

23. To make the dwellings potentially suitable for a wide range of occupants it is necessary to require compliance with the optional Building Regulations requirements with regards accessibility and adaptability. It is necessary to require carbon saving levels and the application of optional Building Regulations requirements relating to water use to promote water and energy efficiency. Requiring enclosures and bin store screening to be provided and retained will maintain the character and appearance of the area and protect occupiers' living conditions.
24. In order to avoid any mutual overlooking and consequent loss of privacy between the proposed building and adjacent properties it is necessary to require windows in the west elevation to be obscure glazed and to control the insertion of any new openings. There is no evidence to suggest that ventilation and extraction equipment associated with domestic uses would be likely to cause unacceptable disturbance to existing or future occupiers nor that it would be detrimental to the building's appearance. Therefore I have not attached a condition in this respect.

Conclusion

25. For the above reasons, and having had regard to all other matters raised, the proposed development would not harm the character and appearance of the area or the living conditions of occupiers of neighbouring residential properties. The development would comply with the development plan, Council guidance and the Framework and the appeal is therefore allowed.

Geoff Underwood

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and reports: Existing (Received: 08/06/16); 01 Proposed (Received: 07/09/16); WHR-DS-01-ZZ-DR-A-P003 Rev P0; WHR-DS-01-ZZ-DR-A-P100 Rev P0; WHR-DS-01-ZZ-DR-A-P101 Rev P0; WHR-DS-01-ZZ-DR-A-P102 Rev P1; WHR-DS-01-ZZ-DR-A-P103 Rev P1; WHR-DS-01-ZZ-DR-A-P200 Rev P1; WHR-DS-01-ZZ-DR-A-P201 Rev P1; WHR-DS-01-ZZ-DR-A-P202 Rev P1; WHR-DS-01-ZZ-DR-A-P203 Rev P1; WHR-DS-01-ZZ-DR-A-P204 Rev P1; WHR-DS-01-ZZ-DR-A-P205 Rev P1; WHR-DS-01-ZZ-DR-A-P206 Rev P1; WHR-DS-01-ZZ-DR-A-P210 Rev P0, WHR-DS-01-ZZ-DR-A-P211 Rev P0; WHR-DS-01-ZZ-DR-A-P300 Rev P1; Geo-Environmental Desk Study Report (dated April 2016); Transport Assessment (dated: May 2016); Daylight and Sunlight Study (Dated: April 2016), and; Marketing Statement prepared by Jeremy Leaf and Co (dated: January 2016).
3. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, roads and footpaths in relation to the adjoining land and highways and any other changes proposed in the levels of the site, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
4. Part 1
Before development commences other than for investigative work:
 - a) A desktop study (Preliminary Risk Assessment) shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The Preliminary Risk Assessment and Conceptual Model shall be submitted to the local planning authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the local planning authority.
 - b) If the Preliminary Risk Assessment and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the Preliminary Risk Assessment and Conceptual Model. This scheme design shall be submitted to, and approved in writing by, the local planning authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:
 - a risk assessment to be undertaken,
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the local planning authority.

c) If the risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local planning authority prior to that remediation being carried out on site.

Part 2

d) Where remediation of contamination on the site is required, completion of the remediation detailed in the Method Statement shall be carried out and a report that provides verification that the required works have been carried out, shall be submitted to and approved in writing by the local planning authority before the development is first occupied.

5. Demolition or construction works shall take place only between 0800 and 1800 hours on Mondays to Fridays, between 0800 and 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
6. No site works or works on this development including demolition or construction work shall commence until a Demolition, Construction and Traffic Management Plan (the Plan) has been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Plan submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are to be properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractors' compound and car parking arrangements;
 - ix. Details of interim car parking management arrangements for the duration of construction, and;
 - x. Details of a community liaison contact for the duration of all works associated with the development.
7. No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the buildings and hard surfaced areas have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved materials.
8. No development other than demolition works shall take place until details of the proposed green roof have been submitted to and approved in writing by the

local planning authority. The green roof shall be implemented in accordance with the approved details prior to the first occupation of the development or, depending on the specification, before the end of the first planting and seeding season following occupation of any part of the building or completion of the development, whichever is sooner, and retained as such thereafter. Should any part of the approved green roof be removed, die, become severely damaged or diseased within five years of the completion of development, it shall be replaced in the next planting and seeding season in accordance with the details approved by this condition.

9. A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and approved in writing by the local planning authority before the development, other than demolition works, hereby permitted is commenced. All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the building or completion of the development, whichever is sooner. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
10. No development other than demolition works shall take place until a scheme of proposed air pollution mitigation measures has been submitted to and approved in writing by the local planning authority. The approved mitigation scheme shall be implemented in its entirety prior to the first occupation of the development and retained as such thereafter.
11. No development other than demolition works shall take place until a noise assessment, carried out by an approved acoustic consultant, which assesses the likely impacts of noise on the development and measures to be implemented to address its findings has been submitted to and approved in writing by the local planning authority. The report shall include all calculations and baseline data, and be set out so that the Local planning authority can fully audit the report and critically analyse the content and recommendations. The measures approved under this condition shall be implemented in their entirety prior to the first occupation of the development and retained as such thereafter.
12. No dwelling hereby approved shall be first occupied until the Building Regulations Optional requirement G2. 36 (2)(b) (requiring the potential consumption of wholesome water by persons occupying a new dwelling not to exceed 110 litres per person per day) has been complied with. The development shall be maintained as such thereafter.
13. No dwelling hereby approved shall be first occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.
14. Notwithstanding the approved plans, prior to the first occupation of any dwelling hereby approved cycle parking and cycle storage facilities shall be provided in accordance with a scheme that shall have been submitted to and

approved in writing by the local planning authority beforehand. The spaces and facilities shall be permanently retained thereafter.

15. No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No WHR-DS-01-GF-DR-A-P003 P0 for four cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
16. Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellings permitted under this consent, they shall 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 thereafter.
17. The building hereby permitted shall not be occupied until the windows in the west elevation facing the boundary with 43 Woodhouse Road have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.
18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or doors other than those expressly authorised by this permission shall be constructed on the flank elevations of the building.
19. Before the development hereby permitted is first occupied, details of i) means of enclosure, including boundary treatments and ii) 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 full accordance with the approved details prior to the first occupation of the development and retained as such thereafter.