
Appeal Decision

Site visit made on 7 June 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 24th July 2017

Appeal Ref: APP/N5090/W/17/3170513

Tenfold, Woodside Grange Road, North Finchley, London N12 8SP

- 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 Lipman of MSL Properties Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 16/6445/FUL, dated 5 October 2016, was refused by notice dated 26 January 2016.
 - The development proposed is demolition of the existing dwellinghouse and the erection of a three-storey plus rooms in roofspace detached building to provide 6 no. self-contained flats with associated car and cycle parking, refuse storage, amenity space and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwellinghouse and the erection of a three-storey plus rooms in roofspace detached building to provide 6 no. self-contained flats with associated car and cycle parking, refuse storage, amenity space and landscaping at Tenfold, Woodside Grange Road, North Finchley, London N12 8SP in accordance with the terms of the application, Ref 16/6445/FUL, dated 5 October 2016, subject to the conditions in the attached schedule.

Procedural matter

2. I have noted that, following an amendment to the planning application, the description of the proposed development was altered by agreement between the parties. I have therefore used this amended description for the purposes of the appeal.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether there is a need for the existing dwelling to be retained; and
 - The effect of the proposed development on the living conditions of the occupiers of the flats in Falcon Court with particular regard to over dominance and loss of daylight.

Reasons

Character and appearance

4. Woodside Grange Road is a quiet, mainly residential, tree lined street. It contains buildings in a wide range of architectural styles, materials, roof forms, and ages, ranging from large, older, properties and single dwellings in substantial gardens to more recent, purpose built, blocks of flats. As a result it has no predominant architectural style or built form.
5. The proposed development is a three storey building with accommodation within the roof void in a contemporary style. Whilst it would be approximately 2 metres taller and 1 metre wider than the existing dwelling on the site, the spacing between the buildings and its neighbours would not be appreciably different from the existing situation. The ridge of the roof would be at an intermediate height between the two storey house to the south and the three storey flats at Falcon Court. As such it would form a visual transition between these two buildings and would integrate well into the overall street scene.
6. The Council suggest that the proposed development is an over-intensification of the residential use of the site based on units per hectare densities identified in the London Plan in relation to the Public Transport Accessibility Level (PTAL) rating for the area. There is disagreement between the parties as to which suggested density should be applied to the site, however, even taking the Council's position at a density of 100 units per hectare, the proposed development is only slightly in excess of the recommended range of 35-95 units per hectare. Moreover, the London Plan is clear that it is not appropriate to apply the density matrix mechanistically and that other factors, such as context and design, are also important.
7. Within the street there are a substantial number of flat blocks, most of which are larger than the proposed development and, in terms of density, the proposed development would be broadly consistent with these. It is not suggested that the external appearance of the proposed development is objectionable *per se*, or that the amount of amenity space around the new building is inadequate. Within this context, the proposed development would not represent an over-intensification of the residential use of the site.
8. I conclude that the development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Policies CS NPPF, CS1 and CS5 of the Barnet Core Strategy 2012 (Core Strategy); Policy DM01 of the Barnet Development Management Policies Development Plan Document 2012 (DMP); and the Barnet Residential Design Guidance Supplementary Planning Document (SPD) which seek to ensure that new development is of a high standard of design that has regard to its context and reflects the distinctive character of the area.

Is there a need for the existing dwelling to be retained

9. The appeal proposal is for the development of 6 flats for sale on the open market. It would comprise 1 three bedroom, 1 two bedroom, and 4 one bedroom, flats. Policy DM08 of the DMP seeks to ensure that new residential development provides, where appropriate, a mix of dwelling types and sizes in order to provide choice for a growing and diverse population. The Policy states

that, for market housing, homes with four bedrooms are the highest priority with three bedroom homes a medium priority.

10. Whilst it may be the case that historically there has been an under-provision of four bedroom dwellings in the Borough, there has been no evidence submitted in respect of the level of provision of dwellings of this size since the adoption of the development plan in 2012. The policy does not explicitly require that existing four bedroom dwellings should be retained, nor can it, on its face, be read as requiring that all new developments comprised of, or including, market housing should solely consist of three and four bedroom dwellings.
11. The proposed development would increase the number of dwellings within the housing stock and would provide at least one three bedroom dwelling which is capable of being occupied by a family. The remaining mix of dwelling sizes would meet the requirement of Policy DM08 to provide choice for a growing and diverse population.
12. Core Strategy Policy CS5 is primarily concerned with design matters, although it does require that all development should maximise the opportunity for community diversity, inclusion and cohesion. It is not set out in the Council's statement in what way the proposed development runs counter to Policy CS5.
13. On the basis of the evidence, I conclude that there is no over-riding reason why the existing dwelling is required be retained.

Living conditions of the occupiers of Falcon Court

14. Falcon Court is a modern three storey block of purpose built flats with an additional floor of accommodation contained within the roof space. It is built close to the common boundary with the appeal site. I saw when I visited the site that there are three windows in the southern flank wall of Falcon Court and a further window is set back into the roof away from the main wall. From the plans of this building that have been provided, with the exception of the window at roof level, which gives onto a passageway at the rear of a roof terrace, these windows serve the kitchen areas of the flats.
15. The Barnet Residential Design Guidance SPD defines a habitable room as a room within a dwelling, the primary purpose of which is for living, sleeping or dining, including kitchens where the total area is more than 13 square metres. It is not in dispute that the floor area of the kitchens does not exceed 13 square metres. Whilst the occupiers of the flats may well have tables and chairs within the kitchen areas, this does not alter the status of the room for the purposes of applying the Council's definition.
16. Two of these kitchen windows, at ground and first floor level, currently look onto the side wall of the existing house on the appeal site. The second floor window at Falcon Court is above the eaves line of the existing house but looks out onto the roof slope. The position of the flank wall of the new building in relation to the common boundary and to Falcon Court is essentially similar to that of the existing house. Within this context, the outlook from the first and second floor kitchen windows would not be materially altered from the current situation. There would be an effect on the outlook from the second floor kitchen window which would look out onto the new flank wall of the proposed building. However, at present the outlook from this window is constrained by

the roof of the existing house and, consequently the loss of outlook would not be substantial.

17. A Daylight and Sunlight Assessment was submitted with the planning application and the findings of this are not challenged by any technical evidence from the Council. This assessment found that the first and second floor kitchen windows would experience a loss of sunlight and daylight, however, it concluded that the Building Research Establishment (BRE) guidelines would still be met overall. I also note that the BRE guidelines are only applicable to habitable rooms.
18. Criteria e. of DMP Policy DM01 requires that development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers and users. The habitable rooms of the flats in Falcon Court look out to the front and rear of the building. It is not suggested that any other windows would be affected by the appeal proposal. Having regard to this, whilst there would be a small but noticeable effect on light received by, and outlook from, two windows of non-habitable rooms, overall the living conditions of the occupiers of Falcon Court would not be so diminished as to warrant refusal on this ground. Core Strategy Policy CS5 does not refer to living conditions of neighbouring occupiers and this is not directly relevant to this issue.
19. I therefore conclude that the proposed development would not cause harm to the living conditions of the occupiers of Falcon Court, with particular regard to loss of light and outlook.

Other matters

20. A completed Unilateral Undertaking was submitted by the appellant to the Council before the determination of the application. This undertook to make a financial contribution to the cost of amending the traffic order that is in force in the vicinity of the development. The purpose of this was intended to restrict the occupiers of the development from holding car parking permits. However, the wording of undertaking is such that there is no mention of this and, consequently, it would not achieve what it is supposed to do. As a result I can give no weight to this undertaking.
21. The development proposes to provide two car parking spaces, which would be allocated to the two larger flats. No off-street car parking would be provided for the four, one bedroom flats. The Highway Authority state that the proposed development would require between 2 to 8 parking spaces in order to meet the requirements of DMP Policy DM17. I note that these standards are a maximum provision rather than a minimum provision. In this respect the appeal proposal does not conflict with Policy DM17.
22. Although the appeal site is located within an area which PTAL rating of 2, which is low, nevertheless, it is approximately 300 metres from an Underground Station and bus stop. Further bus services and a range of shops and services are located within reasonable walking or cycling distance on High Road. The occupiers of the other flats would not, therefore, necessarily be dependent on private cars to meet their day to day needs.
23. The appeal site is located within a Controlled Parking Zone (CPZ) that operates from 09:00 to 17:00 every day except Sundays. Whilst the CPZ is indicative of

a level of parking stress there is no substantive evidence in respect of how severe this is. In addition, the CPZ restrictions end just past Falcon Court, beyond which less restrictive parking controls are in force.

24. I saw when I visited the site that, within the CPZ, available on street parking was well used but a short distance beyond the appeal site, where less stringent parking controls are in force, the on street parking was much less used. I am, therefore, satisfied that any additional on-street parking generated by the proposed development could be accommodated within the area.

Conditions

25. I have had regard to the list of conditions suggested by the Council. In order to provide certainty regarding what has been granted planning permission, I have attached a condition specifying the approved plans.
26. Full details of the proposed materials, landscaping and refuse storage arrangements are not provided in application. In interests of the appearance of the building and the surrounding area it is necessary to require that further details of these be submitted for approval. In order to ensure that there is no mutual overlooking between the proposed new dwellings and the neighbouring properties it is also necessary to require that the windows in the flank elevation are fitted with opaque glazing.
27. As the appeal site is a relatively small site in a primarily residential area it is also necessary, in order to protect the living conditions of the neighbouring occupiers, that a method statement be submitted to govern the construction period. As this should be in place for the full period of the development it is necessary that this condition be pre-commencement.
28. There are trees within the site that are to be retained and others outside but in proximity to the site boundary. In order to ensure that these are not damaged during the construction period it is necessary that these be protected. These measures are required for the full duration of the works and it is necessary that this condition also be pre-commencement.
29. The proposal involves lowering the ground levels of the appeal site. Full details of these have not been provided and in order to ensure that the development is implemented as proposed it is necessary to attach a condition requiring the finished levels to be submitted for approval. As this is fundamental to the setting out of the building, it is necessary for this condition to be pre-commencement.
30. The Council's development plan contains policies which seek to ensure that new development is accessible, water efficient, and minimise carbon dioxide emissions. On 1 October 2015 new optional national technical standards came into force, which allow such conditions to be imposed with reference to the nearest equivalent national technical standard. In order to meet the requirements of the development plan it is necessary to impose a condition in respect of water efficiency. Although details are provided in respect of access within the building it is necessary to ensure that these are implemented.
31. The Council's suggested condition relating to carbon dioxide emission reduction refers to Target Emission Rates in the now superseded 2010 edition of the Building Regulations. Following the introduction of the optional technical standards local planning authorities have the option to set additional technical

requirements exceeding the minimum standards required by Building Regulations. Where there is an existing policy relating to energy efficiency and carbon dioxide reduction, or which references the now withdrawn Code for Sustainable Homes, it is possible to impose a condition requiring a level of energy performance equivalent to that in the Code for Sustainable Homes. Policies DM01 and DM02 of the DMP do not refer to a specific Code Level that would be sought in new developments and Policies 5.2 and 5.3 of the London Plan relate only to major developments. On this basis I do not consider that there is sufficient justification that this condition is necessary and it would, in any event, duplicate the requirements of the building regulations.

32. The Council have suggested a condition requiring Sound Insulation Test Certificates to be submitted, however, this is not covered by the optional technical requirements and replicates the requirements of the Building Regulations. No substantive reason is given as to why this condition is required in order to make the development acceptable and is it therefore does not meet the test of being necessary in order to allow planning permission to be granted.
33. There is no substantive evidence that there are any ecological interests that would be prejudiced by the development and, therefore, I do not consider that the condition requiring an ecological survey is necessary. There is also no substantive evidence to indicate why the layout of the units as proposed should be retained for the lifetime of the development or to suggest that the roof of the building would be utilised as an amenity area. Consequently, I do not consider that these conditions are necessary. Similarly, all works within the adopted highway will require the consent of the Highways Authority and it is not necessary to require this by way of a condition.

Conclusion

34. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

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: Drawing no. 4848_02D, Drawing no. 4848_03E, Drawing no. 4848_04D, Drawing no. 4848_05D, Drawing no. 4848_06D, Drawing no. 4848_07D, Drawing no. 4848_08, Drawing no. 4848_10, Drawing no. 4848_11, and Drawing no. 4848_Ex Elevations.
- 3) No development shall take place until full details of the finished levels of the ground floor of the proposed building, in relation to the adjoining land and highway, and any other changes proposed in the levels of the site have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved levels.
- 4) No site works or works on the development, including demolition or construction work, shall commence until a Demolition and Construction Management and Logistics 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 Demolition and Construction Management and Logistics 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 properly washed and cleaned to prevent the passage to 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;
 - x. Details of a community liaison contact for the duration of all works associated with the development.

- 5) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and arboricultural method statement by Martin Dobson Associates hereby approved.
- 6) No development other than demolition works shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The development shall thereafter be carried out in accordance with the approved sample details.
- 7) Before the development hereby permitted is first occupied, details of enclosed 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. Refuse collection points should be located within 10 metres of the Public Highway, at ground floor level. The development shall be implemented in full accordance with the approved details prior to the first occupation and retained as such thereafter.
- 8) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 4848_02D for cars and bicycles to be parked and that space shall thereafter be kept available for the parking of cars and bicycles.
- 9) The amenity space shall be implemented and subdivided in accordance with the details indicated on the hereby approved Drawing no. 4848_02D before first occupation of any dwelling and retained as such thereafter.
- 10) No development shall take place above the level of the damp proof course of the building until a scheme of hard and soft landscaping to the front forecourt area and rear garden, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, proposed shrubbery around parking areas and refuse areas has been submitted to, and approved in writing by, the Local Planning Authority.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) Before the building hereby permitted is first occupied, the proposed windows in the side elevations facing Falcon Court and Villa Verdi shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

- 13) Prior to the first occupation of the new dwellings 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 new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such for the lifetime of the development.
- 14) 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 the ground floor units 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 for the lifetime of the development.