
Appeal Decision

Site visit made on 7 November 2017

By Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 29th November 2017

Appeal Ref: APP/N5090/W/17/3180906

Ullswater Court, 92 Holders Hill Road, Church End, London NW4 1LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Watch Tower against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/7639/CON, dated 30 November 2016, sought approval of details pursuant to conditions Nos 4, 5 and 7 of a planning permission Ref APP/N5090/C/15/3005873, granted on appeal on 21 June 2016.
 - The application was refused by notice dated 3 July 2017.
 - The development proposed is the erection of 9 (nine) self contained flats in a part 3 and part 4 storey building.
 - The details for which approval is sought are: boundary treatment (Condition 4), landscaping (Condition 5) and ventilation (Condition 7).
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Decision

1. The appeal is dismissed and approval is refused for the details submitted pursuant to Conditions 4 and 5 attached to planning permission Ref APP/N5090/C/15/3005873, granted on appeal on 21 June 2016.
2. The appeal is allowed and I approve the details submitted pursuant to Condition 7, attached to planning permission Ref APP/N5090/C/15/3005873, granted on appeal on 21 June 2016, in accordance with the application Ref 16/7639/CON, dated 30 November 2016.

Main Issues

3. The main issues are the effect on:
 - the character and appearance of the site and the surrounding area; and
 - the living conditions of the occupiers of neighbouring residents with particular regard to noise and disturbance.

Reasons

Character and appearance

4. The street scene in the area is characterised by a variety of differing developments including flats, and dwellings. There is also a considerable variety to the front boundary treatments serving the same, including metal railings, low brick walls, open frontages, hedges and combinations of the same.

5. The combination of a low brick wall with railings above and relatively dense planting immediately behind at a similar height, does not therefore appear out of place or harmful to the street scene. Neither do I find this part of the boundary treatment to be unduly high when compared to others in the context in which it is viewed. However, I fail to see the purpose of the secondary trellis fencing which would be materially higher than the frontage railings and would appear prominent and incongruous in this location. There are already a significant amount of railings in front of the development which creates a somewhat busy appearance. I appreciate that these may be necessary from a safety point of view due to the number of changes in levels, however, the addition of the trellising would appear superfluous, adding further visual clutter which would be harmful to the setting of the development.
6. I note that the appellant has confirmed that the trellising is not integral to the design and could be removed. Nevertheless, it forms part of the scheme which is currently before me. Given its prominent position close to the front boundary and within the proposed landscaping, the harm would be sufficient on its own to warrant withholding approval of the details of both Conditions 4 and 5 as these matters are, in my view, intrinsically linked in this case.
7. Reference is made by interested parties to the landscaping approved as part of the 2010 planning permission but I have not had been provided with those details to enable me to make a comparison. Nor do I have any details of the tree that was removed from the site. Nevertheless, the Inspector in granting planning permission in June 2016 noted the concerns expressed about inadequate landscaping to the front but felt that that could be addressed by condition.
8. In consideration of this, I note that the front of the property includes a number of elements, including vehicular access, parking, stepped and ramped pedestrian access as well as bin store with associated access points. These along with the various changes in levels across the frontage place competing demands on the space available. However, the proposals currently before me would materially increase the existing level of landscaping by the loss of one of the front car parking spaces. In doing so, this would allow for additional softening to the setting of the development, including provision of feature tree. On this basis, the landscaping, save for the trellising, would not look particularly out of place or harmful to the street scene.
9. I have noted the submissions from interested parties that a satisfactory agreement has been reached with the owners of the building for an amended design and use of the hard standing area behind the frontage. However, I do not have the details of what has or hasn't been agreed and in any case, I have been appointed to determine this appeal on the planning merits of those details currently before me. In doing so, I have given appropriate regard to the planning history associated with this site, including the associated enforcement action and appeal decision.
10. I therefore conclude that the landscaping and boundary enclosure details, taken as a whole, would result in material harm to the setting of the block of flats and the character and appearance of the area. This would be contrary to Policy DM01 of Barnet's Local Plan (Development Management Policies) and Policy CS5 of Barnet's Local Plan (Core Strategy), which seek to protect and enhance Barnet's character to create high quality places.

Living conditions

11. The Inspector in granting planning permission took the view that concerns about sound emitted from plant and machinery could be addressed by requiring details to be submitted to the Council for its approval.
12. To this end, I have noted the findings of the 'Planning Compliance Technical Note' (January 2017) which concludes that at all times the plant and machinery should be compliant with the local planning authority requirements. This is confirmed by the Council's Scientific Services Officer (SSO) who states that the information meets noise criteria requiring plant to be operated so as to ensure that any noise generated is at least 5dB(A) below the background level, as measured from any point 1m outside the window of any room of a neighbouring residential property. This is consistent with the findings of a later site visit by the Council's SSO who confirmed that the enclosures to the outlets are still in place at the Aspen Court end of the development and that the main noticeable noise was from road traffic and that the noise emitted would not have been audible at the nearest habitable room window. For the side onto No 98 Holders Hill the SSO states the ventilation outlets are too far away to be heard and that there was no noticeable noise apart from road traffic.
13. As noted by the previous Inspector, Environmental Health officers are best placed to assess the potential impact upon neighbours and any mitigation if required. I therefore place substantial weight to these consultation responses. Moreover, the Council has confirmed that the details submitted to discharge Condition 7 are satisfactory and that it is not seeking to contest the appeal in this regard. I have noted the other concerns regarding noise generated by the emptying of waste containers but the previous Inspector found that the location of the storage facility is not detrimental to nearby residents. I find no reason to disagree.
14. Therefore, whilst I have fully considered the concerns raised by interested parties, on the basis of the evidence before me, I find no sound material reason to withhold approval of the details submitted in respect of the discharge of Condition 7.

Other matters

15. As this appeal essentially relates to the acceptability or otherwise of the details submitted in respect of the three aforementioned conditions, the issues before me are fairly narrow. Matters which are not therefore before me include the cycle store, highway safety, the internal layout and any previous breaches of planning control. Parking provision is relevant only insofar as it affects the area available for landscaping.

Conclusion

16. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be allowed in respect of the discharge of Condition 7 and dismissed in respect of Conditions 4 and 5.

Richard S Jones

INSPECTOR