
Appeal Decision

Site visit made on 21 November 2017

by Caroline Jones BA (Hons) DipTP MTP MRTPI

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

Decision date: 19th December 2017

Appeal Ref: APP/N5090/W/17/3181130

67 Leicester Road, New Barnet, Barnet EN5 5EL

- 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 Leicester Road Estates Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/2413/FUL, dated 12 April 2017, was refused by notice dated 29 June 2017.
 - The development proposed was originally described as 'demolition of the existing buildings and erection of a 2 storey plus roof detached building comprising 6no self-contained flats (2 x 2b4p, 2 x 1b2p, 1 x 2b3p, 1 x 3b6p with associated cycle and bin store, front and rear parking, communal amenity and landscape'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a two storey plus rooms in roofspace detached building comprising 6no self-contained flats with associated amenity space, cycle and bin stores and provision of 7 no. off street parking spaces at 67 Leicester Road, New Barnet, Barnet EN5 5EL in accordance with the terms of the application, Ref 17/2413/FUL, dated 12 April 2017, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the decision above is taken from the Council's decision notice. I consider this to be more accurate and concise than that used on the application form. I saw at my site visit that the buildings marked as existing on the submitted plans have already been demolished and I have amended the description accordingly.

Application for costs

3. An application for costs was made by Leicester Road Estates Limited against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and on the living conditions of the occupiers of 65 Leicester Road.

Reasons

Character and appearance

5. The appeal site is a substantial L-shaped plot which was previously occupied by a detached two storey dwelling. The surrounding area comprises a mix of residential development including houses in single family occupation and blocks of flats ranging from 2 to 3 storeys in height. Whilst the area is densely developed, small gaps between plots provide visual breaks in the street scene. The appeal scheme encompasses the erection of a 2 storey, hipped roof building with rooms in the roofspace comprising 6 self-contained flats.
6. The Council's Supplementary Planning Document: Residential Design Guidance (2013) (RDG) states that where gaps between houses are common features of a street, then proposals which close such gaps or create a terracing effect by bringing buildings too close together are likely to be rejected. It goes on to say that there should normally be a minimum gap of 2m between the flank walls of properties at first floor.
7. The submitted plans show that at first floor level, the gap between the appeal building and No 65 would be about 2.6m and that to no 69 about 2.9m. In this respect, the proposal accords with the guidance in the RDG. Furthermore, I agree with the appellant that spaces between the proposed building and the existing dwellings either side would be commensurate with the spacing between dwellings in Leicester Road generally. I have had regard to the fact that the distance between No 65 and the proposed building would lessen as No 65 has a recessed two storey extension. Nonetheless, given the extension's set back and set down from the main ridge I am not persuaded that this would have an unduly harmful impact on the sense of space between the properties. In light of the above, together with the pitched roof and open sided nature of the ground floor of the proposed building, I consider that adequate separation would be maintained between the properties and there would be no terracing effect.
8. I therefore conclude that the proposal would not have a detrimental impact on the character and appearance of the area and find no conflict with Policy 3.5 of the London Plan (LP) (2016), Policies CS1 and CS5 of the Barnet Local Plan Core Strategy (2012) (CS), Policy DM01 of the Barnet Local Plan Development Management Plan (2012) (DMP). These seek, amongst other things development of high quality, which is based on an understanding of local characteristics and context, that protects and enhances the quality of London's residential environment, and respects the scale, mass, height and pattern of surrounding buildings, spaces and streets.

Living conditions

9. The proposed building would be in close proximity to windows and doors at No 65 at both first and second floor. I could see at my site visit that the first floor windows contained obscure glass and appeared to serve non-habitable rooms. As a result, the proposal would not materially harm the living conditions for occupants when using these rooms. Those on the ground floor appeared to serve living space which also has large windows facing out onto the rear garden. The Council are concerned that given its proximity, the proposal would create a long narrow corridor and negatively impact on the light received by the flank windows.

10. The appellant has submitted a technical assessment of the implications for daylight and sunlight with regard to the impact on 65 and 69 Leicester Road. As the Council's concern relates only to No 65, I shall confine my detailed consideration to this aspect of the report. The assessment is based upon national guidance provided by the Building Research Establishment (BRE).
11. The report shows that the proposal would adhere to the BRE Guidelines 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice'. The ground floor windows are secondary windows to a room which is lit by a large expanse of glass facing the rear garden. Therefore, whilst there would be a noticeable reduction in vertical sky component levels at these openings, the primary windows to the room would remain unchanged and as a consequence the room will remain well lit. In terms of the interior daylight conditions of the habitable rooms the average daylight factors (ADF) the report indicates a retained value of 4.62, far in excess of the target value of 1.5% for living rooms and the no-skyline supports this retained value by a retaining of daylight to 99.8% of the room with zero reduction. The report also shows that there would not be a detrimental impact on sunlight to this room.
12. In addition to the above, I accept the appellant's argument that the previous dwelling would also have had an impact on the outlook and light to these windows as well as the close boarded fence along the common boundary. Whilst I note the Council's concerns, it has not challenged the findings of the submitted assessment, and from the information before me and my observations on site, I am of the opinion that the proposal would not have an unduly harmful impact on daylight or sunlight received by the flank windows of No 65.
13. At my site visit, I could see that there was no step back in the front elevation of No 65 and that the first floor was flush with the ground floor. Therefore, having regard to the submitted site and roof plan, the front elevation of the proposed building would be more or less in line with that of No 65 and would not therefore have a materially harmful impact on the outlook from or light to the adjacent window.
14. I therefore conclude that the proposal would not have a materially harmful impact on the living conditions of the occupiers of No 65 and find no conflict, in this regard, with Policies CSNPPF, CS1 and CS5 of the CS, Policy DM01 of the DMP and guidance within the RDG. These seek, amongst other things, high quality development proposals that are designed to allow for adequate daylight, sunlight and outlook for adjoining occupiers and to protect and enhance high quality suburbs.

Other matters

15. I have had regard to the numerous concerns raised by neighbouring residents. In terms of those relating to highway safety and parking, I note that the Highway Authority has not raised any objection to the proposal and I have no reason to reach a different view. The appellant submitted a noise impact assessment with the application which suggested mitigation measures including an acoustic fence along the boundary. Furthermore, there is no compelling evidence that existing flatted developments in the locality give rise to issues of noise and disturbance or light intrusion from security lights. The Council raised no concerns with respect to the impact on noise and disturbance subject to conditions and I have no reason to conclude otherwise. As the original building

has been demolished I cannot take into account those comments relating to its retention.

16. The plot size is considerable and larger than many of the plots in the vicinity and I do not agree that the proposal would be overdevelopment. I have no reason to disagree with the Planning Officer that the principle of flatted development on the site is acceptable. Whilst the character of the street may have changed somewhat as a result of such development, there is no substantive evidence that this has had a harmful impact on local residents or the area. I also agree with the Planning Officer's summary that in design terms, due to varying designs and styles within the locality and the design picking up cues from existing development, there would be no detrimental impact in this regard. It has not been put to me that there is a policy requirement for affordable housing.
17. I note the Council's Trees team raised no objections and I have no reason to disagree. Supplementary landscaping can be secured by condition. There is no compelling evidence before me that the proposal would lead to drainage problems or access for emergency vehicles.
18. The value of surrounding properties is not of itself regarded as a planning matter. There are no habitable first floor windows on the side elevation and obscure glazing can be secured through condition to avoid any overlooking. I note the amenity space exceeds that required by the Council's guidance. Whilst I note those concerns relating to services, as the Planning Officer has pointed out, there will be a contribution from CIL charges which pay for community infrastructure. Any impact during construction will be for a temporary period only.
19. Whilst I note residents' frustrations about the nature of the development and previous discussions with the developer, this has no material bearing on the planning merits of the scheme.

Conditions

20. Having regard to the National Planning Policy Framework, I have had regard to those conditions suggested in the Officer Report and those by the appellant. I have made slight variations to wording in the interest of clarity and precision.
21. That requiring the development is built in accordance with the approved plans is necessary in order to provide certainty. Those relating to materials, bin storage and landscaping are necessary in order to ensure a satisfactory appearance. I have incorporated boundary treatments and hard surfacing into the landscaping condition to avoid repetition. Those relating to levels, cycle and vehicle parking, the construction management plan, pedestrian link and traffic light system are necessary in order to ensure highway and pedestrian safety and to protect the amenity of neighbouring residents. Those relating to the windows, sound proofing and acoustic details are also necessary in order to protect the living conditions of neighbouring residents. That requiring the subdivision of amenity space is necessary to protect the amenity of future occupiers.
22. Conditions are also necessary to ensure the proposed development is water efficient and incorporates accessibility and carbon reduction measures in order to meet the requirements of the London Plan and the Mayor of London's

Housing Supplementary Planning Guidance (2016) where they exceed the minimum standards set out in the Building Regulations.

Conclusion

23. For the reasons given above and taking into account all matters raised, I conclude that the appeal should be allowed.

Caroline Jones

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. 17002 PA 01.01; Drawing no 17002 PA 02.01 Rev B; Drawing no 17002 PA 02.02 Rev B; Drawing no 17002 PA 02.03 Rev B (insofar as this relates to floor plans only); Drawing no 17002 PA 02.04 Rev B; Design and Access Statement by DS Squared Architects dated April 2017; Noise Impact Assessment by Clement Acoustics report 12176-NIA-01 RevB dated 10th April 2017.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), 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.
- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Details of all trees to be retained;
 - ii) The size, species, planting heights and densities and positions of any soft landscaping;
 - iii) Details of hard surfaced areas; and
 - iv) Boundary treatments;

The soft landscaping works shall be carried out in accordance with the approved details 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. Those relating to hard surfacing and boundary treatments shall be implemented prior to the first occupation and retained as such thereafter.

Any existing tree 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.
- 6) Before the development hereby permitted is first occupied, the bin stores as indicated on Drawing no. 17002 PA 02.04 Rev A and Drawing no. 17002 PA 02.01 Rev A shall be implemented in full accordance with the details as approved and retained as such thereafter.
- 7) Before the development hereby permitted is occupied the cycle parking and car parking spaces as shown on Drawing No. 17002 PA 02.01 Rev A and 17002 PA 02.04 Rev A shall be provided and shall not be used for any purpose other than parking of vehicles in connection with the approved development.

- 8) The roof of the building hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.
- 9) The amenity space shall be implemented and subdivided in accordance with the details indicated on the hereby approved Drawing no. 17002 PA 02.01 Rev A before first occupation or the use is commenced and retained as such thereafter.
- 10) The side windows on the elevations facing 65 and 69 Leicester Road shall be non-other than obscure glazed and shall remain so in perpetuity.
- 11) The layout of the residential units as shown on the approved plans shall be implemented and retained as such thereafter.
- 12) Prior to the first occupation of the units, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).
- 13) Notwithstanding the approved plans and details, the development hereby permitted shall not be first occupied or brought into use until details of all acoustic walls, fencing and other acoustic barriers to be erected on the site have been submitted to the local planning authority and approved in writing. The details shall be implemented as approved prior to first occupation and retained as such thereafter.
- 14) Prior to the commencement of development, details of the pedestrian links through the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details prior to first occupation.
- 15) No development shall take place, until a Construction Management and Logistics Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for but not limited to the following:
 - i) the parking of vehicles of site operatives and visitors and contractors compound,
 - ii) details of the routing of construction vehicles to the site, access and egress arrangements within the site and security procedures,
 - iii) site preparation and construction stages of the development,
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vii) the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works,
 - viii) wheel washing facilities;
 - ix) measures to control the emission of dust and dirt during construction;

- x) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- xi) delivery, demolition and construction working hours,
- xii) details of a community liaison contact for the duration of all works associated with the development.

The approved Construction Management and Logistics Plan shall be adhered to throughout the construction period for the development.

- 16) Prior to the first occupation of the flats hereby permitted, a traffic light warning system giving preference to vehicles entering the site should be provided to manage the one way operation of the access road. The traffic light controlled system shall be retained in perpetuity.
- 17) Prior to the first occupation of the flats hereby permitted it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
- 18) Notwithstanding the details on the approved plans, prior to the first occupation of the flats hereby permitted, 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 perpetuity thereafter.
- 19) Prior to the first occupation of the flats hereby permitted, 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 thereafter.