
Appeal Decision

Site visit made on 22 January 2018

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2018

Appeal Ref: APP/N5090/W/17/3180330

37 Lyndhurst Avenue, The Hale, London NW7 2AD

- 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 Keyvan Pourghadiri Isfahani against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/7684/FUL, dated 2 December 2016, was refused by notice dated 15 February 2017.
 - The development proposed is the demolition of the existing detached property and garage to be replaced with a two storey building with habitable accommodation at roof level to accommodate 6no. self-contained flats; including associated off-street refuse and cycle storage, 4no. off-street parking spaces and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted a revised plan¹ as part of the appeal submission. The 'Procedural Guide to Planning appeals - England²' makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'. The revised plan has re-positioned the proposed 4 car parking spaces in order to retain the street tree, provide a wider central walkway to the main entrance and alter the landscaping. Accordingly, having regard to the principles established in case law I consider that prejudice would arise to consultees and neighbours who have not had the opportunity to comment upon the revised plan. Therefore I have determined this appeal on the basis of the plans and information that were before the Council when it made its decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the appeal site and surrounding area;
 - the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance; and
 - the living conditions of future occupiers of the flats in terms of a satisfactory living environment, with particular regard to noise and disturbance.

¹ Drawing reference PA-01 Rev 01 Proposed site plan

² Dated 5 August 2016, Annexe M. (Latest version of document published 26 January 2018)

Reasons

Character and appearance

4. The appeal site is currently occupied by a large detached dwelling on the southern side of Lyndhurst Avenue, close to the junction with Deansbrook Road and Abbots Road.
5. Lyndhurst Avenue and the surrounding streets have a residential character of family houses. The properties are a mixture of 2-storey detached and semi-detached dwellings. Lyndhurst Avenue in particular encompasses large dwellings set within generous plots with visual gaps between dwellings. The existing property on the appeal site has been substantially extended in the past.
6. The appeal proposal involves the demolition of the existing property and the erection of a replacement detached building containing a total of 6 self-contained flats.
7. The Council's concerns in relation to character and appearance can be divided into 2 distinct issues. Firstly, in relation to character the concern relates to the loss of a family sized dwelling in an area which it considers is generally characterised by this type of development. The concerns relating to appearance predominantly focuses on the design of the proposed building itself.
8. Policy DM01 of the Barnet Local Plan Development Management Policies (DMP), adopted 2012, seeks to protect Barnet's character and amenity. It advises that the loss of houses in roads characterised by houses will not normally be acceptable and the conversion of dwellings into flats in roads characterised by houses would not normally be appropriate.
9. The appellant identifies some examples of properties within the wider area that have been converted into flats. Having regard to the evidence before me, the examples cited on Lyndhurst Road and Deansbrook Road do not benefit from planning consent. As such the weight that I can attach to these examples is limited. A further case cited by the appellant, on Eversfield Road, was allowed on appeal. However, it pre-dates the current policy context which again, limits the weight that I can attribute this example as a justification for the current proposal. The appellant also refers me to 2 examples on Woodcroft Avenue. However, insufficient evidence has been presented to me to explain why the Council approved one of these schemes and the circumstances that led the other to become lawful as claimed by the appellant. In any event, these 2 examples date from 2008 and 2009 respectively, which again pre-date the current policy context.
10. Lyndhurst Avenue and the surrounding area is primarily one in character and appearance terms of family dwellings. The character that these houses deliver is worthy of protection and the homes provide scope for good quality family accommodation and less intensive development forms and living patterns.
11. The existing dwelling comprises a total of 4 bedrooms. The appeal proposal would create 6 flats designed for occupancy of up to 19 residents, based upon the information described on the submitted plans. This would result in a significant intensification of the use of the appeal site compared to the existing dwelling as a single family dwellinghouse. It is reasonable to consider that the

use of the proposed building as 6 flats with the potential for a significant increase in number of residents and separate households would result in a greater number of comings and goings to the appeal site. The activity associated with the occupation of the flats would therefore be markedly different from the existing dwelling occupied by a single household. For this reason, the proposal would have a significant adverse impact on the character of the appeal site and the surrounding area.

12. The proposed layout would involve the loss of the existing front boundary treatment and the established planting, in addition to facilitate the parking in the manner identified the existing mature street tree would also need to be removed. Whilst properties in the area do contain on-site parking, sometimes within the front gardens, the prevailing character is of properties set behind clearly defined boundaries. The introduction of an open frontage with its consequential loss of front boundary treatment and established planting would adversely affect the character and appearance of Lyndhurst Avenue. Given the proximity of the appeal site to the junction with Deansbrook Road the appeal site frontage is visually prominent which would exacerbate the harm.
13. I recognise that the appellant has sought to design a building that would have an external appearance that would replicate a pair of semi-detached dwellings although it would have a single front entrance. The appeal site is of sufficient size to adequately accommodate the size and scale of the building proposed. The surrounding area contains properties with differing elevations and a variety of roof styles. The proposed design takes reference from the features found on other properties on Lyndhurst Avenue. Consequently, I do not agree that the roof form, bulk, mass, design and appearance relate poorly to the immediate neighbouring buildings. I find that the appearance of the proposed building is appropriate for the site and its context. However, the acceptability of the design does not outweigh the harm that I have identified that would arise to the overall character of the site and surrounding area.
14. I conclude that, on balance, the appeal proposal would harm the character and appearance of the appeal site and the surrounding area. Accordingly, there is conflict with Policies CS1 and CS5 of the Barnet Local Plan Core Strategy (CS), adopted 2012; and Policy DM01 of the DMP; together with the associated in the Supplementary Planning Document: Residential Design Guidance, adopted 2013. The proposal would also conflict with Policies 3.5; 7.4 and 7.6 of the London Plan 2016. These policies collectively seek, amongst other things, to ensure that proposals are based on an understanding of local characteristics and preserve Barnet's character, including the loss of houses in roads characterised by houses not normally being appropriate.

Living conditions of occupiers of neighbouring properties

15. The appeal site is bounded to the north-east by No 35 and to the south-west by No 39; both of these properties are 2-storey detached dwellings.
16. The increased number of residents and number of separate households being capable of being accommodated in the proposed 6 flats would result in a greater number of comings and goings to the property. Furthermore, the use of the internal areas of the proposed new building and the external circulation and amenity space within the appeal site would be more intensive than usual within an area of predominantly single family houses. To my mind, the potential intensification of the use of the proposed building and the appeal site

to this extent would result in a significant increase in noise and disturbance to the occupiers of the neighbouring properties.

17. The proposed building would fill most of the width of the site; as a consequence the proposed site layout illustrates the provision of the cycle parking immediately adjacent to the shared boundary with the rear garden of No 35. The proposed bin storage area is also immediately adjacent to the boundary with No 39, abutting part of the dwelling. These 2 functional requirements would introduce a significant degree of activity immediately adjacent to the neighbouring boundaries. This would add to the general noise and disturbance that would harm the peaceful enjoyment of the occupiers of the neighbouring property boundaries and their respective gardens.
18. I note that the Council identifies that the number of waste bins and the cycle storage is insufficient to meet the needs of the proposed 6 flats. Whilst any deficiency could be addressed through conditions requiring the submission of further details in order to comply with Policies CS9 and CS14 of the CS, any increased provision would exacerbate the harm that I have identified.
19. I conclude that the appeal proposal would harm the living conditions of the occupiers of neighbouring properties, due to the increased noise and disturbance arising from the intensification of use of the appeal site. Accordingly, the proposal fails to meet the requirements of Policies DM02 and DM04 of the MDP, supported by the Residential Design Guidance SPD. It would also fail to meet the requirements of Policy 7.6 of the London Plan 2016. These policies collectively seek, amongst other things, to ensure that proposals achieve a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions of future occupiers

20. There is no dispute between parties that the proposed flats would meet the minimum space standards set out in the London Plan and the Nationally Described Space Standards.
21. The primary issue associated with the living conditions of future occupiers relates to the internal layout and the vertical stacking of rooms between the flats. The proposed layout would locate active living spaces above bedrooms on the ground and first floors. Whilst I acknowledge that the technical provisions of the Building Regulations regime can address this issue to an extent, it is clearly identified as an appropriate planning consideration set out in paragraph 9.7 of the Residential Design Guidance SPD. The proposed internal layout has failed to adhere to this guidance.
22. Whilst the internal arrangement is less than ideal in relation to vertical stacking, the impacts of noise transference between the flats could be addressed through the imposition of a suitable planning condition if I were minded to allow the appeal. In itself, it is not a reason to withhold planning permission.
23. The proposed location of the bin storage area would be adjacent to the ground floor windows of one of the bedrooms of Unit 3 would result in a number of comings and goings directly adjacent to this bedroom which I find would unacceptably harm the living conditions of the future occupiers of this bedroom.

24. I acknowledge appellant's suggestion that use of bins is unlikely to be at anti-social times, but there is no ability to control when people use bins. The appellant has suggested a condition requiring additional acoustic proofing. I have considered this option. However, as no details are before me to indicate exactly what mitigation would be required, it would not enable a condition to be imposed that would be precise.
25. Consequently, on balance I conclude that the present scheme before me would unacceptably harm the living conditions of future occupiers of Unit 3 in terms of a satisfactory living environment, with particular regard to noise and disturbance. The proposal fails to meet the requirements of Policies DM02 and DM04 of the DMP, supported by the Residential Design Guidance SPD. It would also fail to meet the requirements of Policy 7.6 of the London Plan 2016. These policies collectively seek, amongst other things, to ensure that proposals achieve a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

26. The proposal offers potential benefits in terms of a contribution to increased housing supply and housing choice within Barnet. It would provide for a mix of accommodation sizes, including the provision of a wheelchair accessible flat at ground floor level. However, these benefits are not sufficient to demonstrably outweigh the harm that I have identified.
27. The Council in its determination of the planning application concluded that the proposal would be acceptable on highway grounds. In reaching this conclusion they took into account the views of the Highway Authority that although the proposal should provide for 6 parking spaces in accordance with the parking standards; given the site's accessibility the proposal would be acceptable in this case with only the provision of 4 spaces. I understand the concerns of the interested parties regarding parking. However, having regard to the site's accessible location, I see no reason to disagree with the Council on this issue.
28. A number of interested parties have raised the matter of potential covenants on the land. This is a private matter which falls outside of the scope of planning issues before me in this appeal.
29. The main parties have referred to a number of recent appeals within Barnet and the Council has provided copies of a number of appeal decision letters. I have had regard to the information provided, however appeals should be determined on their own merits and that is what I have done in this case.

Conclusion

30. Having regard to all matters raised, and taking the development plan as a whole, the appeal is dismissed.

Rachael A Bust

INSPECTOR