
Appeal Decision

Site visit made on 11 December 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 21 March 2018

Appeal Ref: APP/N5090/W/17/3181840

Spectrum House, Hillview Gardens, Hendon, London NW4 2JR.

- 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 Crocus Field Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/2261/FUL, dated 5 April 2017, was refused by notice dated 7 August 2017.
 - The development proposed is the demolition of existing buildings and redevelopment of the site to provide a part three-storey part two-storey residential building with basement parking area to provide 33 flats and associated private and communal amenity space. Provision of 36 car parking spaces.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 15 January 2018.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and redevelopment of the site to provide a part three-storey part two-storey residential building with basement parking area to provide 33 flats and associated private and communal amenity space. Provision of 36 car parking spaces at Spectrum House, Hillview Gardens, Hendon, London NW4 2JR in accordance with the terms of the application, Ref 17/2261/FUL, dated 5 April 2017, subject to the conditions set out in the schedule to this decision.

Application for costs

2. An application for costs was made by Crocus Field Ltd against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Background

3. The Council approved a Prior Notification application in May 2014¹ for the change of use of the buildings to a residential use. Following that, planning permission was granted in March 2016² for the redevelopment of the site to provide 27 flats and associated basement parking. As this permission represents a viable fall-back position it and the approved plans are material planning considerations of significant weight.

¹ LPA Ref: H/01429/14

² LPA Ref: 15/03198/FUL

Main Issues

4. The main issues are the effect of the development on, firstly, the character and appearance of the area and, secondly, the living conditions of neighbouring occupiers with particular regards to outlook.

Reasons

Character and appearance

5. The application site comprises two 2/3-storey commercial buildings located on the western side of Hillview Gardens. The surrounding area is residential in nature and characterised by traditional 2-storey terraced properties. The appellant states that all of the buildings on the site are currently unoccupied. Despite that, I noted some low-key activity taking place within the rear warehouse building at the time of my visit. Although the frontage building is not unattractive, the buildings to the rear of the site are of little aesthetic merit.
6. The scheme involves the demolition of the existing buildings and the erection of a single T-shaped building which would be positioned centrally within the site. It would occupy roughly the same footprint as the existing buildings and would be constructed of stock brick on the ground and first floors, metal cladding on the second floor and grey UPVC/aluminium windows. Whilst it would have a contemporary appearance, it would be more reflective of its surroundings than the approved scheme. Rather than the appearance of the building, the Council's opposition to the scheme rests on the size of the rear wing and its proximity to the rear boundary which it is argued would amount to overdevelopment of the site.
7. The first point to make is that unlike the existing 3-storey office/warehouse building, the rear wing of the development would be off-set from the rear boundary of the site. As a matter of fact it would not '*straddle*' the boundary as suggested by the Council. Whilst I accept that the rear return would be marginally closer to the rear boundary than the approved scheme, the submitted drawings as well as those submitted at the appeal stage³, demonstrate that there would be a noticeable reduction in the bulk and mass of built development at this point.
8. It is unlikely the position of the building relative to its rear boundary or its mass would be perceptible in public views of the site. Although there would be some increase in the bulk and mass of the existing frontage building when viewed from Hillview Gardens, this would not be significant and certainly not materially different to the approved scheme. The building line along the western flank of Hillview Gardens would be largely respected and therefore I am satisfied that the size of the building and its proximity to the rear boundary would not have a harmful effect on the character and appearance of the area.
9. In terms of overdevelopment, there would be sufficient space to the front of the building to provide landscaping across the Hillview Gardens frontage. Outdoor amenity space would be provided to the front and rear of the building. Parking for 40 vehicles as well as refuse storage and cycle parking would all be provided in a large basement. There is no suggestion that any local standards would be breached in these areas.

³ Dwg Refs: 6199-PL-020 & 6199-PL-021

10. The main parties have come to different conclusions in relation to the density matrix in "*The London Plan*" (the LP). The appellant argues that the appropriate range is between 70-170 units per hectare whereas the Council considers it should be 50-95 units. The matter appears to rest on whether the surrounding area is classed as 'suburban' or 'urban'. In my view given the preponderance of high density terrace housing in the immediate area, I am more inclined to agree with the appellant's submission on this particular issue.
11. However, this is not a determinative issue since there is broad agreement that density standards in the LP are only a guide and should not be applied too rigidly without consideration of site specific circumstances. In this case, given the plot coverage and the existing/previous use the site a higher density would not be inappropriate. It is also germane that the site already has approval for 27 flats and no cogent evidence is before me to demonstrate how an additional 6 flats would 'tip the balance' in favour of a refusal on density grounds. I therefore find no compelling evidence to suggest the development would amount to overdevelopment.
12. Based on the foregoing, I conclude that the development would not harm the character or appearance of the area. There would thus be no conflict with Policies CS1 and CS NPPF of the "*Barnet Local Plan (Core Strategy) Development Plan Document 2012*" (the CS) or Policies DM01 and DM02 of the "*Barnet Local Plan (Development Management Policies) Development Plan Document 2012*" (the DMP). Amongst other things, these state that new development should be of a high quality that has an understanding of local characteristics.

Living conditions

13. DMP Policy DM01 (e) advises that new development should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users. In this case it is the effect of the development on the outlook of occupiers to the rear of the site that is the issue. As part of my site inspection I was able to view the appeal site from the rear of one of the properties fronting Albert Road.
14. The appellant points out that the development would have a better relationship to neighbouring properties than the existing buildings. The submitted site sections and those plans showing the view at 6.75/10.5m from the boundary add considerable support for that position. As I have already noted those unsightly buildings to the rear of the site that are to be demolished are highly visible from the rears of houses in Albert Road and extend across the majority of the site's width. I concur with the Council that their loss would most likely be welcomed by neighbouring occupiers. The proposed building would be located further from the rear boundary and given the recessive nature of the top storey it would be lower in height particularly when viewed from close to the shared boundary. The width of the building would also be significantly less than the existing structures thus providing some properties with a more open outlook than is currently the case. On that basis alone and notwithstanding the approved scheme, I have some difficulty understanding how the Council came to view that the development would cause unacceptable harm to the amenities of neighbouring occupiers.
15. Reference is made to the opportunity for '*spatial betterment*'. However, the suggestion that development should provide an improved outlook for

neighbouring occupiers patently goes well beyond the wording of Policy DM01 or the language used in the "*National Planning Policy Framework*". The Council has therefore misunderstood the requirements of its own policy. Putting that rather fundamental issue to one side, the site sections and rear elevational contextual drawings demonstrate that there would be a visual improvement to residents in Albert Road. Additionally, there would be a tangible benefit in the removal of an unrestricted commercial use which if reinstated could generate significant levels of noise and disturbance to local residents. Subject to privacy screens and obscure glazing the relevant separation distances set out in the "*Sustainable Design & Construction SPD*" would be met. Given the proportions and siting of the proposed building there would be no significant loss of sunlight/daylight.

16. Overall whilst there would be some change in the outlook of neighbouring residents, compared to the existing situation and the approved scheme, no significant harm would be caused. I therefore conclude that the development would not harm the living conditions of neighbouring occupiers with particular regards to outlook. There would thus be no conflict with DMP Policy DM01 insofar as it seeks an adequate standard of amenity for neighbouring occupiers.

Other Matters

17. Local residents have expressed a wide range of concerns including but not limited to the following; noise and disturbance, inadequate parking and the effect on water pressure. However, I note that most these issues were considered by the Council at the application stage. Whilst I can understand the concerns of local residents, there is no compelling evidence before me which would lead me to a different conclusion on these matters.

Conditions

18. The Council has suggested a number of planning conditions which I have considered against the advice in the *Planning Practice Guidance* (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity.
19. I have imposed the standard implementation condition as well as a condition to ensure that the development is carried out in accordance with the approved plans, as this provides certainty. Landscaping and boundary treatment conditions are necessary to ensure the appearance of the development. To protect the living conditions of local residents I have imposed conditions in relation to privacy screens, obscure glazing and a Demolition and Construction Management and Logistics Plan. A condition relating to an investigation for contamination and any necessary remedial measures is reasonable and necessary to ensure the land is suitable for the proposed residential use.
20. A drainage condition is necessary to ensure the development does not lead to surface water flooding problems in the area. To ensure obstructive parking does not take place in and around the site, a condition to ensure the basement parking is provided prior to first occupation is necessary. To ensure vehicles can enter and exit the site safely I have imposed a condition relating to the site access. The suggested conditions relating to carbon reduction measures, compliance with Part M4(2) of the Building Regulations, carbon reduction measures, water metres, electric charging points and photovoltaic panels are all necessary to comply with development plan objectives in these areas.

21. The levels of the building, access points and footways relative to adjoining land and the public highway are shown on the approved plans and therefore a separate condition is unnecessary. The facing materials are clearly shown on the approved plans and set out in the Design and Access Statement. The Council do not suggest these are unacceptable and I see no reason to disagree. On that basis the suggested materials condition is unnecessary. Although the surfacing materials are not indicated, the plans indicate that these would be hard surfaced with tarmacadam or similar. I consider such materials would be acceptable in this location.
22. The approved plans and supporting information indicate that bin storage and collection would be carried out at basement level. As there is no suggestion this would be unacceptable, a separate condition is unnecessary. Given that there are no trees on the site, I am not persuaded that a tree protection condition is necessary in this instance. Given the distance between the site and the nearest residential properties as well as the historical use of the site, a condition relating to the extraction/ventilation plant is unnecessary.

Conclusion

23. Based on the foregoing and having regard to all other matters raised, I conclude that the appeal should succeed.

D. M. Young

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: PL.0100, 6199-PL-001, 6199-PL-002 B, 6199-PL-003 H, 6199-PL-004 J, 6199-PL-005 H, 6199-PL-006 H, 6199-PL-008 E, 6199-PL-009 G and 6199-PL-010 G.
- 3) A scheme of hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is occupied. 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 buildings or completion of the development, whichever is sooner, or commencement of the use. 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.
- 4) The building shall not be occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
- 5) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
- 6) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
 - (a) details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - (b) site preparation and construction stages of the development;
 - (c) 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;
 - (d) 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;
 - (e) the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;

- (f) 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
- (g) noise mitigation measures for all plant and processors;
- (h) details of car parking management arrangements for the duration of construction including measures to prevent debris being deposited on the public highway;
- (i) details of a community liaison contact for the duration of all works associated with the development, and
- (j) Hours of construction

The development shall thereafter be implemented in accordance with the measures detailed within the statement.

- 7) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.

- 8) The development hereby approved shall not commence (other than demolition works) until a surface water drainage strategy for the site has been submitted to and approved in writing by the local planning authority. All planning applications relating to major development - developments of 10 dwellings or more; or equivalent non-residential or mixed development must use Sustainable Drainage Systems (SUDS) for the management of surface water runoff, unless demonstrated to be inappropriate.
- 9) Before the development hereby permitted is occupied the car parking and cycle parking facilities shown on the approved plans shall be provided and shall not be used for any purpose other than parking of vehicles/cycles in connection with the approved development.
- 10) Before the building hereby permitted is first occupied details of the vehicular access has been submitted to the highway authority for approval and shall only be constructed in accordance with the approved details.
- 11) Before the development hereby permitted is occupied details of the Electric Vehicle Charging Points with 20% active and 20% passive shall be submitted to and agreed in writing by the Local Planning Authority.
- 12) the proposed first floor windows in the west elevation facing the rear gardens of Albert Road 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 erection and installation of photovoltaic panels, details of the size, design and siting of all photovoltaic panels to be installed as part of the development shall be submitted and approved in writing by the Local Planning Authority. Calculations demonstrating the additional carbon emission reductions that would be achieved through the provision of additional panels shall also be submitted. The development shall be carried out and constructed in accordance with the approved details.
- 14) The flats hereby permitted 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 in perpetuity thereafter.
- 15) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 36.7% 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.
- 16) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the flats 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) and the proposed 3 flats (10%) constructed to meet and achieve all the relevant criteria of Part M4(3) of the abovementioned regulations. The development shall be maintained as such in perpetuity thereafter.