



Appeal Decision

Site visit made on 2 July 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/N5090/W/19/3226780

1 - 36 Fairfield Close, London, N12 9ST

- 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 Nagle (Hertsmere Property Company Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/6410/FUL, dated 12 September 2018, was refused by notice dated 26 February 2019.
 - The development proposed was originally described as 'the conversion of the loft space to form six residential units at Fairfield Close, North Finchley, London, N12 9ST'
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Decision

1. The appeal is allowed and planning permission is granted for the provision of new roof and conversion of roof space to each block to provide 1 additional residential unit to each block. New roof to include 3 front dormer windows and 3 rear dormer windows. Associated cycle store and refuse/recycle store at 1 – 36 Fairfield Close, London, N12 9ST in accordance with the terms of the application, Ref 18/6410/FUL, dated 12 September 2018, subject to the conditions in the attached Schedule.

Procedural Matters

2. The description of development contained on the decision notice and the appellant's appeal form describes the proposed development as 'provision of new roof and conversion of roof space to each block to provide 1 additional residential unit to each block. New roof to include 3 front dormer windows and 3 rear dormer windows. Associated cycle store and refuse/recycle store.' This is a more accurate description of the development proposed than the description on the application form, and the altered description was agreed with the Council. It has therefore, formed the basis of my decision.
3. The appellant has submitted an additional sound insulation report with the appeal outlining a range of sound insulation measures which would be used in the appeal buildings to facilitate the proposed development. The Council have had an opportunity to comment on this report. Having regard to the *Wheatcroft Principle*¹, I am satisfied that the additional information would not prejudice interested parties. Consequently, I have accepted the additional sound insulation report and decided the appeal on this basis.

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

Main Issues

4. The main issues are:

- the effect of the development on the character and appearance of the appeal buildings and area;
- the effect of the development on the living conditions of the occupiers of surrounding properties with particular regard to privacy, and whether satisfactory living conditions would be provided for existing occupiers of the appeal buildings with particular regard to light, noise and disturbance; and,
- the effect of the development on highway safety.

Reasons

Character and appearance

5. The appeal site occupies a cul-de-sac (Fairfield Close) located off Torrington Park which is a road fronted by mainly residential buildings of varying age and appearance. The six appeal buildings are two storeys in height with hipped roofs and each one is occupied by six residential properties. They are located close to the end of Fairfield Close and wrap around the turning head and appear prominent in the street. Their understated symmetrical form provides a sense of uniformity and rhythm to the street.
6. As part of the proposal the roof slopes of each of the appeal buildings fronting the street would be occupied by three dormers. They would be evenly spaced across the roof slope, set down from the ridge-line, and set-back from the eaves and sides of the roof. The windows would be generally reflective of the proportions and style of those in the existing buildings. For these reasons, and because the dormers would be symmetrical and subservient in scale to the roof slope, they would not unbalance the appearance of the existing buildings, and the characteristic hipped roof forms of them would remain. The proposed dormers on the rear would be less visible from public vantage points, but like those on the front, would be commensurate with the existing form of the buildings.
7. I appreciate that no dormers exist in Fairfield Close. However, dormers are evident on the front of several properties in the surrounding streets. In any event, the proposal would ensure that each of the buildings at the end of the cul-de-sac was developed in a like manner. Whilst Barnet's Residential Design Guide Supplementary Planning Document October 2016 (the Residential Design SPD) states that dormers on the front of semi-detached or terraced houses will not normally be acceptable, the existing buildings comprise flats in detached blocks. Nevertheless, and despite the large number of dormers proposed, which would be clearly visible from the street, they would appear as a coherent form and would not be unduly obtrusive and would maintain a sense of rhythm and symmetry in the street.
8. The bin and cycle storage areas would diminish the amount of amenity space around the appeal buildings, but they would be positioned behind existing buildings and not be significantly visible from the street, nor would they harm the appearance of the area.

9. Overall, I conclude that the development would not harm the character and appearance of the appeal buildings or the area. The development would therefore comply with Policies CS1 and CS5 of Barnet's Core Strategy September 2012 (the Core Strategy) and Policies DM01 and DM02 of Barnet's Development Management Policies Development Plan Document September 2012 (the DPD) and Barnet's Sustainable Design and Construction Supplementary Planning Document October 2016 (the Design and Construction SPD) which seek to ensure, amongst other matters, that developments provide the highest standards of urban design and respect context and character. The development would comply with the Residential Design SPD as the position, scale and proportions of the dormers would be in keeping with the existing buildings and not be harmful to the street scene. In accordance with paragraph 127 of the National Planning Policy Framework (the Framework), the development would be sympathetic to local character and the surrounding built environment.

Living conditions

10. Each of the proposed dormers situated in the roof space would be elevated above, but set back from, the existing windows in the appeal buildings. Therefore, as a matter of fact they would be further away from surrounding properties than those existing windows.
11. The dormers positioned in the rear roof slope of three of the buildings would face the rear gardens of a number of properties on Ravensdale Avenue. Whilst there is some dispute between the main parties concerning the distance of the proposed dormers from the boundary of these gardens, it is common ground that in each case they would fall short of the 10.5 m distance to a neighbouring garden advocated by the Design and Construction SPD and the Residential Design Guide SPD.
12. On my site visit I viewed the proposal from the rear garden and first floor rear window of 16 Ravensdale Avenue where views of the roof associated with the central appeal building were obtainable. Even though several dormers would be visible from the rear windows of this property, like the relationship with other properties on Ravensdale Avenue, the dormers would be in excess of the 21 m minimum distance requirement between facing habitable room windows as set out in the Residential Design SPD. This reflects the fairly lengthy nature of the rear gardens on Ravensdale Avenue.
13. Substantial vegetation exists on the boundary between the appeal site and properties on Ravensdale Avenue but it would not be of sufficient height to obscure views of the proposed dormers when viewed from a large proportion of the garden. Nevertheless, the existing vegetation would serve to curtail views of the dormers from the area of the gardens closest to the appeal site. When viewed from the garden area nearest the dwellings on Ravensdale Avenue, whilst the dormers would be visible, due to their distance from a large area of the rear gardens, the dormers would not unacceptably overlook.
14. I appreciate that my site visit was undertaken when the vegetation and trees were in full leaf, and that the screening offered by them may be much less prevalent at other times of the year. I do not know if there are obtainable views of the gardens from first floor and ground floor windows of the appeal buildings at other times of the year when the vegetation is sparser. However, the existing windows in the appeal buildings appear to rely on this screening to

prevent open views of the gardens on Ravensdale Avenue. Given that the proposed dormer windows would be further away than existing windows in each of the buildings, and due to the length of the rear gardens on Ravensdale Avenue, I am satisfied that any overlooking would unacceptably diminish the living conditions for the occupiers of these properties.

15. As a consequence of my findings above, it has not been necessary for me to assess the amended plans which were submitted with the appeal which included obscure glazing to a number of the rear facing windows of the proposed residential units.
16. In respect of the eastern-most appeal building, the proposed rear dormers would look towards several windows and the outdoor amenity space associated with an existing residential block which lies towards the end of Torrington Close. However, there is nothing in the evidence before me to suggest that the affected windows serve habitable rooms, and I am satisfied that the development would not intrude unacceptably upon the privacy of occupiers of this building. Furthermore, a combination of distance and vegetation screening would ensure no unacceptable overlooking of the associated outdoor amenity space.
17. The proposed dormers on the southern-most appeal building would face a residential block at Pine Tree Court. There is little in the way of existing vegetation between the appeal site and this building, but the outdoor amenity space and windows within the building already experience an element of overlooking, primarily from the first floor windows of the appeal building. In this context, the additional windows proposed would not result in significant harm to the living conditions of the occupants of Pine Tree Court over and above the existing situation.
18. Given the modest size of the dormers in relation to the building and roof upon which they would be sited, they would not be overbearing or result in a loss of sunlight that would be detrimental to the amenity of nearby occupiers, nor would they detrimentally affect the amenity space surrounding the appeal buildings in this regard.
19. Turning to the effect on existing occupiers of the appeal buildings. I visited several of the appeal buildings on my site visit. Each of them is fronted by glazing above the main entrance door which allows light to penetrate the communal areas. The layout of each of the communal areas, stair cases and main entrance doors within them appears to be generally the same in each. It is put to me by the Council and a number of third parties that the new staircase necessary to access the proposed residential units would result in a reduction in light to the communal hallway. However, it was apparent on my site visit that these areas lacked the space and furniture/fittings necessary to suggest that they are used as anything more than for the purposes of transit for residents and visitors to each of the properties within the buildings.
20. In any event, the submitted plans indicate that light levels in each building would primarily be reduced at first floor level due to the provision of stairs and a new floor at first and second floor levels. This would likely affect the light penetrating the small lobby areas outside each flat, the stairs leading up to them, and the amount of light entering the glass panel contained in the main entrance door of the flats. Even if that was the case, the provision of a new staircase within the communal area at first floor level would not affect the

private external windows of each of the flats, which are primarily positioned on the front and rear elevations of the appeal buildings, which is where light to each unit is mainly sourced. Consequently, the living conditions of the occupiers of each of the flats would not be significantly affected in this respect.

21. The Residential Design SPD requires that adherence to Building Regulations is supplemented by the careful arrangement of rooms to ensure, as far as practical, that upper floor bedrooms do not overlap living rooms, kitchens and bathrooms on floors below them, resulting in inappropriate 'stacking'. Based on the submitted plans it appears that stacking would occur as bedrooms in the proposed residential units would likely overlap the living areas of the flats below them. However, the appellant has submitted an independent sound insulation report with the appeal which identifies a range of measures to ensure that Building Regulations requirements would be exceeded. These include details of wall and floor construction to ensure the resistance of the passage of sound between the proposed units and existing properties.
22. The Council have not commented on the submitted sound insulation report from a technical perspective, despite having the opportunity to do so. However, the Council's Environmental Health comments on the planning application, which were included in the Council's officer report, did not raise any objection to the proposal subject to, amongst other matters, the appellant showing adherence to Building Regulations. Based on the available evidence before me, including those measures set out in the submitted sound insulation report, I am satisfied that sound insulation measures could be put in place to mitigate against potential noise issues arising from the layout and stacking of rooms, thus protecting the living conditions of occupiers of existing properties from activities taking place in the properties above them. Given the technical nature of the sound insulation measures in order to prevent unacceptable sound transfer, and the lack of comment on the proposed measures from the Council, it is appropriate in this case to attach a planning condition requiring the submission of a report and sound insulation measures to be first agreed with the Council.
23. The appeal buildings comprise a total of 36 residential units. The additional 6 units proposed would represent a modest increase. Even though this would lead to an increase in the movement of people within each of the appeal buildings, specific concerns as to how this would unacceptably affect the occupiers of existing properties have not been put forward by the Council. However, to my mind, it would result in additional opening and closing of the main entrance door to each block, and additional movements within the communal areas and within the outdoor amenity spaces. There would also be an increase in the number of deliveries. However, I see no reason why such a modest increase in residents and associated movements would undermine the living conditions of existing occupiers through an increase in noise or disturbance.
24. Some of the appeal buildings are positioned at an approximate 90-degree angle to one another. The proposed dormer windows, whilst positioned at a higher level, would generally align with the existing windows in each of the appeal buildings so as to ensure that there would be no direct views into habitable rooms of other properties. In this respect, and having regard to the existing relationship between the habitable room windows at first floor and ground floor

level of each of the blocks, there would be no unacceptable loss of privacy over and above the existing situation for the occupiers of existing properties.

25. For all the reasons set out above, and taken together, the development would not unacceptably affect the living conditions of the occupiers of surrounding properties with particular regard to privacy, and would ensure satisfactory living conditions would be provided for existing occupiers of the appeal buildings with particular regard to light, noise and disturbance. The development would comply with Policy DM01 of the DPD and the Residential Design SPD in that the proposal would allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users, and ensure no unacceptable noise transfer between existing properties. The development would comply with Policy DM02 of the DPD and the Sustainable Design SPD as it would afford a reasonable degree of privacy for existing residents. The development would align with Policy CS1 of the Core Strategy in that it would provide an attractive place and would ensure a high standard of amenity for existing and future users in accordance with paragraph 127 of the Framework.

Highway safety

26. The site lies in an urban area and within a controlled parking zone (CPZ). In accordance with Policy DM17 of the DPD, there is a requirement to provide '*1.5 to 1 spaces per unit for terraced houses and flats (2 to 3 bedrooms)*', unless it can be demonstrated that there is sufficient on-street capacity.
27. The proposed development would not make additional provision for the parking of vehicles. A parking survey submitted by the appellant covering four separate surveys undertaken overnight, two during the summer months and two during the late autumn, demonstrated at worst a total of 12 vacant resident permit holder only parking bays and 14 vacant pay at meter parking bays within 200 metres of the appeal site. According to the surveys, an average of 77% of permit holder spaces were occupied.
28. The Public Transport Accessibility Level (PTAL) for the appeal site is considered to be '3', indicating a moderate level of accessibility to public transport. Therefore, it is likely that future residents would not be wholly reliant on the private car and there are available sustainable travel options locally. This is reinforced by 2011 Census data which shows 37% car usage for travel to work in the area. As a result, and taking into account the reasonably accessible location of the appeal site in relation to sustainable transport options and local services and facilities, I accept the Council's assertion that ordinarily the development should provide 6 parking spaces. However, the findings of the parking survey indicate that those spaces could be accommodated on the street, and the provision of additional cars on the street as a result of the development would not result in undue parking 'stress' and thus, according to Policy DM17 of the DPD, this would not trigger a requirement to restrict future occupiers from applying for parking permits.
29. During my site visit I observed that the spaces at the end of the cul-de-sac and closest to the appeal buildings were all occupied. A small number of permit only parking spaces were available further along Fairfield Close. All the spaces along Torrington Park within the vicinity of Fairfield Close were occupied. However, I did not observe any evidence of dangerous or illegal parking near

the appeal site and there were no obstructions to the free movement of pedestrians along existing footways.

30. Whilst a number of local residents disagree with the findings of the parking survey, I do not have an alternative survey before me to contradict it. I also appreciate that each of the individual parking surveys represents a snapshot in time, but the Council's highways officers did not object to the methodology used, the frequency of surveys, or the times they were undertaken. Furthermore, the general findings of the appellant's parking survey are not disputed by the Council.
31. I acknowledge that the Council and numerous third parties are concerned that on-street parking near the appeal site is limited, particularly during the evening. As observed on my site visit, there are clear parking pressures associated with the number of existing residential properties and other uses in the area, such as the nearby health centre. For existing residents, finding an available parking space at certain times is likely to be a source of frustration and inconvenience. In such a scenario, residents are likely to drive around nearby streets looking for a space as close to the appeal site as possible. However, I see no reason why, and no significant evidence has been put to me to demonstrate that, there would be unacceptable highway impacts as a result. Therefore, the likely number of additional cars on nearby streets arising from the development would not result in significant parking stress, or affect the free flow of traffic.
32. Whilst third parties have informed me that there is no demand for cycle storage/facilities due to the demographic of existing occupiers, I am not aware of any age-restrictions on any of the existing or proposed properties, thus demand may increase in future. No objections are raised by the Council who consider the measures necessary to meet policy requirements and promote sustainable modes of travel.
33. In conclusion, the development would not unacceptably compromise highway safety in the area. The proposal would comply with the requirements of Policy CS9 of the Core Strategy and Policy DM17 of the DPD which taken together require the safety of all road users is taken into account. In accordance with paragraph 109 of the NPPF, there would be no unacceptable impact on highway and pedestrian safety.

Other Matters

34. Third party objections concerning the structural integrity of the buildings to tolerate the additional dormers and loft conversions, the proposed stairway construction, fire safety issues, the location of the existing water tanks, provision of foul water sewers, are all matters which are largely covered by Building Regulations and carry limited weight in the determination of this appeal.
35. The nearby health centre requires access for emergency vehicles. I understand this currently involves an access off Fairfield Close which would remain. In addition, a planning condition will be imposed requiring a construction management plan in order to ensure appropriate parking provision is made for construction vehicles. This will also ensure noise and dust mitigation measures are provided.

36. I have been informed that the Council recently refused planning permission for a development close to the appeal site due to parking stress in the area. I have not been provided with a copy of the case so I do not know if it is comparable with the appeal before me. However, I have assessed this appeal on its own planning merits and find it acceptable for the reasons given.
37. I do not know if the existing garages which fall within the appeal site have been offered to existing residents at favourable rates, but it has had no bearing on my decision, which has been made on the evidence before me.
38. I am satisfied that the information provided to me, along with the submitted plans, has enabled me to make an informed decision on the planning merits of the appeal scheme. The 'approved' plans would be subject to a condition requiring that development was carried out in accordance with them. Given the scale and number of residential units proposed, there is no affordable housing requirement.
39. Other matters raised by third parties include the impact on local health services, the devaluation of existing properties, concerns about future development on other parts of the appeal site, additional crime risks as a result of the proposed cycle stores, and that there is no timeline for the planned works. However, I have considered these matters along with all the evidence before me and find that they afford only limited weight against the appeal and so do not outweigh my findings on the main issues.
40. It has not been necessary for me to clarify the Council's five-year housing land supply position in relation to the Framework, as I find that the development would be acceptable for the reasons given.

Conditions

41. The Council have suggested a number of planning conditions which I have considered against the relevant guidance contained within the Planning Practice Guidance (the PPG). I have amended some of them for clarity and in order to meet the PPG, and to avoid repetition.
42. I have applied the standard '3 year' time limit condition, and the 'approved plans' and 'materials' conditions, in the interests of certainty and character and appearance. Conditions relating to water, carbon dioxide emissions, cycle and refuse storage are required to ensure a sustainable form of development. A condition stipulating the hours of construction is necessary in order to safeguard existing occupiers of nearby properties from harmful construction effects.
43. A sound insulation scheme is required in order that a suitable form of sound insulation and mitigation can be agreed with the Council to protect existing occupiers of the appeal buildings from noise associated with the use of the proposed residential units.
44. The Construction Management Plan condition is 'pre-commencement', required so that measures can be put in place before any development starts on site to ensure the protection of the living conditions of existing occupants of the appeal buildings.
45. I have omitted the Council's suggested condition relating to obscure glazing as I do not find it necessary in this case. Furthermore, given the location, size

and prevalence of existing vegetation and trees, and the limited impact the development would have on these, I see no reason to impose 'landscaping' related planning conditions.

Conclusion

46. Subject to the following conditions, and having had regard to all matters raised, the appeal is allowed.

Matthew Woodward

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: 1858.PP.01B; 1858.PP.02B; 1858.PP.03A; 1858.PP.04; 1858.PP.05B; 1858.PP.06C; 1858.PP.07D; 1858.PP.08C; 1858.PP.09C; 1858.PP.10B; 1858.PP.11B; 1858.PP.12A; 1858.PP.13; 1858.PP.14B; 1858.PP.15C; 1858.PP.16C; 1858.PP.17C; 1858.PP.18B; 1858.PP.19B; 1858.PP.20C; 1858.PP.21A; 1858.PP.22; 1858.PP.23B; 1858.PP.24C; 1858.PP.25C; 1858.PP.26B; 1858.PP.27C; 1858.PP.28B; 1858.PP.29B; 1858.PP.30A; 1858.PP.31; 1858.PP.32B; 1858.PP.33C; 1858.PP.34C; 1858.PP.35C; 1858.PP.36B; 1858.PP.37B; 1858.PP.38B; 1858.PP.39A; 1858.PP.40A; 1858.PP.41B; 1858.PP.42C; 1858.PP.43B; 1858.PP.44C; 1858.PP.45C; 1858.PP.46D; 1858.PP.47C; 1858.PP.48A; 1858.PP.49; 1858.PP.50B; 1858.PP.51D; 1858.PP.52D; 1858.PP.53C; 1858.PP.54C.
- 3) The materials to be used in the external surfaces of the buildings shall match those used in the existing buildings.
- 4) Construction work shall not take place until a sound insulation scheme to protect the occupiers of the existing buildings from unacceptable levels of noise associated with the use of the proposed development for residential purposes has been submitted to and approved in writing by the local planning authority. The scheme shall include a method of monitoring to ensure that installed measures are effective. All works which form part of the scheme shall be completed before any part of the development is occupied and shall be retained thereafter.
- 5) Prior to the first occupation of the development, full details of the enclosures to be used for the storage of recycling containers and wheeled refuse bins shall be submitted to and approved in writing by the local planning authority. Such details shall include the point of collection for refuse and recyclables. The development shall be implemented in accordance with the approved details prior to the occupation of any residential unit and shall be retained thereafter.
- 6) Prior to the first occupation of the development, full details of the cycle parking spaces and cycle storage facilities shall be submitted and approved in writing by the local planning authority. The approved details shall be installed before the development is first occupied and thereafter be permanently retained for cycle parking and storage.
- 7) No construction works shall take place at any time on Sundays, Bank or Public Holidays, before 0800 or after 1300 on Saturdays, or before 0800 or after 1800 on other days.
- 8) No construction works shall take place until an Energy Delivery Strategy has been submitted to and approved in writing by the local planning authority. The strategy shall demonstrate how at least 10% of the expected energy requirements for the development will be delivered from renewable sources or low carbon technologies. The development shall be implemented in accordance with the approved strategy prior to the occupation of any residential unit.

- 9) Prior to the first occupation of the development, full details of water efficiency design measures, including details of water efficient fittings, appliances and water recycling systems to limit internal water consumption to 105 litres per person per day have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details before it is occupied and shall be retained as such thereafter.
- 10) No construction works shall take place until a scheme of Carbon Dioxide Emission Reduction Measures, which shall demonstrate carbon dioxide emissions reductions of not less than 6% over the minimum Target Emission requirements of the 2010 Building Regulations, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details before it is occupied and shall be retained as such thereafter.
- 11) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction; and,
 - v) the protection of existing trees.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.