
Appeal Decision

Site visit made on 30 January 2019

by R. Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2019

Appeal Ref: APP/N5090/W/18/3208804

51 & 49 Beresford Avenue, Whetstone, London N20 0AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Millen Homes Ltd against London Borough of Barnet.
 - The application Ref 18/2526/OUT, is dated 25 April 2018.
 - The development proposed is erection of 6 passive semi-detached houses on land to the rear of 49 & 51 and provision of new access.
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Decision

1. The appeal is dismissed and planning permission for erection of 6 passive semi-detached houses on land to rear of 49 & 51 and provision of new access is refused.

Procedural Matters

2. The description of development in the heading above has been taken from the planning appeal form. From the details submitted with the application, including the site layout plan which shows 6 houses, it is a more accurate description of the development proposed than the one set out in the original planning application form. Accordingly, I have used it above.
3. The application has been submitted in outline with approval sought in relation to access and layout. All other matters are reserved for future consideration. I have dealt with the appeal on this basis treating all plans as illustrative in-so-far as they relate to landscaping, appearance and scale.
4. Subsequent to the date of the Council's decision, the Government published its revised National Planning Policy Framework (the Framework). Having considered the role and content of revisions, I do not consider it necessary to re-consult the main parties about this change in national policy in relation to this case.

Main Issues

5. From the evidence I have before me, I consider the main issues in the case are the effect of the proposed development on the character and appearance of the surrounding area and on the living conditions of the occupiers of 47 and 49 Beresford Avenue, with particular regard to noise and disturbance.

Reasons

Living conditions

6. The appeal site would be accessed from an existing lane that currently provides access to garages and gardens of houses on Beresford Avenue and Weirdale Avenue. This would be widened to around 4.1m by removing part of the side wall of 49 Beresford Avenue. From my site visit, it appeared that this lane is infrequently used, with residents predominantly parking on-street or in driveways rather than using the garages to the rear.
7. The Council's Highways Officer does not object to the use of the access on technical highway safety or capacity grounds and I have no reason to disagree with that conclusion. The access lane will inevitably be used frequently by the occupiers of the 6 houses proposed, as well as by visitors, delivery drivers and for refuse collections. This would be in addition to the existing vehicle movements associated with the infrequent use of the garden access and garages. I note the comments of the previous Inspector¹ that a net increase of three dwellings is a limited increase in terms of trip generation. However, the current appeal proposes a net increase of 6 houses on site, which would result in a material increase in the intensity of use of the existing access.
8. In order to retain 49 and 51 Beresford Avenue, the relationship between the access and both 47 and 49 Beresford Avenue is uncomfortably close, particularly at the bellmouth to Beresford Avenue. The ground floor windows to the front elevations would be less than 0.5m from the access. Given this proximity and the orientation of the houses relative to the access, particularly 49 Beresford Avenue, the intensification of its use would cause substantial harm to the living conditions of the occupiers of these houses by reason of increased noise, disturbance and lights from vehicle headlights. The harm I have identified would be exacerbated by the narrow width of the access lane. There is insufficient space for two vehicles to pass and it is therefore likely that vehicles entering the site will need to wait outside 47 and 49 Beresford Avenue, to allow another vehicle to leave.
9. The appellant's evidence refers to a Noise Assessment which originally assessed an alternative scheme with a different access arrangement, but has been updated to include an additional noise measurement location part way along the existing access lane. The assessment is based on the assumption that there would be up to six trips to/from the development per dwelling during the day. It uses a typical noise level for a car passing at slow speed at 3m. The windows of 47 and 49 Beresford Avenue would be much closer than this at about 0.5m and it doesn't consider the scenario above of cars waiting, with engines idling, at the bellmouth. I am not satisfied therefore that a full assessment has been made of the impact on these windows, the most sensitive receptors. Further, I have insufficient evidence to ascertain whether mitigation, such as an acoustic fence, is achievable without compromising outlook or harming the character and appearance of the area. The evidence therefore fails to demonstrate that the proposal would not cause harm to the living conditions of 47 and 49 Beresford Avenue.
10. Consequently, I conclude that the noise and disturbance from the proposed access would cause significant and unacceptable harm to the living conditions of the occupiers of 47 and 49 Beresford Avenue. The proposals would conflict with Policy 7.6 of the London Plan which requires development to not cause

unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings.

¹. APP/N5090/W/17/3191245

11. I find no conflict with Policy CS5 of the Barnet Local Plan Core Strategy Development Plan Document (September 2012) (CS) as this only relates to protecting local context and distinctive local character, rather than amenity. Similarly, I find no conflict with Policy DM01 of the Barnet Local Plan Development Management Development Plan Document (September 2012) (DMDP) because, although it requires development to be designed to allow adequate privacy and outlook for adjoining occupiers, it does not refer to noise and disturbance.

Character and appearance

12. The appeal site is located to the rear of 49 and 51 Beresford Avenue, at the head of the cul-de-sac in a prominent position. The Inspector, in respect of the earlier appeal, highlighted the important contribution that 49 and 51 Beresford Avenue made to the character of the area, concluding that the loss of these semi-detached houses would disrupt the rhythm and enclosure of the street scene. In retaining 49 and 51 Beresford Avenue, I am satisfied that the concern of the previous Inspector has been addressed. Further, although the number of new dwellings has been increased, the proposed development, save the access, would not be visible within the street scene. There would therefore be no harm to the character or appearance of the area.
13. The Council have also expressed concern that the houses would appear 'shoe-horned' into the site, with a cramped appearance. The submitted layout however shows that the 6 semi-detached houses can be comfortably accommodated, with suitably sized gardens, landscaping and parking areas. Inevitably, the gardens to 49 and 51 Beresford Avenue will be reduced in size and length but this would not be to an extent to cause harm or indicate overdevelopment.
14. I conclude therefore that there would be no harm to the character and appearance of the area. The proposal would be consistent with CS Policy CS5 and DMDP Policy DM01 in-so-far as they require proposals to respect local context and preserve or enhance local character.

Other Matters

15. The appellant specifically refers to the great weight the National Planning Policy Framework, at paragraph 68, gives to windfall sites and I am mindful that the proposal would make a modest contribution to the supply of housing in the area. However, this benefit would not outweigh the significant harm to living conditions I have identified above.

Conclusion

16. Although I conclude there would be no harm to character and appearance, the proposal would harm the living conditions of adjoining occupiers. There are no other considerations that outweigh this finding or the conflict with the development plan and I therefore conclude the appeal should be dismissed.

R. Jones

INSPECTOR