
Appeal Decision

Hearing Held on 13 August 2019

Site visit made on

by S Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 19th August 2019

Appeal Ref: APP/N5090/W/18/3210608

Land at Crispin Mews, (between 165 Willifield Way and 856 Finchley Road), London NW11 6YB

- 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 Rigbyward Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/1371/FUL, dated 1 March 2018, was refused by notice dated 27 April 2018.
 - The development proposed as, described at the Hearing, is "dwelling with ground floor plus living accommodation in the roof space".
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Procedural Matters

1. The site location and proposed development were described differently on the planning application form and the decision notice. It was agreed at the Hearing that these are accurately described as set out in the banner heading above.
2. In February 2019, after the decision notice was issued, the National Planning Policy Framework (the Framework) was revised. It was agreed at the Hearing that the changes are not significant for this appeal.
3. Revised plans were submitted at the Hearing that more consistently indicate the proposed dwelling in relation to the surroundings and depicting a corrected red line showing the planning application site. I find no harm in accepting these for the purposes of this appeal.
4. The Council confirms that, notwithstanding the answer to Q13a of the Questionnaire, the proposal does not include any works to any listed building.

Decision

5. The appeal is dismissed.

Main Issues

6. The main issues are:
 - whether the development would preserve or enhance the character or appearance of the Hampstead Garden Suburb Conservation Area (the CA);
 - the effect of the proposed development on the Grade II Listed Building known as The Pantiles and its setting; and

- whether satisfactory living conditions would be provided for future occupiers of the proposed dwelling taking particular account of amenity space and privacy.

Reasons

Effect on the CA

7. The appeal site is within the CA on the corner of Crispin Mews and Willifield Way. The special character of the CA arises from its design as a garden city estate. Henrietta Barnett, influenced by the ideas of Ebenezer Howard's Garden City movement, had a vision of a 'garden suburb for all classes'. High design standards were expected and trees, green spaces and landscape were a critical part of siting and design. As a whole the CA is considered to be one of the best examples of town planning and domestic architecture on a large neighbourhood or community scale from the last century. It is of international renown and its value has been recognised as an "Area of Special Character of Metropolitan Importance". It is divided into a number of Character Areas.
8. The Finchley Road Character Area stretches along part of Finchley Road and encompasses The Pantiles and the appeal site. This is a distinctive shopping area with wide pavements; substantial buildings fronting the road shielding houses behind from traffic noise; pleasant planting in front of flats; and a mix of Neo-Georgian; Art Deco and Pastiche Italianate architectural styles. The adjacent Artisans Quarter Character Area includes Willifield Way and surrounding residential streets. Here houses tend mainly to be two or three storey and of an Arts and Crafts style facing the street behind front gardens that are generally enclosed behind well-developed hedging. Some are on the local list of Architectural or Historic Interest including Nos 161 -165 Willifield Way, on the other corner of Crispin Mews, and No 188 opposite the site.
9. In the past the site was part of the curtilage of The Pantiles. It was a grassed area with shrubs similar to the current gardens of the Pantiles which wrap around the building. It is now in separate ownership.
10. The site rises to form an elevated terrace that matches the level of The Pantiles. The site and the low brick wall and verge between the site and Willifield Way are mostly obscured by overgrown vegetation. There has been little by way of maintenance over the last few years and the height of vegetation partially obscures the lower floor of the side of The Pantiles. However, the site continues to form an unbuilt visual break between the more commercial character of Finchley Road, including the tall single storey wrap around commercial structure at No 856/865a Finchley Road, and the residential areas of the Artisan Quarter. Due to the levels and the corner location the site is prominent and it contributes to the open green spaces and landscape setting which are a key part of the special character of the CA. It also forms an open break between Finchley Road and the more domestic scale houses on Willifield Way.
11. Paragraph 191 of the 2019 Framework says where there is evidence of deliberate neglect the deteriorated state of the heritage asset should not be taken into account in any decision. On this basis I conclude that developing the site is not necessary for the benefit of the CA.

12. In principle there is nothing wrong with new buildings in a CA and the Council has granted planning permission for larger buildings elsewhere in the CA site¹.
13. I acknowledge that the proposed dwelling would be positioned differently and would be smaller in scale than earlier proposals for dwellings that were dismissed at appeal². This in itself would not necessarily make the current scheme acceptable in planning terms. The current proposal would retain part of the slope facing Willifield Way and the wall and verge would be retained. In this way the dwelling would be set back from Willifield Way similar to other residential properties albeit the extent of the setback would be smaller. Appropriate hedging could be secured by condition.
14. However, the proposed building would be incongruous in relation to surrounding buildings due to the combination of its restricted height; its shape; its isolated position within its plot; and its disproportionately small scale in relation to surrounding buildings. Moreover it would be partially set into the site with retaining walls which have not been clearly delineated on the plans which would further intrude built development on this open site. The use of materials and window shapes which take cues from those of The Pantiles would not overcome this incongruity.
15. I conclude the proposed building would not sit comfortably in the streetscape. It would appear unsympathetic and contrived and would not preserve or enhance the character or appearance of the CA³. As the appeal site is small in comparison to the CA, I conclude the development would cause less than substantial harm to the CA as a whole. In accordance with Paragraph 196 of the Framework I have therefore weighed this harm against the public benefits arising from the proposed development.
16. The proposal would add a much needed additional dwelling to the supply of local housing and would provide economic benefits arising from employment during construction and spend in the local economy. However, these public benefits are tempered by the small scale of the proposal.
17. The appellant suggests that the development of the site would result in the public benefit of preventing anti-social behaviour and unauthorised occupation. However, I have seen no evidence of anti-social behaviour and I note that natural surveillance of the site occurs from apartments in The Pantiles, from windows in No 856 and by users of Willifield Way and Crispin Mews. Nor do I consider that possibility of unauthorised occupation to be significant as other remedies would be available to address this. I give these potential benefits relatively little weight in this case. Taking all the above into account I conclude that the harm caused to the character and appearance of the CA would not be out-weighed by the public benefits of the proposal.
18. Accordingly I conclude the proposal would not preserve or enhance the character or appearance of the CA. It would therefore be contrary to Policies DM01 and DM06 of Barnet's Local Plan Development Management Policies Development Management Plan 2012 (the DMP); Policies 7.4; 7.6 and 7.8 of the London Plan 2016 (the LP) and those principles of the Framework that seek to preserve and enhance conservation areas.

¹ 16/6440/FUL and 16/8188/FUL

² APP/N5090/A/09/2093898 and APP/N5090/A/10/2129781

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

The setting of The Pantiles

19. The Pantiles is a Grade II listed building. It was constructed in 1934 in an Italianate or 'hacienda' style, with brick and render elevations and green glazed pantile shallow hipped roofs. It is described as a fine example of the style and there have been few external alterations. The Pantiles itself would not be directly affected by the proposal. but the appeal site lies within its setting.
20. Section 66 of the Act requires that special regard be given to the desirability of preserving the setting of listed buildings. The Pantiles building has substantial gardens. It is well set back from Finchley Road and Willifield Way, and to a lesser extent from Childs Way. The appeal site, though now in separate ownership, formerly was part of these gardens. Although now overgrown the site still provides part of the setting for the listed building when viewed from Willifield Way, and contributes to the significance of the heritage asset.
21. Whilst the primary façade faces Finchley Road, the stack of bay windows in the side elevation is a prominent architectural feature most of which can be seen from Willifield Way. This remains the case even though the external finishes are not in good order. The lower parts are obscured by the overgrown vegetation but this obstruction would be lesser during times the vegetation is not in leaf. The proposed building would be set partially into the slope and would be smaller in scale than previously proposed dwellings.
22. It would be a similar scale and size to a block of garages dismissed at Appeal in 2014⁴ but would be positioned further away from the wall of No 856/856a compared to that block. Some view would be retained through this gap to The Pantiles. However, this would be restricted and the more central position of the dwelling now proposed would still interrupt the view of The Pantiles façade. For the same reasons set out above I consider the proposed dwelling would appear unsympathetic and contrived and disproportionately small scale in relation to The Pantiles. It would have more interesting elevational treatment than the garage block. However, set against this, the proposed chimney and dormers would add clutter in views of The Pantiles.
23. There is nothing wrong in principle with a new dwelling in the setting of a Listed Building. The appellant asserts the proposal could be considered as a lodge house but, even were this the case, and at present no functional link between the dwelling and The Pantiles is proposed, this would not overcome the concerns set out above.
24. On balance I conclude that the proposed development would have a harmful effect on the setting of The Pantiles by introducing a permanent solid obstruction in such close proximity to an important architectural façade. The setting would not be preserved. Given the size and scale of the proposed development I consider that the harm to the setting of The Pantiles would be relatively localised and self-contained and that this harm would be less than substantial.
25. I have weighed the harm to the setting against the public benefits of the proposal. Taking into account the public benefits described above I consider that the harm caused to the setting of The Pantiles would not be outweighed by the public benefits.

⁴ APP/N5090/A/14/2227403

26. I conclude that the proposed development would fail to preserve the setting of the Grade II Listed Pantiles. Accordingly the proposal would conflict with Policy DM06 of the DMP and those principles of the Framework that seek to protect heritage assets.

Living conditions

27. The main amenity zone (garden) would be in an "L shape" behind the dwelling and the proposed parking space. In size this would satisfy the Guidelines at Table 2.3 Of the Sustainable Design and Construction Supplementary Planning Document October 2016 and Table 1.2 of Appendix 2 of the Residential Design Guidance Supplementary Planning Document 2016 October 2016 (Barnet's SPGs).
28. A beech hedge together with a holly tree are proposed along the boundary behind the parking space to mitigate against overlooking from windows in the side elevation of The Pantiles. The area behind the parking space would be relatively narrow and would be more restricted once the proposed planting matured. Taking this into account, and given the position of the proposed patio doors, it seems probable that the area adjacent to No 856 would be more likely to be used by future residents for leisure and relaxation purposes.
29. The tall rear elevation of No 856 faces directly towards this part of the garden. Due to its closeness and its windows above ground floor this would result in an unacceptable degree of over-looking of the garden even in a built up area. Whilst mitigation such as net curtains could help protect privacy within a dwelling this is more difficult in a garden. Moreover, due to the height of the windows in No 856, planting would not provide sufficient mitigation unless it was of a height that would have an over bearing effect on the garden itself and the proposed patio doors. I was told at the Hearing that the windows in No 856 serve bedrooms. Even if this were not so my concerns would remain the same due to the relative heights of the windows and their closeness to the boundary.
30. It appears that the appeal site was used in the past by residents of The Pantiles as it was away from the busier Finchley Road frontage. The appellant suggests this indicates that overlooking from No 856 is not a problem. However, the use of shared amenity space is different to that of private amenity space serving a single household. I acknowledge that future occupiers would be able to assess whether the garden area would meet their needs. However, I do not consider it to be good design to develop a new house with amenity space so lacking in privacy.
31. For the reasons set out above I conclude that satisfactory living conditions would not be provided for future occupiers of the proposed dwelling given the lack of privacy of the proposed amenity space. Accordingly I conclude that the proposal would conflict with Policies DM01 and DM02 of the DMP and the guidance in Barnet's SPGs which together seek adequate privacy in all development. It would also be contrary to those principles of Paragraph 127(f) of the Framework which seek a high standard of amenity for existing and future users.

Other Matters

Planning permission was granted at Appeal for houses where garages belonging to The Pantiles stood⁵. However, these dwellings are not so prominent in the CA or in views of The Pantiles and they lead me to no different conclusions in the appeal before me.

Conclusion

32. For the reasons set out above the appeal is dismissed.

S Harley

INSPECTOR

⁵ APP/N5090/A/04/1153579 and APP/N5090/A/04/1153581

APPEARANCES

FOR THE APPELLANT:

Eli Pick BSc; MRTPI; BTP	E.M.Pick Planning
Stuart Henley FRICS	

FOR THE LOCAL PLANNING AUTHORITY:

Joe Mari	Planning Officer
James Evans	Senior Planning Officer

INTERESTED PERSONS:

Lily Devic	Resident
David Davidson	Hampstead Garden Suburb Trust

DOCUMENTS

- 1 Statement of Common Ground
- 2 Statement of Objections Ms Lily Devic
- 3 Amended Plans and list 4481/27B; 4482/26B; 4481/25B;
4481/20B; 4481/21B; 4481/29A; 4481/28A