



Appeal Decision

Site visit made on 18 September 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/N5090/W/19/3229362

Land to the north of The Ridgeway, The Ridgeway, Mill Hill, London NW7 1QU

- 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 Luke Winham of Vision Residences 2 against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/6924/FUL, dated 13 November 2018, was refused by notice dated 21 February 2019.
 - The development proposed is described as the replacement of Jeanette's to provide residential accommodation for essential workers associated with Belmont Farm Children's Nursery.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Policy DM15 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (the DMP), which relates to the Green Belt, was prepared in relation to, and specifically references national policy which has since been revised. Therefore, in line with paragraph 213 of the current version of the National Planning Policy Framework (the Framework), I have considered Policy DM15 according to its degree of consistency with the Framework, as set out in my reasons below.

Main Issues

3. The main issues are:
 - whether the development would be inappropriate development in the Green Belt;
 - whether the development would preserve or enhance the character or appearance of Mill Hill Conservation Area (the Conservation Area); and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether the development would be inappropriate development

4. The site lies within the Metropolitan Green Belt. It once contained a dwelling known as Jeanette's, which was last used as accommodation for nuns associated with an adjacent convent. The convent has been recently converted into flats, whilst Jeanette's was itself demolished in 1928.
5. Notwithstanding the presence of building remains, which will be considered further below, the site is currently open, and forms part of a substantial break in the developed frontage along the north side of The Ridgeway. Though the site is bounded by a brick wall, behind which stand a few small trees, rising ground to the south allows views into and across the site, and some glimpses of the open landscape beyond. It is apparent that when the trees are not in leaf, more extensive views across the site would be possible. The current openness of the site is thus an appreciable feature of the street scene, both spatially and visually.
6. The proposal was originally promoted on the basis that the development would involve a replacement building. Paragraph 145(d) of the Framework states that the replacement of a building is not inappropriate development within the Green Belt, provided that the new building is in the same use, and is not materially larger than the one it replaces. The approach set out within Policy DM15 of the DMP is broadly similar. However, as Jeanette's no longer exists, and has not existed for more than 90 years, the development would not be a direct replacement. Therefore the exception is not applicable.
7. At appeal the scheme has been advanced on the basis of the exception set out in the second bullet of paragraph 145(g) of the Framework. This allows partial or complete redevelopment of previously developed land (PDL) which would not cause substantial harm to the openness of the Green Belt, and would contribute to meeting an identified affordable housing need within the area of the local planning authority. This is not an exception specifically listed in Policy DM15 of the DMP, or the 2012 version of the Framework referenced. I have therefore had primary regard to paragraph 145(g) of the current version of the Framework in my reasons below.
8. The development would clearly involve the complete redevelopment of the site. However, whether or not the site should be held to constitute PDL is the subject of opposing legal opinions.
9. The Glossary of the Framework provides a principal starting point. Amongst other things this states that PDL will not include land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. This implies that the site of a previously demolished building could potentially be considered as PDL, if visible remains exist. On this basis the appellant contends that the site has been derelict and unused since 1928, and that parts of Jeanette's remain visible.
10. In this context the 'Existing Site Plan', ref. VR/JEAN/01/01/3, which shows the site and land to its north and east, and uses a site survey as its base (the site survey), shows areas of grass, flowerbeds, a shrubbery, and ornamental tree planting on the site. Spot heights further show that the site was reasonably level when surveyed. Other flower beds and planting are shown to the north

and east, together with stores, sheds, hard standing and a structure which plan JCTCP-OCT18 labels as a greenhouse. It is therefore reasonable to conclude that when the site survey was undertaken, most of the site formed part of a garden. This is indeed consistent with the Council's description of the site as previously part of the grounds of Littleberries, the former convent, now renamed Rosary Manor. It is however at odds with the claim that the site has been in a derelict and unused state since 1928.

11. The site, including the part on which the proposed building would stand, is still largely covered by grass, and the ornamental tree planting remains. The flower beds and shrubbery shown on the site survey are however no longer present. The ground across the central northern part of the site is also now broken and uneven, and shows signs of recent digging. In these areas the remnants of a small, sunken, brick lined structure, and the lower courses of a number of brick walls are exposed. These are visible close up but do not appear to be recorded on the site survey. As such it is reasonable to conclude that the current condition and character of the site is not the same as when the site survey was undertaken.
12. Whether or not the remains on site relate to Jeanette's, their current visibility appears to be in part, if not wholly the product of recent excavation and exposure. Taking this into account, together with the time elapsed since Jeanette's was demolished, and the more recent use of the site as a garden, what amount to essentially limited archaeological remains do not, in my view, form a reasonable basis to conclude that the site is PDL.
13. A number of more visually apparent derelict structures lie adjacent to, but mostly outside the site boundary. Their presence is emphasised within the appellant's submitted legal opinions. As noted above, the structures are labelled on the submitted plans as a store and greenhouse, and the remnants include some modern blockwork. The submitted Historic Environment Desk-Based Assessment (the heritage assessment), further dates them to the 1950-60s. As these structures post-date 1928, and appear to have been built and used as outbuildings in association with the garden that surrounded them, their presence does not alter my findings above.
14. Indeed, in view of the evidence, it is furthermore the case that if the most recent use of the site was in fact as a garden associated with the former convent, then it could not be considered PDL. This is because, notwithstanding severance of the site from the former convent, residential gardens in built-up areas are excluded from the definition PDL by the Framework.
15. The appellant states that the proposal would deliver affordable, key worker housing, which is required to attract staff needed to run a nursery. Though a unilateral undertaking (UU) has been provided, whose purpose is to secure the provision of the proposed affordable housing, and to restrict its future use, this has not been signed or dated. The UU thus has no legal effect.
16. Though the possible use of a condition is mentioned within the submissions, the Planning Practice Guidance states that the use of a negatively worded condition to require an applicant to enter into a planning obligation or other agreement is unlikely to be appropriate except in exceptional circumstances. No exceptional circumstances have been demonstrated in this instance. Given that the provision of affordable housing would not be secured, there is no certainty that it would be provided. Furthermore, even if it was provided, there

would be no certainty that the housing would retain its affordable status into the future. Thus, regardless of any finding I might have reached on the contested matter of need, I cannot conclude with any certainty that the scheme would provide affordable housing. In view of this, the proposed provision of affordable housing in itself also attracts limited weight in the overall planning balance.

17. The proposed building would be a substantial built form, both spatially and visually. This would be clearly appreciable from within the public realm, and the presence of the boundary wall, planting and possible construction of garages to the rear would do little or nothing to alter this perception. Even had I reached a different view with regard to PDL and affordable housing therefore, the impact on the openness of the Green Belt would be substantial, as too would be the harm caused.
18. I accept that Jeanette's stood on the site for around 300 years. However, as almost a century has now passed since it was demolished, few people, if anyone, will now remember it. The openness of the site has on the other hand become a well-established feature of the Green Belt, and indeed has been since the Green Belt was designated. As such the historic presence of a building on the site does not alter my view of the substantial harm that would be caused to the openness of the Green Belt.
19. Given my findings regarding PDL, affordable housing and openness, the exception set out in the second bullet of paragraph 145(g) of the Framework does not apply.
20. For the reasons outlined above I conclude that the proposal would be inappropriate development in the Green Belt. It would therefore conflict with Policy 7.16 of the London Plan 2015, which seeks to protect the Green Belt from inappropriate development, and Policies DM15 of the DMP and CS7 of the Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (the CS), which each seek to protect the openness of the Green Belt.

Conservation Area

21. The site is located within the Conservation Area. The significance of the Conservation Area lies chiefly in the collection of institutional buildings and associated spaces positioned along the Ridgeway, elements of earlier townscapes such as that around Milesplit Hill, and visual connections to the surrounding landscape. All are appreciable from, and adjacent to the site, which has a high degree of visual exposure to both The Ridgeway and Milesplit Hill.
22. The relative openness of land on the north side of The Ridgeway appears to be a historic feature of the streetscene, and makes a positive contribution to the character and appearance of the Conservation Area. This said, whilst the part of the site upon which Jeanette's once stood has itself laid open for many years, it nonetheless holds little historic significance as an open space. This is similarly true with regard to current views across the same part of the site. Given that the significance of the Conservation Area principally lies in its pre-twentieth century townscape, it follows that the reinstatement of a lost, pre-twentieth century component, would offer some potential for enhancement.

23. The proposal would not however, constitute reinstatement. The proposed building would stand on a different part of the site, which both more recently, and historically, was open garden space, whilst parking would be provided within other historically open space adjacent. The building would be significantly larger in scale and mass than Jeanette's, and the proposed detail, form and proportions would also not match. Nor would they very accurately match those of extant historic buildings in the Conservation Area, whether or not render was added.
24. I accept that the scale and mass of the proposed building finds reference in other, existing buildings within the Conservation Area. This does not however alter the fact that the development would result in the loss of historic open space, in the process obstructing previously unobstructed views to the landscape beyond, and that the harm this would cause would be accentuated by the prominence, size and unsympathetic architectural design of the proposed building.
25. Mindful of the duty imposed by s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), I find therefore that the development would not preserve or enhance the character or appearance of the Conservation Area, and would thus cause less than substantial harm to its significance. Having regard to the considerable importance and weight to be given to the statutory objective of the preservation or enhancement of conservation areas, I attach considerable importance and weight to the harm that would arise. The limited social, economic and environmental benefits associated with the provision of 7 one bed flats, whose affordable status has not been secured, would be insufficient to outweigh the harm that would be caused.
26. For the reasons outlined above I conclude that the development would fail to preserve or enhance the character or appearance of the Conservation Area. The development would therefore conflict with Policies CS5 of the CS, and DM06 of the DMP, which amongst other things seek to preserve and enhance Barnet's conservation areas, as informed by the Mill Hill Conservation Area Character Appraisal Statement 2008; Policy DM01 of the DMP which seeks to secure high quality design, as informed by the Residential Design Guidance Supplementary Planning Document 2016; and Policy CS NPPF of the CS, which seeks to secure sustainable development, given conflict with other policies.

Other considerations

27. My attention has been drawn to appeal decision APP/H2265/H/18/3202040. Whilst I have been provided with limited details of the case, it relates to a different type of development, on a different site, in another part of the country. This decision is not therefore directly relevant to the current appeal, and does not as such attract any weight in favour of the scheme.
28. The appellant states that there would be biodiversity gains as a result of additional planting on the site. Such planting would however be limited in amount, and partly carried out to replace trees that would be removed. The benefits would therefore be very limited, and accordingly attract very limited weight.
29. The appellant has drawn attention to the social value of work carried out by the nursery whose workers would be housed in the proposed building. I have no

reason to question this. However, given that the provision of affordable key worker housing in association with the nursery has not been secured, and thus is not guaranteed, this consideration attracts little weight in favour of the scheme.

30. The appellant states that the scheme would assist in urban regeneration by recycling derelict land. This is the fifth purpose of the Green Belt listed in paragraph 134 of the Framework. The fundamental aim of the Green Belt is nonetheless to keep land permanently open, and it remains the case that the scheme would not meet any of the exceptions set out in the Framework. This consideration does not therefore attract any weight in favour of the scheme.

Planning balance and conclusion

31. The proposed development would be inappropriate development within and erode the openness of the Green Belt. This is a matter to which I afford substantial weight, in addition to the considerable importance and weight I have attached to the harm that would be caused to the Conservation Area.
32. Other considerations are insufficient to outweigh the harm to the Green Belt and to the Conservation Area considered in combination. As such, harm caused by the proposal would not be clearly outweighed by other considerations, meaning that the very special circumstances necessary to justify the development do not exist.
33. The proposed development would not accord with the development plan and there are no other considerations which outweigh this finding. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR