



Appeal Decision

Site visit made on 2 September 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2019

Appeal Ref: APP/N5090/W/19/3228064

54 Station Road, New Barnet, Barnet EN5 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr P Davies against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 18/7614/FUL, dated 21 December 2018, was refused by notice dated 15 February 2019.
 - The development proposed is redevelopment of an existing day nursery to provide a three storey building containing 6 no. flats, with basement parking and storage facilities, associated open parking and refuse store and a detached replacement two storey nursery building with basement and car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area
 - highway safety
 - the conditions at the proposed nursery, with particular regard to outlook and outdoor play space
 - the living conditions of future residents of the proposed flats, with particular regard to outdoor amenity space, and
 - the living conditions of occupants of neighbouring properties, with particular regard to outlook and overbearing effect.

Reasons

3. The planning history of the site is acknowledged, specifically application 18/5219/FUL for redevelopment of an existing day nursery to provide a three storey building containing 6 no. flats, with basement parking and storage facilities, associated open parking and refuse store and a detached replacement two storey nursery building with basement and car parking, in 2018, which was refused planning permission for reasons of character and appearance, conditions at the proposed nursery and living conditions of future and neighbouring residents.

Character and appearance

4. The appeal site comprises a detached two-storey building which is in use as a day nursery. There is a forecourt to the front which is available for car parking, and parking and fenced play and activity areas to the rear. The site is within a residential area, fronting onto Station Road.
5. Policy CS5 of the London Borough of Barnet's Core Strategy (2012) (CS) requires development to respect local context and character. Policy 7.4 of the London Plan (2016) (LP)¹ echoes this, as does Policy DM01 of the London Borough of Barnet's Development Management Policies (2012) (DMP) which requires, amongst other things, that proposals respect the pattern of surrounding buildings and spaces. Policy DM01 adds that development proposals should consider the impact of hardstandings on character.
6. The site is located within a broadly rectangular 'block' of land which is bounded by Station Road, Warwick Road, Leicester Road and Plantagenet Road. The block comprises mainly residential properties, with a mixture of apartment buildings and houses of varying architectural style, size and age. The prevailing pattern is of buildings with front gardens, facing onto the roads.
7. The central area of the block - behind the buildings fronting onto the roads - includes an apartment building in its western part, and several areas of surface car parking for apartments. Nevertheless, from what I saw during my site visit and the aerial view, the prevailing character of the central area of the block of land is of verdant garden spaces, with trees, lawns and other planting. Furthermore, trees within site frontages help to visually soften the streetscene. In character terms, these soft landscaped garden elements provide relief from, and an important counterbalance to, the hardness of buildings and surfacing, particularly those associated with bulkier apartment blocks.
8. The proposed layout comprising a building towards the front of the site and one towards its rear would depart from the prevailing development pattern and erode the distinctive spaciousness of the central area of the block of land described above. The above impact would be noticeable from the following places: from Station Road, looking down the access drive into the site; from dwellings to the east and west of the site; and from within the proposed flats building, nursery building and their grounds. Furthermore, the combination of the proposed hard surfacing of the access drive and turning head with the proposed buildings, viewed from within, and properties adjacent to, the site, would be discordant with the verdant character of the block of land described above.
9. I acknowledge that some of the existing site is hard surfaced. However, this does not override the need for new development to protect and enhance local character. I note the planning permissions and appeal decision cited by the appellant² for residential development on other sites, in relation to character and appearance, and backland development. However, full details of these other cases are not before me. Moreover, the proposal has its own circumstances and setting and, as such, I assess it on its own merits.

¹ The London Plan: The Spatial Development Strategy for London, Consolidated with Alterations since 2011, March 2016.

² Planning Application Refs: 18/1645/FUL and 17/1906/FUL.

10. In conclusion, the proposal would harm the character and appearance of the area. As such, it would conflict with Policy DM01 of the DMP, Policy CS5 of the CS and Policies 7.4 and 7.6 of the LP. Together, the policies seek to ensure that development complements local character. The proposal would also fail to accord with the London Borough of Barnet's Residential Design Guidance Supplementary Planning Guidance (2016) (RDG).

Highway safety

11. During my site visit I saw that there was a steady flow of vehicle traffic in both directions along the A110 Station Road, albeit this was a snapshot in time.
12. The appellant calculates that the majority of customers from the New Barnet area live within 1.5km of the site. The residential nature of the area allows for the possibility of some parents walking to and from the site with their children. The well-served bus corridor along Station Road - which includes regular weekday services to destinations including local train stations, Barnet Hospital and other employment and retail locations - provides a realistic alternative for drop-off by public transport. Nonetheless, a number of residents describe other parents regularly dropping children off at the nursery by car, and using its front forecourt to do so.
13. I note the appellant's view that staff walk to work or take public transport. However, be that as it may, this would not be guaranteed in the future. Moreover, at the time of my site visit I saw both the front forecourt and the rear carpark on the site in use for car parking during the opening hours of the nursery. There was some limited on-street parking capacity on Station Road, with other stretches having parking restrictions, particularly around junctions with side roads, driveway entrances and bus stops. Side roads in the vicinity generally had very little spare on-street parking capacity due to a combination of parking restrictions and parked cars.
14. Bringing the above strands together, it is likely that parents would use a variety of modes of transport to drop off their children at the nursery, including some by car, some on foot and some by bus. It is also likely that there would be some demand for parents' drop-off space and staff parking space. Given that the proposed scheme would remove the current on-site spaces, this is likely to mean demand being displaced onto Station Road. Moreover, it is quite possible that parents and staff would attempt to drive into and park on the site. This could quite possibly conflict with residential parking and access requirements, and compromise the safety of those people, including parents with young children accessing the nursery via the access drive, particularly at peak times.
15. I note the planning permissions³ for residential development on other sites, cited by the appellant in relation to parking demand and capacity. However, the appeal proposal differs as it comprises a combination of a children's nursery and flats. Moreover, the proposal has its own setting and circumstances and, as such, I assess it on its own merits.
16. The appellant would be willing to provide a Travel Plan, which could be secured by planning condition. Furthermore, I note that the Council's Highway Services

³ Refs: 18/5331/FUL and 15/05869/FUL.

- team recommended approval of the proposal, subject to planning conditions, one of which would require a scheme for car parking with safe access.
17. However, the matter of parental drop-off of children to the nursery is not explicitly addressed in the Highway Services' planning consultation response. Moreover, they highlight that Station Road is a Traffic Sensitive Road, and rush hour peak times would be unsuitable for construction deliveries to the site. Moreover, given the above concerns, there is not detailed, substantive evidence before me to demonstrate safe vehicular access to the proposed development.
 18. Given the above, I find that highway safety on and adjoining the site has not been demonstrated in respect of parents' and staff vehicle manoeuvring at and around the entrance of the proposed development at peak times. As such, the proposal would conflict with Policy DM17 of the DMP, which seeks to ensure that development safeguards the safety of road users, including vulnerable users. It would also fail to accord with the guidance in paragraph 10.3 of the RDG, which requires infill development to maintain safety, including safe access.
 19. The London Borough of Barnet's Sustainable Design and Construction Supplementary Planning Guidance (2016) (SDC) does not provide highway safety guidance applicable to this case, and so is not engaged in respect of this matter.

Conditions at the nursery

20. An office, staff room, kitchen, laundry and milk room are proposed in the basement level of the nursery building. Given that staff welfare facilities are focussed on the basement level, and the location of some working areas there also, staff are likely to spend a significant amount of time on that level. The staff room would have additional importance as a place where staff would reasonably expect to take a break and 'recharge'. A lightwell would provide some daylight to the office and staff room. However, the absence of windows in side walls would result in lack of outlook from the basement rooms. This would result in an unacceptably overbearing and oppressive working conditions for staff.
21. The appellant is of the view that the proposed staff accommodation would satisfy Ofsted and Early Years Foundation Stage (EYFS) requirements. Be that as it may, I find that, in planning terms, the proposal would result in the identified harm for the reasons described above. As such, the proposal would conflict with paragraph e) of Policy DM01 of the DMP, which requires development to allow for adequate outlook for occupiers.
22. Turning to the matter of outdoor play space for children at the nursery, a L-shaped 'play garden' area around 5.5m wide, is proposed around two sides of the nursery building, adjacent to the northern and eastern boundaries of the site.
23. The appellant sets out that the proposal would provide outside play space on a 'free flow' basis, so that children would have access to secure outside space at times determined by them. I recognise that the proposed juxtaposition of the nursery building and outdoor play space would make the latter more accessible for children than the existing separated layout. However, from what I saw

during my site visit, the outdoor play and classroom space would be substantially reduced to between around a quarter and a third of the existing space. There is no substantive evidence presented that there is currently a significant over-provision of outdoor play space on-site, or that a reduction in the nursery's capacity, commensurate with the proposed reduction in outdoor play and classroom space, is proposed.

24. Moreover, given adjacent perimeter vegetation, and the proximity of the proposed nursery building to the northern and eastern site boundaries, much of the outdoor play space area would be overshadowed for much of the day. Whilst access to some shade has merit, the above factors together lead me to find that, overall, the result would be a gloomy and cramped outdoor play space.
25. The appellant considers that the proposal would provide a functional area of play space that would satisfy Ofsted's requirements in respect of EYFS. Be that as it may, I find that, in planning terms, the proposal would not provide demonstrably acceptable outdoor play space, in terms of quantity and quality. As such it would not accord with Policy CS5 of the CS and paragraph e) of Policy DM01 of the DMP, which together require development to provide attractive places which allows for adequate daylight and sunlight for users.
26. In conclusion, the proposal would harm the workplace conditions of future nursery staff with regard to outlook from the building, and the play conditions of children at the proposed nursery with regard to outdoor space. As such, it would conflict with Policy CS5 of the CS and Policy DM01 of the DMP. Together, the policies seek to ensure that development safeguards the living conditions of occupiers and users.
27. As the proposed nursery building would not have residential use, the RDG is not engaged in respect of this main issue.

Living conditions of future residents

28. There is a clear emphasis in Policy CS5 of the CS and Policy DM01 of the DMP on creating places of high quality design, including being accessible. Moreover, though not cited in the first reason for refusal, Policy 7.6 of the LP, which is cited elsewhere in the decision notice, requires development to provide high quality outdoor spaces. Moreover, the RDG sets out in paragraph 8.9 that communal amenity space should, amongst other things, be easily accessible and legible to all occupants.
29. A communal outdoor amenity space (COAS) is proposed, along with 1.5m deep balconies for the flats. It is agreed by the main parties that the quantity of outdoor amenity space would be sufficient for the number of proposed units, and I see no reason to disagree. However, whether the COAS would be of sufficient quality is disputed.
30. The proposed COAS would be of sufficient size to be useable and, as well as providing visual softening to the development, would provide room for tree planting of stature. However, the route to the proposed COAS from the rear door of the proposed flats building would go through the latter's ground floor garages, via two sets of steps, then across the turning head. The alternative route from the front door of the proposed flats building would require doubling back down the access drive to the side of the building which would be shared

with the nursery. Both the routes would be convoluted. As such, the proposed COAS would be somewhat disconnected from the flats building and read 'on the ground' as relating spatially more to the nursery. As such, the proposed COAS would not be sufficiently integral to the residential block, and would not be sufficiently legible in design terms.

31. Furthermore, the proximity of the proposed outdoor amenity space to the nursery would impair the privacy of residents using the former. Noise from the nursery, and users passing close by to access the latter, would cause disturbance to residents seeking to use the proposed outdoor amenity space.
32. The above factors, in combination, would limit the usability and legibility of the proposed COAS for future residents of the flats. Whilst paragraph 8.2 of the RDG allows for the possibility of various combinations of on-site outdoor amenity space type, it requires on-site amenity space to be 'suitable'. The lack of usability, legibility, and privacy of the proposed COAS is likely to impair and limit future residents' enjoyment of it. Moreover, it would articulate a lack of design quality which would undermine the achievement of the objective of high quality design in Barnet. As such, the provision of sufficient quantity of such space does not outweigh the need for that which is proposed to be of sufficient quality. Together, the above factors lead me to find that the proposed COAS would not be suitable.
33. My attention is drawn to a number of planning applications and permissions on other sites⁴, in respect of alternative approaches to outdoor amenity space. However, I do not have full details of these cases and so cannot determine whether the circumstances are analogous to the proposal before me. Moreover, the proposed development has its own setting and circumstances, and I therefore assess it on its own merits.
34. In conclusion, the proposal would result in harm to living conditions of future occupants of the proposed flats, in respect of the quality of outdoor amenity space. As such, the proposal would not accord with Policy CS5 of the CS and Policy DM01 of the DMP, and with the guidance in paragraph 8.9 of the RDG.

Living conditions of neighbouring occupants

35. Policy DM01 of the DMP requires development to allow for adequate outlook for adjoining occupiers. The guidance in paragraph 7.5 of the RDG is to avoid nearby buildings appearing overbearing, viewed from habitable rooms. In respect of outlook, table 2.4 of the SDC guidance sets out that habitable rooms should have a reasonable outlook.
36. The side elevation of the proposed two-storey nursery building would be a mainly blank facade, with two ground-floor classroom windows. The nursery would have a ridge height of just over 6m, and would be located around 5.5m from the rear garden boundaries of the neighbouring dwellings, Marlborough House and The Lantern.
37. The Council is concerned that the proposed nursery would have an overbearing effect due to its height, bulk and proximity to Marlborough House and The Lantern. However, there would be a separation gap of more than 21m from the side of the nursery building to the main two-storey core of the neighbouring dwellings. Moreover, a combination of tree protection measures

⁴ Ref: 15/02592/FUL, 17/7246/FUL and 18/0443/FUL.

and new tree and shrub planting alongside the eastern perimeter of the site could be secured by planning condition, to screen the nursery building from the neighbouring dwellings.

38. The above factors, in combination, lead me to find that the proposed nursery building would not have an unacceptably overbearing effect on the outlook of occupants of neighbouring dwellings. As such, in respect of outlook, it would not conflict with Policy DM01 of the DMP, and the RDG and SDC guidance. Accordingly, this matter is a neutral factor in my assessment, which does not weigh in favour of the proposal.

Other Matters

39. I have been referred to pre-application advice provided by the Council. However, I have considered the appeal on its planning merits, and such discussions as may have taken place between the Council and the appellant before and during the course of the application process do not alter my conclusions.
40. I have had regard to the benefits arising from the proposal. The provision of six extra dwellings would add to the supply of housing in the area. It would also provide newer accommodation for the nursery. The proposed development would result in economic benefit to the local area during and after construction. As such, the proposal's benefits carry some weight. However, these benefits would not outweigh the significant harm identified.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR