
Appeal Decision

Site visit made on 30 October 2019

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/N5090/W/19/3235349

Land rear of 4 Rundell Crescent, London NW4 3BP

- 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 Rundell Partnership Ltd against the decision of Barnet London Borough Council.
 - The application Ref 19/0959/FUL, dated 15 February 2019, was refused by notice dated 18 April 2019.
 - The development proposed is the erection of 3no. single storey terraced dwellinghouses with rooms in the roofspace and associated amenity space, refuse storage, cycle store and off-street parking. Access to new dwellinghouses provided from Alderton Way.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3no. single storey terraced dwellinghouses with rooms in the roofspace and associated amenity space, refuse storage, cycle store and off-street parking. Access to new dwellinghouses provided from Alderton Way on land rear of 4 Rundell Crescent, London NW4 3BP in accordance with the terms of the application, Ref 19/0959/FUL, dated 15 February 2019, subject to the conditions set out in the attached schedule.

Procedural Matter

2. An appeal should be determined using the address set out on the original planning application form. In this case that address would be misleading and as such I have therefore used the address from the Council's decision notice which more accurately describes the location of the site.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area, with specific regard to siting and layout; and
 - the living conditions of future occupiers of Unit 1, with specific regard to the proximity of the outdoor garden space of Unit 2.

Reasons

Character and appearance

4. The appeal site is land located towards the rear of 2 and 4 Rundell Crescent, currently occupied by a garage and associated hardstanding area. The site fronts onto Alderton Way which serves as the rear access for terraced dwellings and commercial properties fronting Vivian Avenue. Alderton Way is characterised as a narrow service road dominated by single storey private garages, bin storage areas and informal parking. To the north of Alderton Way are the rear gardens of the residential dwellings fronting Rundell Crescent and Alderton Crescent and garages servicing dwellings south of Alderton Way. To the south is the rear extent of the commercial properties at ground level, and behind that the rear elevations of the three storey terraced dwellings fronting Vivian Avenue.
5. The current function of Alderton Way is for vehicular access, waste collection, loading/unloading activities to the uses within the Vivian Avenue terrace, to preserve its intended main street character and appearance. This in mind, the quality of development fronting Alderton Way does not achieve the same quality character and appearance, nor pattern of development repeated throughout the residential streets of Rundell and Alderton Crescent or along Vivian Avenue. Whilst, appropriate for its intended purpose the current environment along Alderton Way generally lacks positive design or activation of this space, with the design of development prioritising the primary street frontages of Rundell Crescent, Alderton Crescent and Vivian Avenue.
6. The proposed development represents a positive opportunity to activate Alderton Way by introducing a built form and design which directly fronts onto this street scene. The proposal would introduce a safe, accessible and improved quality of residential design which would enhance the current street scene. The development would maintain the predominant height, scale and pattern of development along Alderton Way, preserving the subordinate relationship to the surrounding three and two storey dwellings beyond Alderton Way. The development would also be concealed from any prominent views along Rundell Crescent, Alderton Crescent or Vivian Avenue.
7. I acknowledge that the appeal proposal would result in a unit design and private rear garden areas that would be smaller than the predominantly large dwellings on spacious plots which characterise the residential development along Rundell Crescent and Alderton Crescent. I do not agree that the proposal would represent a cramped form of development thereby being an overdevelopment of the site. It would adhere to the design standards under the London Plan (March 2015) and Barnet Sustainable Design and Construction SPD (adopted October 2016). The layout would provide a private usable rear garden area for each unit, together with appropriate distances between the highway and neighbouring property boundaries.
8. I find that the proposal would not harm to the character and appearance of the surrounding area, with specific regard to the siting and layout. It would therefore comply with Policy CS5 of the Barnet Core Strategy (CS) (adopted September 2012), Policy DM01 of the Barnet Development Management Plan (DMP) (adopted September 2012) and advice contained in the Barnet Residential Design Guide Supplementary Planning Document (adopted October 2016). These policies and guidance seek, amongst other things, to achieve

quality design which preserves or enhances local characteristics of buildings, places and streets.

Living conditions

9. The Council's Sustainable Design and Construction SPD sets out the size and design requirements necessary to achieve usable outdoor garden spaces for residential units. The proposed outdoor garden areas for each unit would comply with the size requirements for the scale of development proposed.
10. In determining whether these areas can be considered usable, I have had further regard for the Residential Design Guide SPD. This SPD notes that "the size, shape and slope gradient" of outdoor garden areas are key to usability. Whilst I acknowledge that the proposed development would result in the creation of outdoor garden areas with an irregular shape, the predominant areas created would achieve appropriately sized and dimensioned areas for ordinary outdoor activities associated with each residential unit.
11. The reason for refusal primarily relates to the juxtaposition of the proposed rear garden for Unit 2 to the rear elevation of Unit 1. The design would not result in any direct views from the rear garden of Unit 2 into the habitable rooms of Unit 1. The only window for Unit 1 which aligns with the Unit 2 rear garden is the rear facing dormer window, which is proposed to be obscure glazed and non-opening. I am therefore satisfied that the proposed garden arrangements are acceptable.
12. Accordingly, I find that the proposed development would not harm the living conditions of future occupiers of Unit 1, with specific regard to the proximity of the outdoor garden space of Unit 2. It therefore complies with Policy 3.5 of the London Plan, Policy DM02 of the Barnet DMP and the advice contained in the Barnet Sustainable Design and Construction SPD. These policies and guidance seek, amongst other things, to ensure proposals achieve the standards required for quality residential development and high standard urban design.

Other Matters

13. The main parties refer to the extant planning permissions¹ on the appeal site which they consider should be the base line for the determination because the built form is similar to the appeal proposal. I have had regard to the details provided and have given significant weight to these permissions in establishing the principle of the acceptability of residential development on this site. Consequently, I note that the Council has no concern regarding the loss of the site for employment purposes, I see no reason to disagree on this matter.
14. The appeal proposal provides an off-street parking space for both Units 1 and 3, whilst Unit 2 is proposed to be car-free. It would therefore comply with the car parking requirements contained in the Barnet DMP and the London Plan. Given the high PTAL level of the appeal site within a town centre, Unit 2 being car-free would not be unacceptable.

Conditions

15. No conditions have been suggested by either party. Therefore, I have had regard to the conditions previously imposed on the extant planning permissions

¹ Planning permission references: 18/6854/S73 & 17/7858/FUL

on the appeal site and considered them in line with the advice in the Planning Practice Guidance and the National Planning Policy Framework (the Framework). As such I have amended the wording of any replicated conditions as necessary in the interest of precision and clarity.

16. In addition to the standard three year time limit condition for implementation, it is necessary for a condition to specify the approved plans in the interests of certainty.
17. In the interests of the character and appearance of the area, it is necessary to impose landscaping, building materials and finished level conditions. In the extant planning permissions these matters were pre-commencement conditions. However, it is not necessary for these details to be provided prior to the commencement of development as demolition works can take place before these matters are agreed.
18. In the interests of the living conditions of the occupiers, it is necessary to impose a planning condition requiring obscure glazing to be used in the windows facing adjoining residential properties. The relevant windows have been identified on the approved plans and have been referenced in the condition accordingly. Likewise a condition relating to external lighting is also appropriate.
19. Conditions requiring the provision of parking spaces for Units 1 and 3, and for Unit 2 remaining a car-free property are necessary. Ensuring Unit 2 remains car-free is necessary prior to commencement to safeguard this outcome, acknowledging that the site falls within a Controlled Parking Zone.
20. The previous planning permissions included conditions relating to refuse and recycling, construction management, water supply, and accessibility standards. The Council has provided me with no evidence to justify why such conditions would be necessary in this case. The submitted plans indicate refuse and recycling areas within the site. Planning conditions should not duplicate provisions of the Building Regulations regime, in addition, no policy context has been drawn to my attention to justify a limitation to water usage. Construction Management Plans are not used for all development proposals, they would normally only be used where particular characteristics or circumstances justify such an approach. No such characteristics or circumstances have been presented to me in this case.
21. As no conditions were suggested by the Council in the interests of fairness both parties have had the opportunity to provide comments on a draft Schedule of Conditions. Both parties have confirmed that the draft Schedule of Conditions is acceptable. The procedure set out under section 100ZA(5) of the Town and Country Planning Act 1990 has been followed.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed and planning permission granted in accordance with the attached Schedule of Conditions.

J Gibson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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: Location Plan (Dwg No U-RP-LP001, dated 14/02/2019); Existing Plans (Dwg No U-RP-EP001, dated 14/02/2019); Proposed Plans – Ground Floor (Dwg No U-RP-PP001, dated 14/02/2019); Proposed Plans – Loft (Dwg No U-RP-PP002), Rev 1, dated 21/12/2019); Proposed Plans - Roof Plan (Dwg No U-RP-PP003, dated 14/02/2019); Height Calculations (Dwg No U_RP_HC001, dated 14/02/2019); Proposed Section and Elevations (Dwg No U-RP-PE001, dated 14/02/2019); Proposed Elevations (Dwg No U-RP-PE002, dated 14/02/2019); Visualization (Dwg No U-RP-PV001, dated 14/02/2019); and Proposed Location Plan (Dwg No U-RP-PL001, dated 14/02/2019).
- 3) No development, other than demolition works, shall take place until details of the materials to be used in the construction of the external surfaces of the building(s) and hard surfaced areas hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained thereafter.
- 4) No development, other than demolition works, shall take place until details of the levels of the building(s), parking areas and ground level in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
- 5) A scheme of hard and soft landscaping, including details of the size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is occupied. All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 6) The development hereby permitted shall not be occupied until the windows shown on the approved "Proposed Plans - Roof Plan" (Dwg No U-RP-PP003, dated 14/02/2019) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 7) Details of all exterior lighting hereby approved must be submitted to and approved in writing to the Local Planning Authority before installation.

- 8) No dwellings shall be occupied until space has been laid out for cars to be parked within the site in accordance with the approved Proposed Plans – Ground Floor (Dwg No U-RP-PP001, dated 14/02/2019) and that space shall thereafter be kept available at all times for this purpose.
- 9) No development shall take place until arrangements have been made to secure Unit 2, hereby permitted, as a car-free development in accordance with a detailed scheme or agreement which shall have been approved in writing by the Local Planning Authority. The approved scheme or agreement shall ensure that:
 - i) no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the Local Planning Authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii) any occupiers of the approved development shall surrender any such permit wrongly issued or held.

Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.

End of Schedule