
Appeal Decision

Site visit made on 10 December 2019

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/N5090/W/19/3237485

Land rear of 9 - 11 Sunningfields Road, London NW4 4QJ

- 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 Calzavara against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/1743/FUL, dated 22 March 2019, was refused by notice dated 24 July 2019.
 - The development proposed is the erection of two, four-bedroom dwellings and associated car parking, cycle storage and waste storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of 9 and 11 Sunningfields Road, with regards to privacy and amenity space provision.

Reasons

Character and appearance

3. The appeal site comprises of 9 and 11 Sunningfields Road which are large detached properties containing 9 and 10 self-contained flats. The property at Nos 9 and 11 are two storeys high, but dormer windows populate the front and rear roof planes of No 11. The plots of both properties extend between Sunningfields Road and Church Terrace, with the properties fronting the former of the two roads. Collectively, these properties and those in the surrounding area form a spacious suburban character, which is predominately residential. This is particularly the case for plots on the west side of Sunningfields Road, with Sunny Hill Park to the rear. However, St George's Medical Centre (7 Sunningfields Road), a pre-school and a school beyond a footpath linking Sunningfields Road and Church Terrace to the side of No 5 and 20 Church Terrace also form part of the surrounding area.
4. The rear part of No 11 is sub-divided from the rest of the plot, with the land covered in hard surfacing. Garages are said to have populated this land. The rear part of No 9 has also been sub-divided from the host property even though it was, at one time, earmarked for car parking¹. The mixed composition of hard and soft landscaping in Nos 9

¹ Council Ref: W12289/00

- and 11 broadly reflects neighbouring plots.
5. The appellant is technically correct that the appeal site benefits from two separate highway frontages, but there is a clear difference between Sunningfields Road and Church Terrace. Even if Church Terrace is used by refuse vehicles, the road is narrower with no footpaths unlike the principal road frontage for the plots on Sunningfields Road which allows for two-way movements of different road users and is undoubtedly the busier of the two. Even so, Church Terrace does provide access to the rear of Nos 20, 7, 9, 11 and 13 before the barrier leading into Sunny Hill Park, with a large car park to the rear of the Medical Centre.
 6. Although Nos 9 and 11 have been physically divided, and the land not actively used, both areas still contribute to the spacious character of the area. The use of the land also appears, based on the site's planning history, to remain in connection with the self-contained flats at Nos 9 and 11.
 7. The proposed development would formally sever the rear part of Nos 9 and 11 from the respective host property and introduce two detached dwellings to the rear of these properties fronting Church Terrace. While No 20 was granted planning permission in 2008², this property replaced an existing detached bungalow and although it is to the rear of No 5, its position is better described as being to the side and rear given that No 5 retains a plot that extends from Sunningfields Road to Church Terrace. I do not consider the scheme at No 20 justifies a departure from the established pattern of development on this side of Sunningfields Road, which forms a spacious verdant backdrop to the park.
 8. As each of the proposed dwellings would be detached, they would respond to the local form of development. Furthermore, they would be set back from Church Terrace and in from the existing flank boundaries and maintain a gap between each other not dissimilar to that found between dwellings fronting Sunningfields Road. The appellant confirms that the footprint of the proposed dwellings equals around 180m². However, as a result they would appear to be considerably smaller than the large detached properties fronting Sunningfields Road and at No 20. The associated plots proposed would also be more constrained to the front and rear than even the resulting plots of Nos 9 and 11. The appeal scheme would be at odds with the character and appearance of the area. The effect of the proposal would be evident from Church Terrace and Sunny Hill Park.
 9. I recognise that future occupants would benefit from suitably sized private outdoor amenity space and that they would have a good standard of residential accommodation suitable for families. The proposal also seeks to make an effective use of land, and while the proposed development may improve the current visual appearance of Nos 9 and 11 to the rear, I do not consider that these matters outweigh the harm that would be caused by the sub-division of Nos 9 and 11 and from the proposed layout having regard to the character and appearance of the area. The appellant's willingness to accept a planning condition to secure details of the materials, would not overcome this harm.
 10. I conclude, on this issue, that the proposed development would cause significant harm to the character and appearance of the area. Thus, conflict would arise with Policy CS5 of Barnet's Local Plan (Core Strategy) (CS), Policy

² Council Ref: H/03926/08

DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document (DMP), and the Council's Supplementary Planning Document: Residential Design Guidance (SPDRDG). Jointly, among other things, these seek development to respect local context and distinctive local character creating places and buildings of high-quality design noting the pattern of surrounding buildings, spaces and streets. I also conclude that, despite the main parties not referring to a specific policy of the London Plan (LP), the proposal would not accord with LP policies 3.5 and 7.4; which jointly seek housing development to take into account physical context and local character, having regard to the pattern and grain of existing spaces and streets.

11. In refusing planning permission, the Council cited conflict with the Supplementary Planning Document: Sustainable Design and Construction (SPDSDC). However, the proposal would not conflict with the SPDSDC in respect of this main issue.

Living conditions

12. The SPDSDC sets out that the privacy of existing and future development should be protected and gardens and windows to habitable rooms should not be significantly overlooked. It goes on to say that design solutions through layout of habitable rooms, window placement and building orientation should be used to address privacy and overlooking issues. Table 2.4 of the SPDSDC states that in new residential development there should be a minimum distance of 21 metres between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 metres to a neighbouring garden.
13. While the rear part of No 9 may not be used as amenity space and planning permission was granted to use this space for car parking, the proposed development would introduce a new relationship. As such, the effect on existing occupants' privacy needs to be assessed.
14. Both of the proposed dwellings would have rear facing windows at ground and first floors directly opposite the rear elevations of Nos 9 and 11. The interface distance proposed between the northern of the two dwellings and No 11 is over 22 metres, which would accord with Table 2.4. The interface distance between the other dwelling and No 9 would be around 18.5 metres at its closest point. Paragraph 2.3.36 of the Housing Supplementary Planning Guidance (Housing SPG) explains that a minimum distance of 18 to 21 metres can still be a useful yardstick for visual privacy but adhering rigidly to these measures can limit the variety of urban spaces and housing types. Even so, Housing SPG Standard 28 reinforces the need to provide an adequate level of privacy in relation to a neighbouring property.
15. In terms of the effect of the proposed relationship, the interface that would be formed between the southern dwelling and No 9 would not be so critical insofar as the ground floor rooms as a boundary would be formed between the respective properties. However, occupants would have a clear line of sight between the habitable room windows in the upper floors of these properties. Given the site's spacious context, and the proposed layout, window placement and building orientation and as no other form of mitigation is proposed, I consider that residents of No 9 would not be provided with an adequate level of privacy by the proposed development.
16. The second aspect of the Council's privacy concerns relate to the gardens of

Nos 9 and 11 after they are sub-divided. Each of the proposed gardens would be 8 metres deep between the rear elevation and the boundaries with Nos 9 and 11. This distance would be short of the minimum distance set out in the SPDSDC. Even if this is only a guide, given the size of each of the bedroom windows proposed to the rear of the dwellings, the occupants of Nos 9 and 11 would not be provided with an adequate level of privacy in their private outdoor amenity spaces.

17. Noting the appellant's submissions that the resulting gardens for Nos 9 and 11 would measure around 156m² and 194m² respectively, I agree that occupants of these properties would, based on the number of units involved, enjoy a good standard of living in respect of the size of their outdoor amenity spaces. The same would also apply to future occupants of the proposed dwellings.
18. I have not found harm in respect of the quantum of outdoor amenity provision for Nos 9 and 11. In this regard the proposal would accord with DMP Policy DM02 and the SPDSDC. However, this is outweighed by my conclusion that the proposal would cause significant harm to the living conditions of the occupants of Nos 9 and 11 as the proposal would not provide an adequate level of privacy. The proposal would not accord with CS Policy CS5, DMP Policy DM01, LP Policy 7.6, the SPDSDC, the SPDRDG and the Housing SPG. Jointly, these seek, among other things, proposals that are designed to allow for adequate privacy for adjoining residential occupiers, including their gardens.

Other matters

19. The proposal would contribute, albeit modestly, to the supply and mix of housing in the Borough even if it is not in the most accessible location. The proposal would not in my view give rise to highway safety concerns as a result of the proposed parking and access arrangements. Nor would the living conditions of No 13 be affected by the proposal. As No 7 is a Medical Centre no amenity concerns would be caused. Given the site's location within Flood Zone 1, the proposed dwellings would have a low probability of flooding. While the appeal site adjoins a Site of Importance for Nature Conservation, it does not fall within it. Even though the site is within a Site of Special Archaeological Importance a planning condition could be imposed were I minded to allow the appeal to secure an archaeological assessment. These matters do not alter or outweigh my findings on the two main issues.

Conclusion

20. For the reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR