



Appeal Decision

Hearing Held on 20 November 2019

Site visit made on 20 November 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/N5090/W/19/3233168

16 Woodside Avenue, North Finchley, London N12 8BG

- 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 Claude Abi-Gerges against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/6998/FUL, dated 21 November 2018, was refused by notice dated 17 January 2019.
 - The development proposed is described as the “demolition of three existing detached residential buildings to facilitate the formation of one single building with seven residential dwelling units (use class C3) and a new basement car park and amenity spaces”.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of three existing detached residential buildings to facilitate the formation of one single building with seven residential dwelling units (use class C3) and a new basement car park and amenity spaces at 16 Woodside Avenue, North Finchley, London N12 8BG in accordance with the application Ref 18/6998/FUL, dated 21 November 2018, subject to the conditions on the attached schedule.

Preliminary Matters

2. The Council’s decision notice refers to the impact of the development on the living conditions of future occupiers of the development, with particular regard to the outlook afforded to unit F5 as a result of a privacy screen proposed on its balcony. The appellant supplied amended drawings¹ so that the screen was removed, thereby overcoming the reason for refusal. I have considered these amended drawings under the principles established by the Courts in *Wheatcroft*² and I am satisfied that the drawing does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the additional drawings.
3. Since the Council issued its decision, the draft London Plan Consolidated Version 2019 has been through its public consultation and the Inspectors

¹ 1227-PL2-004 Rev B and 1227-PL2-007 Rev B

² *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

report issued. Whilst I have had regard to this document, the Plan is still under consideration which limits the weight I can accord to its policies.

4. At the Hearing the appellant provided me with a copy of Chapter 2. Protecting Barnet's character and amenity of the London Borough of Barnet Development Management Policies 2012 (the DMP).

Main Issue

5. The main issue is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal site lies partly on the corner of Cliveden Close and Woodside Way and contains two dwellings on Woodside Close and a further dwelling on Cliveden Close. The proposal seeks to demolish the three dwellings and replace them with a single building that would contain seven flats to be provided over three floors. The development would be set back from the road so that it would be in line with the existing development at Sonia Court to the north. A new 'S' shaped vehicular access to basement parking off Woodside Avenue would also be provided, along with communal and private garden areas.
7. The Council's main argument stems from the overall form and scale of the proposal, which is considered excessive and would result in a prominent development, causing harm to the established character of the area. Although I accept that there are groups of detached dwellings in the vicinity, of which the appeal site includes such properties, from visiting the site and the surrounding area, it is clear that the character of the area is far more diverse and contains a wide variety of style and type of property which includes terraces of dwellings and flatted developments, such as that opposite the site at 17 Woodside Avenue and slightly further afield at Sonia Gardens, Nansen Village and Green Bank.
8. The overall form and scale of the proposed building would undoubtedly result in a larger mass of building at the site. Nevertheless, this alone need not be harmful to the character of an area, especially when considering the context of the proposal. One has to have regard to the proposed development, and in this particular case, its urban setting and the wide variety and pattern of development that characterises the area. Both Sonia Court and Cliveden Close rise to the north giving buildings on these roads an elevated position in the street scene. This is particularly evident from the staircase that exists off the junction of Woodside Road and Cliveden Close into Sonia Court. In addition, other three storey buildings are close to the appeal site such as the flats at 17 Woodside Avenue and the terrace of properties that lie immediately to its south. Thus, although the existing buildings on the site are two storey in height, a three storey development need not appear unduly out of place or prominent.
9. Moreover, while the development proposed is quite a large building, given the amount of space about and around it that would remain post development, the setting back of the building from both Woodside Avenue and Cliveden Close, the development would, along with appropriate landscaping and boundary treatments, add to the diversity of built development along Woodside Close,

creating an area of built form that would complement and recognise existing development in the area.

10. On the whole the area has a varied and diverse character and the introduction of a further development of flats at the site would not result in the erosion of any identified or established character that would otherwise harm the appearance of the area. Moreover, I am not persuaded that the site represents a "bookend" to properties on the eastern side of the road or that the introduction of gabled roofs with dormer windows would be so harmful to render the development unacceptable. I find the overall design of the development and the arrangement of the roof scape to add interest on this corner location in contrast to the gable roof of Sonia Court, which is clearly visible from the public realm. Moreover, given the variation in the street scene in the vicinity of the appeal site, I also find that the area has the capacity to accept additional flattened development in the form proposed. The overall form and scale of the proposal has the ability to assimilate with the surrounding patterns of development without resulting in harm to its character or appearance.
11. Thus, the development would not be in conflict with Policies 7.4 and 7.6 of the London Plan 2016 (the London Plan), Policy CS5 of the Council of the London Borough of Barnet Core Strategy 2012 and Policy DM01 of the DMP which seek, amongst other things, to ensure that developments respect local context and also preserve or enhance local character and respect the appearance of the area.

Other Matters

12. I note the representation made by a local resident questioning the age of the properties to be demolished and where the appellant resides. However, the properties are not statutorily listed for their architectural or historic value and are not within a Conservation Area. Moreover, the locational residence of the appellant is not material to the consideration of the development before me.

Conditions

13. The Council has suggested a number of conditions which I have considered in accordance with the National Planning Policy Framework (the Framework) and the National Planning Practice Guidance (the Guidance). As of 1 October 2018, any planning permission granted on or after that day with pre-commencement conditions imposed must have the written agreement of the applicant/appellant to the wording of those conditions³. The appellant has confirmed his written agreement to the pre-commencement conditions.
14. In addition to the standard time condition (1), it is necessary, for certainty, to define the plans with which the scheme should accord (2). In order to ensure that the development has an acceptable impact on the appearance of the area, conditions relating to the submission of details of materials to be used for all external surfaces of the building (3), level details (4), refuse and recycling facilities (7), hard and soft landscaping (12) and any means of enclosure (17) must be submitted to the Council for consideration or carried out in accordance with the approved plans where specified. The development must also be carried out in accordance with the submitted tree protection plan (13). In the

³ The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

interest of sustainability, the site must also provide cycle spaces (6) and electric car charging points (10).

15. In the interest of highway safety, details of the following must also be provided; basement car and cycle parking (5), passing places (8), maintenance of the traffic signalling to control the car park access (9) and any works to the public highway (11). In the interest of protecting the living conditions of future occupiers' details of the proposed privacy screens (14) and acoustic walls and fencing (18) must be provided. For accessibility reasons a condition is also required in respect of optional requirement M4(2) (accessible and adaptable dwellings) of the Building Regulations (19).
16. In order to protect the living conditions of adjoining occupiers, a Demolition and Construction Management and Logistics Plan (6) is required to be submitted to the local planning authority along with obscure glazing (15) and the amenity areas for the development (16) as detailed. A condition restricting the hours of construction is also necessary (21) and details of any external lighting is required (23). A condition ensuring that the layout of the development is as agreed (22) is also reasonable.
17. In its proposed conditions 21 and 22, the Council seeks to ensure the proposed flats have water meters, and that water saving and carbon dioxide emission reduction measures are in place. With regard to water efficiency, although Building Regulations specifies a target of 110 litres per person per day, the London Plan refers at Policy 5.15 to 105 litres per person per day. However, the footnote to that policy indicates that this excludes an allowance of 5 litres per day for external water consumption. To align with Building Regulations, the condition should specify 110 litres and is therefore necessary to ensure the efficient use of water (20).
18. However, the proposed condition on 6% carbon dioxide emissions does not align with Policies 5.2 and 5.3 of the London Plan. As no information has been provided to explain why it is necessary, and the percentage reasonable, the condition is not required.

Conclusion

19. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt

INSPECTOR

APPEARANCES

For the Appellant

Mrs Jill Bell MTRPI	HGH Consulting
Mr Richard Henley MRTPI	HGH Consulting
Mr Simon Watkins RIBA	HUB Architects and Designers Ltd
Mr Claude Abi-Gerges	Appellant

For the Council

Mr Dominic Duffin	Principal Planning Officer
Miss Emma Hawthorne	Principal Planning Officer

Interested Parties

Cllr Alison Cornelius	Council of the London Borough of Barnet
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Documents

Chapter 2. Protecting Barnet's character and amenity of the London Borough of Barnet Development Management Policies 2012

Schedule of Conditions

1. This development hereby permitted must begin within three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. 1227-EX-01 Rev P1
Drawing no. 1227-EX-02
Drawing no. 1227-EX-03
Drawing no. 1227-EX-04
Drawing no. 1227-EX-05
Drawing no. 1227-EX-06
Drawing no. 1227-PL2-001
Drawing no. 1227-PL2-002 Rev A
Drawing no. 1227- PL2-003 Rev A
Drawing no. 1227-PL2-004 Rev B
Drawing no. 1227-PL2-005 Rev A
Drawing no. 1227-PL2-006 Rev A
Drawing no. 1227-PL2-007 Rev B
Drawing no. 1227-PL2-008 Rev A
Drawing no. 1227- PL2-009 Rev A
Drawing no. 1227-PL2-010 Rev A
Drawing no. 1227-PL2- 011 Rev A
Drawing no. 1227-PL2-012 Rev A
Tree Protection Plan 17434/A1/TPP/01 Rev B
Indigo Surveys Tree and Construction BS5837, Tree Survey, Arboricultural Impact Assessment and Method Statement dated November 2018
3.
 - a) No above ground works, excluding demolition, shall take place until details of the materials to be used for all the external surfaces of the building and hard surfaced areas have been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.
4.
 - a) No development shall take place, excluding demolition, until details of the levels of the building(s), road(s) and footpath(s) 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.
 - b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
5. Before the development hereby permitted is first occupied, the basement parking for cars and cycles shown on Drawing No 1227-PL-002 Rev. A and the access to the parking area shall be provided. Thereafter, the parking spaces shall be used only as agreed and not be used for any purpose other than the parking and turning of vehicles in connection with approved development.

6. No site works or works on this development including demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:
 - i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii. site preparation and construction stages of the development;
 - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractor's compound and car parking arrangements;
 - ix. Details of interim car parking management arrangements for the duration of construction;
 - x. Details of a community liaison contact for the duration of all works associated with the development.
 - xi. A competent banksman shall be employed at all times to manage the construction traffic in and out of the site to ensure highway and pedestrian safety.
7. Refuse and recycling facilities shall be provided on site in accordance with the details provided on the approved plans, 1227-PL2-002 Rev A & 1227-PL2-003 Rev A. The development shall be implemented in full accordance with the details prior to the first occupation and retained as such thereafter.
8. Notwithstanding the plans submitted, prior to the commencement of works on site, excluding demolition, details of the passing places, gradient for the access ramp leading to the basement car parking area, car park layout, and the car ramp warning (signal control) system, together with headroom clearances along the ramp and within the parking area and the access to the parking area from public highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out nor shall it be subsequently operated otherwise than in accordance with the approved details.
9. Prior to the occupation of the development, a Maintenance Agreement for the operation of the traffic signal system for the ramped carpark access must be submitted to and approved in writing by the Local Planning Authority.
10. Before the development hereby permitted is occupied full details of the electric vehicle charging points to be installed in the development shall have been submitted to the Local Planning Authority and approved in writing.

These details shall include provision for not less than 20% of the approved parking spaces to be provided with electric vehicle charging facilities. The development shall be implemented in full accordance with the approved details prior to first occupation and thereafter be maintained as such.

11. No works on public highway as a result of the proposed development shall be carried out until detailed design drawings have been submitted and approved by the Highway Authority and works shall only be carried out in accordance with the approved plans.

The applicant will be expected to enter into with the Highways Authority under Section 278 Agreement of the Highways Act, for works affecting public highway including creation of new accesses and reinstatement of the existing accesses and consequential damage to public highway as a result of the proposed development. Any proposal for the adoption of land would need to be progressed under S38 of the Highways Act.

12.
 - a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development.
 - b) 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.
 - c) 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.
13. The development shall be implemented in accordance with the protection plan and method statement "Indigo Surveys Tree and Construction BS5837, Tree Survey, Arboricultural Impact Assessment and Method Statement dated November 2018" as approved under this planning permission. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition - 17434/A1/TPP/01 Rev B, has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time.
14.
 - a) Before the development hereby permitted is first occupied, details of privacy screen(s) to be installed as detailed on the approved plans for Unit F5, shall be submitted to and approved in writing by the Local Planning Authority.
 - b) The screen(s) shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
15. Before the building hereby permitted is first occupied the proposed windows in the rear elevation at first floor level facing No.2 Cliveden Close and the

flank elevation windows at first floor level facing No. 14 Woodside Avenue, shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

16.
 - a) Before the development hereby permitted is first occupied, the proposed amenity areas shall be sub-divided as detailed on the approved plans, Drawing No. 1227 - PL2 – 003 Rev A.
 - b) The development shall be implemented in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
17.
 - a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments and means of subdividing the amenity areas (private and communal), have been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
18.
 - a) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby approved shall not be first occupied or brought into use until details of all acoustic walls, fencing and other acoustic barriers to be erected on the site have been submitted to the Local Planning Authority and approved in writing.
 - b) The details approved by this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.
19. Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.
20. Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 110 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
21. No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm pm on other days.

22. The layout of the residential units as indicated on the hereby approved plans shall be implemented and retained as such thereafter.
23. Before the development hereby approved is first occupied, details of any external lighting to be erected within the site shall be submitted to and approved by the local planning authority. The external lighting shall be carried out in accordance with the approved plans are retained thereafter.

~END~