



Appeal Decision

Hearing held on 8 October 2019

Site visit made on 8 October 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2020

Appeal Ref: APP/N5090/W/18/3216659

Meadow Works, Great North Road, Underhill, Barnet EN5 1AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Stuart Morris against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 18/1511/FUL, is dated 8 March 2018.
 - The development proposed is described as demolition of the existing buildings, change of use from B1 (light industrial), B8 (warehousing) and A3 (cafe) to C3 (residential), comprising 15 one bed flats, 42 two bed flats, 60 car parking spaces and 144 cycle parking spaces.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised, unsigned copy of the Statement of Common Ground (SCG) was provided at the hearing, without objection from the main parties. On this basis I have had regard to this document, as no party would be prejudiced by me doing so.
3. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.

Main Issues

4. The main issues are:

the effect of the proposal on

- the character and appearance of the area
- the local economy, with regard to the supply of employment floorspace
- the living conditions of occupants of neighbouring properties, with particular regard to privacy, outlook and daylight and sunlight

and

- the mix and density of dwellings

- the effect on the living conditions of future occupants with particular regard to daylight, outlook and privacy
- whether the proposal would make suitable provision for carbon reduction and environmentally sustainable design, and
- provision of children's playspace.

Reasons

Character and appearance

5. The appeal site is located within a residential area on the south-western side of Pricklers Hill. This residential area is bounded by Raydean Road to the north, Cherry Hill to the south and a railway line to the east. The area is characterised by predominantly two-storey, pitched roof housing, with a mixture of semi-detached and terraced properties. Verges and gardens provide space for established vegetation including trees, which provides verdancy. Together, the above factors result in a 'character area' which has a distinctive traditional twentieth century, suburban lower-rise residential character. This is distinct from adjoining areas, which include some bulkier three-storey residential and office blocks.
6. The existing site is somewhat counter to the character of its host area, comprising a variety of business units, with a prevalence of corrugated metal walls and roofs of ageing condition and appearance. The site is not within a Conservation Area, and views into the site from surrounding streets are to some extent moderated by intervening properties and trees. Taking the above factors together, I consider that this substantial brownfield site could accommodate in character terms, a somewhat fresh, bespoke architectural approach, which, whilst it should have careful regard to its context, need not simply replicate the twentieth century suburban pattern and style.
7. The proposal is for a substantial main block, with a smaller block to its rear. Proposed landscaped areas around the building provide opportunity for planting of substance, including trees, which would create verdancy and help to soften views of the built form. Moreover, the proposed setback of part of the fourth storey would help to soften the visual impact. The proposed development would refresh the appearance of the site compared to the somewhat declining appearance of parts of it. The proposal would also introduce some spaciousness on the south-western corner of the site, where units currently abut the boundary with adjacent dwellings.
8. The proposed diaper pattern brickwork on the west and east elevations of the main block would be a visually unifying factor across those facades and would provide some architectural charisma to the main block. Combined with the clean lines and the bold mass of the building, it would help it to 'hold its own' architecturally. However, with a mix of four and three-storey height, the unbroken mass, scale and bulk of the western facade of the proposed main block would result in a 'pinch point' in relation to lower rise dwellings at Nos 16, 18, 20 and 22 Wycherley Crescent and No 89 Great North Road. This would result in a jarring transition in building scale, mass and pattern between the proposed main block and the prevailing suburban lower-rise residential character of the area. This impact would be noticeable viewed approaching

from Pricklers Hill, the appeal site and the neighbouring properties described above.

9. Therefore, whilst the proposed block would provide some fresh architectural energy, the proposal would not adequately assimilate into the area. In conclusion on this main issue, the proposed development would harm the character and appearance of the area. As such it would conflict with Policy CS5 of the London Borough of Barnet's Core Strategy (2012) (CS), Policy DM01 of the London Borough of Barnet's Development Management Policies (2012) (DMP), and Policies 7.4 and 7.6 of London Plan (2016) (LP)¹. Together, the policies seek to ensure that development complements local character.
10. The proposal would not conflict with Policy 7.5 of the LP, which covers public realm design.

Employment floorspace

11. Whilst the site is not locally designated for an industrial or employment use, the proposal would result in the loss of approximately 2,576 sq.m of employment floorspace, comprising the following: approximately 831sq.m of mixed office (B1); approximately 844 sq.m of light industrial and warehousing (B8); and approximately 70 sq.m of A3. The site comprises a variety of businesses and there is no dispute that it is reasonably well let.
12. The appellant's argument is that the site is not in a location where the local employment market is focused - namely a more established industrial area, town centre or main concentration of industrial activity in proximity to the M1 - and the surrounding residential context and restricted access render the site a more isolated and lower quality industrial area. Be that as it may, a detailed financial analysis has not been presented to substantiate that the above factors would result in yields too low to support refurbishment of the somewhat dilapidated site. No marketing exercise for the employment use of the site is presented. Moreover, there is a lack of assessment of local employment needs.
13. Given the above, the proposal would be contrary to Policy DM14 of the DMP, which, sets out that loss of a Class B use on such a site will only be permitted where it can be demonstrated that the site is no longer suitable and viable for its existing or alternative business use in the short, medium and long term, and a suitable period of effective marketing has been undertaken.
14. It is acknowledged that the superseded 2009 Barnet Employment Land Review recommended the site for release for alternative uses. Moreover, if sufficiently robust justification were provided for the proposed loss of employment use and floorspace on the site, a £635,068 financial contribution would be required, as calculated by the Council, based on the Barnet Delivering Skills, Employment, Enterprise and Training from Development Supplementary Planning Document (2014). The appellant has indicated that they would be willing to pay this sum, and has submitted an unsigned draft Unilateral Undertaking with this included.
15. Nevertheless, for the reasons described above, it has not been substantively demonstrated that local employment would be acceptably protected by the proposal. Moreover, the proposal would undermine the rigour of the approach

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

of Policy DM14 of the DMP, with consequent risk to wider employment provision in Barnet.

16. To conclude on this main issue, the proposal would have a harmful effect on local employment, with associated impact on the local economy. As such it would conflict with Policy DM14 of the DMP.

Living conditions of neighbouring occupants

17. The guidance in paragraph 7.3 of the Barnet Residential Design Guidance Supplementary Planning Document (2016) (RDG) specifies a minimum distance of about 21m between facing windows of new properties and habitable rooms of existing, to avoid overlooking, and 10.5m to a neighbouring garden, allowing for the possibility of shorter distances where there are material justifications. This is supplemented in Table 2.4 of The Barnet Sustainable Design and Construction Supplementary Planning Document (2016) (SDC) which repeats the above distances, in the interests of outlook as well as privacy.
18. Based on measurement of the proposed site layout, the main and rear blocks would not achieve all the above RDG and SDC separation distances in relation to around half of neighbouring dwellings adjacent to the appeal site. That said, a combination of the following factors is likely to adequately moderate overlooking of most neighbouring properties: existing perimeter vegetation; scope for new tree and shrub planting on the appeal site; limited side windows in the west and east elevations of the proposed rear block; and the oblique nature of some views from the proposed new residential blocks in relation to neighbouring properties.
19. Nonetheless, the substantial number of facing windows and balconies on the western elevation of the proposed four-storey main block is likely to adversely affect the privacy of Nos 18, 20 and 22 Wycherley Crescent, and No 89 Great North Road. Taking the above together, I find that the proposal would be detrimental to the privacy of some neighbouring residents.
20. Turning to the matter of outlook from neighbouring properties, the proposed development would introduce a rear block up to around 10m high and a substantial main residential block up to around 12m high, in place of a development which comprises business units around a third of that height or less. However, the proposal would replace a development of ageing business units, which is less than picturesque. Moreover, the proposal would increase the separation gap between built form on the appeal site and the boundaries of the following properties: Nos 14, 16, 18 and 20 Wycherley Crescent; No 85 Great North Road; and No 31 Dale Close.
21. Furthermore, the proposed landscaped garden area to the eastern side of the main block, and the block's somewhat oblique orientation in relation to most adjacent properties would provide 'breathing space' in terms of outlook from the latter. Existing vegetation on and overhanging the western edge of the appeal site would partly filter some views of the proposed block from adjacent dwellings to the west.
22. The above factors would go some way to partly assimilate the proposal into its location, in terms of effect on outlook from neighbouring properties. Retention of existing planting along part of the western boundary of the appeal site, and new planting around the proposed blocks could be secured by planning

condition. However, the scope for new tree screen planting adjacent to the rear garden boundaries of Nos 18 and 20 Wycherley Crescent would be constrained by potential overshadowing effects on those properties. Moreover, given its substantial depth and four-storey height, even allowing for setback of part of the fourth storey, the western facade of the proposed main block is likely to appear unacceptably overbearing from neighbouring properties at the 'pinch point' facing the rear of Nos 18, 20 and 22 Wycherley Crescent, and No 89 Great North Road.

23. Taking the above together, I find that the proposed development would adversely affect the living conditions of neighbouring residents with regard to outlook.
24. With regard to matters of light, the Daylight, Sunlight & Overshadowing Report (DSOR) commissioned by the appellant assesses predicted effects on light received by residential properties in the vicinity of the proposed development, using the methodology of the Building Research Establishment report BRE 209: Site layout planning for daylight and sunlight (Second Edition 2011) (BRE 209). I note the concern of residents and the Council, given that all the properties assessed by the DSOR would experience some reduction in light. However, the DSOR shows that whilst the proposal would result in reduction in receivable light for properties in its vicinity, the reduction would be slight and the magnitude of the effect on individual properties would - in terms of daylight, sunlight and overshadowing - be negligible, assessed against BRE 209 thresholds.
25. Given the approximately north-south orientation of the majority of the proposed blocks, and that the latter would not be immediately due south of dwellings outside the appeal site - the main block fronting instead onto Pricklers Hill, with a green space opposite - I see no reason to disagree with the above conclusion of the DSOR. Therefore, for the reasons described above, the proposed development would not significantly affect the living conditions of neighbouring residents with regard to daylight and sunlight. The absence of harm in this respect would be a neutral factor in my assessment.
26. To conclude, the proposed development would harm the living conditions of neighbouring residents with regard to privacy and outlook. As such, it would conflict with Policies DM01 and DM02 of DMP, which together seek to ensure that development safeguards the living conditions of residents.

Mix and density

27. Policy 3.3 of the LP describes the pressing need for more homes in London to provide a real choice for all Londoners in ways that meet their needs at a price they can afford. For market housing, Policy DM08 of the DMP specifies four-bedroom homes as the highest priority, and three-bedroom homes as medium priority. Supporting text paragraph 9.1.5 of the DMP adds that increasing the supply of family housing is a priority in Barnet.
28. Whether the proposal would meet locally specific housing need priorities in the area, through provision of an appropriate choice of dwelling type, is a matter of dispute between the main parties. The Council asserts that the proposal would entirely fail to meet a priority need for three and four-bedroom family homes. By contrast, the appellant contends that the proposed flats would increase diversity in an area of family housing in the vicinity of the appeal site. Be that

as it may, there is no substantive evidence before me that the priority need for three and four-bedroom family homes has significantly diminished in Barnet. Accordingly, the lack of three and four-bedroom family homes in the proposed development would fail to achieve an appropriate mix of dwellings to meet housing need in Barnet.

29. Policy 3.4 of the LP requires development to optimise housing output for different types of location within the density range set out in the density matrix in Table 3.2. Given the suburban setting of the site and its Public Transport Accessibility Level (PTAL) rating of 2 to 3, Table 3.2 specifies a density of between 35 and 95 units per hectare, unless exceptional circumstances, as defined in the LP Housing Supplementary Planning Guidance (2016) (SPG), are triggered. The proposal is for approximately 156 units per hectare, and thus would result in a density between 1.5 and 4 times greater than the matrix range for the site.
30. The SPG makes clear, in paragraph 1.3.50, that the density matrix should be applied as a starting point and not mechanistically. Paragraph 1.3.51 of the SPG sets out the following qualitative factors against which proposed schemes which exceed the density matrix ranges should be tested: design quality; character and place making; public transport connectivity; potential for large sites to define their own setting and accommodate higher densities; playspace provision, school capacity and location; refuse, food waste, recycling and cycle parking facilities; and whether the proposal is in the type of accessible location appropriate for higher density development (for example town centres, opportunity areas, intensification areas, surplus industrial land, and other large sites).
31. The appellant considers that a 'push to greater density' would be justified given the site's location, and in the light of the emerging London Plan. The proposed development would provide future occupants with reasonable accessibility to a range of bus and rail services, and shops and facilities on and around Western Parade, which are a short walk away. Moreover, I acknowledge the qualitative aspects of the accessible and adaptable standard of the proposed development and provision of 10% of units as wheelchair user accessible.
32. Nevertheless, Policy 3.4 of the LP has not been superseded by the emerging new London Plan, which is yet to be adopted, and thus the policy retains significant weight. Given the scale by which LP Policy 3.4's density matrix range would be exceeded, and the identified harm - in respect of character and appearance, living conditions of neighbouring residents and employment land - I find that, overall, the proposal would not achieve sufficiently high quality to constitute exceptional circumstances to justify the proposed density.
33. Taking the above together, I conclude that the proposed development would not achieve an acceptable housing mix and would be of excessive density. As such, it would not accord with Policies 3.3 and 3.4 of the LP, and Policy DM08 of the DMP.
34. Whilst the supporting text for Policy CS3 of the CS supports the use of the LP's density matrix, the policy is not explicit about housing mix and density. As such it is not engaged in respect of this main issue.

Living conditions of future occupants

35. DMP Policy DM01 requires, amongst other things, that development allows for adequate daylight, privacy and outlook for potential occupiers. DMP Policy DM02 requires development, amongst other things, to follow effective urban design principles which include protecting residential privacy. Barnet Sustainable Design and Construction Supplementary Planning Document (2016) (SDC) emphasises that dual aspect dwellings are preferable to single aspect dwellings in a variety of ways, including receivable daylight and outlook. The SDC allows for the possibility of single aspect flats, subject to demonstrating that all habitable rooms and the kitchen are capable of providing, amongst other things, adequate daylight, outlook and privacy.
36. Almost half of the proposed 57 flats would be single aspect, and around a quarter would be single aspect and north facing. The Council is concerned that the latter would receive poor daylight levels. However, the Internal Daylight Analysis Report (IDAR) on the proposed dwellings, provided by the appellant, illustrates that 97% of the rooms would meet or exceed BRE recommendations for internal daylight. Moreover, the small proportion of non-compliant rooms would be fairly close to the BRE criteria, and could be treated with light-coloured rooms surfaces with high room reflectance, as recommended by the IDAR. In the light of the above, I find that the proposal would, overall, provide living accommodation with reasonable levels of daylight.
37. Whilst two ground floor flats at the front of the main block would look out onto a close boundary wall from their northern elevation, the units would enjoy views from other windows onto landscaped outdoor amenity areas, which would provide some visual compensation for occupants.
38. I note the examples of apartment blocks with single aspect units in other parts of London, cited by the appellant. However, full details of these developments are not before me. Moreover, the appeal proposal has its own setting and circumstances, and I assess it on its own merits.
39. Turning to the privacy and outlook of occupants of proposed flats fronting onto Dale Close, there is scope to secure frontage landscaping for those units and an exit barrier to control access onto Dale Close. These factors, in combination with separation distances between those units and other dwellings on Dale Close, would ensure acceptable levels of privacy and outlook for occupants of the above flats.
40. In conclusion, the proposal would not harm living conditions of future occupants, in respect of daylight, outlook and privacy. As such, it would not conflict with Policies DM01 and DM02 of the DMP, and the guidance of the SDC.

Carbon reduction and environmentally sustainable design

41. Policies DM01 of the DMP, CS13 of the CS and 5.3 of the LP together require development to demonstrate high levels of environmental awareness and integral sustainable design.
42. Policy 5.2 of the LP specifically requires new major residential buildings to be zero carbon, through 'lean, clean and green' energy assessment, use and supply. Specifically, Policy 5.2 and the Greater London Authority Energy Assessment Guidance (2018) together allow for this to be achieved through a combination of a minimum 35% reduction in regulated CO2 emissions

compared to the target emission rate of the Building Regulations Part L (2013) (BR), and carbon offset payment at £60 per tonne for a period of 30 years in lieu of any shortfall in carbon savings.

43. The Energy Strategy Report (ESR) submitted by the appellant illustrates that the proposed development would achieve a regulated CO₂ emissions reduction of at least 55.76%² compared to the BR, necessitating a carbon offset sum of £74,322. The appellant has indicated that they would be willing to pay this sum. This combination of measures could be secured by planning condition and obligation, to satisfy Policy 5.2 of the LP.
44. The appellant has indicated that they would be willing to make sufficient provision for electric vehicle charging points, which could be secured through a planning condition.
45. The Council cites LP Policies³ - in relation to combined heat and power (CHP), green infrastructure, and water use and supply - which it states the proposal would conflict with, and expresses concern that a Sustainability Strategy has not been submitted.
46. However, the ESR's CHP feasibility assessment concludes the latter would not be technically feasible on the site, given anticipated hot water demand and lack of known networks in its vicinity, and there is no substantive evidence presented which would lead me to find otherwise. As such, the proposal would not conflict with the LP's CHP Policy 5.6.
47. Proposed on-site communal outdoor amenity space would add green infrastructure to the site. Moreover, the site is accessible to Greenhill Gardens public open space on the opposite side of Great North Road. A comprehensive landscape scheme can be secured through planning condition. Given the above, and in the absence of substantive evidence to the contrary, I find that the proposal would not be deficient in respect of green infrastructure. Therefore, it would not conflict with Policy 5.10 of the LP.
48. Sustainable drainage could be addressed through a planning condition, to comply with Policy 5.13 of the LP. Furthermore, the ESR illustrates that the proposal would incorporate water efficiency measures to minimise use of mains water and achieve a target of 105 litres or less per head per day. Water efficiency measures could be secured by planning condition. As such, the proposal would meet the water use requirements of Policy 5.15 of the LP.
49. Taking the above together, I conclude that the proposal would make adequate provision for carbon reduction and environmentally sustainable design. As such, the proposal would not conflict with Policies DM01 of the DMP, CS13 of the CS and Policies 5.3, 5.6, 5.10 and 5.15 of the LP.
50. Policy 5.5 of the LP relates to Local Plan preparation and not decision making, and, as such, is not engaged.

Playspace provision

51. Policy CS7 of the CS seeks to ensure that development meets increased demand for access to open space and opportunities for physical activity, including through provision of adequate on-site open space. This is echoed by

² ESR: Executive Summary paragraph 1.1 and Conclusion section 9.

³ SDC Policies 5.6, 5.10, and 5.15.

Policy 3.6 of the LP, which requires that housing development makes appropriate provision for play and informal recreation, based on guidance within the LP's Shaping Neighbourhoods: Play and Informal Recreation Supplementary Planning Guidance (2012) (PIR). Based on the PIR's benchmark standard of a minimum of 10sq.m of playspace per child, and population yield calculator for Market and Intermediate Flats, a minimum of approximately 40sq.m of on-site children's play space is required. The proposed development would meet this requirement.

52. Therefore, the proposal would provide adequate on-site playspace. As such, it would accord with Policy CS7 of the CS and Policy 3.6 of the LP. It would also accord, in respect of playspace provision, with Policy DM03 of the DMP which requires that development achieves accessible and inclusive design.
53. Policies DM01 and DM04 of the DMP do not specifically address playspace, and so are not engaged in this respect.

Other Matters

54. 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.
55. A revised, unsigned draft Unilateral Undertaking (UU) in accordance with Section 106 of the Town and Country Planning Act 1990 was provided by the appellant after the hearing. This contains obligations for financial contributions in respect of employment, highways and a travel plan. Whilst the revised UU contains some formatting changes, the proposed sums within it are as per the previous version which was submitted prior to, and discussed at, the hearing. As I am dismissing the appeal on substantive matters, I need not dwell on the absence of signature in the UU.
56. Regarding highways matters, I note Transport for London's advice about reducing the level of proposed parking provision, and that the Council considers information is lacking from the proposal's Transport Statement. Had I been minded to allow this appeal, I would have considered these matters further.

Planning Balance and Conclusion

57. The proposal would be devoid of harm in respect of the living conditions of future occupants, playspace provision, carbon reduction and environmentally sustainable design. Nevertheless, the above absence of harm is not a benefit of the appeal scheme but is a neutral matter.
58. I have had regard to the benefits arising from the proposal. 15 one-bedroom flats and 42 two-bedroom flats would add to the supply of housing in the area, on a brownfield site. The provision of accessible and adaptable dwellings, including some wheelchair accessible flats, would add to the local stock of inclusive homes. The construction phase and subsequent residential occupation would result in some local economic activity. As such, the proposal's benefits carry some weight. However, these benefits would not outweigh the significant harm identified.
59. For the reasons given above I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Abigail Alderson	Sphere 25
Mike Cassidy	Liam Russell Architects
Peter Jeffery	Sphere 25
Liam Russell	Liam Russell Architects

FOR THE LOCAL PLANNING AUTHORITY:

Shay Bugler	Council of the London Borough of Barnet
Elizabeth Sutherland-Thomas	Council of the London Borough of Barnet

INTERESTED PARTIES:

W Crosse	Local resident
Paul Edwards	Local resident
Amber Homes	Local resident
Elizabeth James	Local resident

DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground Revision 0.1, dated 19 September 2019.

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Unilateral Undertaking, unsigned, received 16 October 2019.