



Appeal Decision

Site visit made on 21 January 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2020

Appeal Ref: APP/N5090/W/19/3240519

Wellington Place, Great North Road, London N2 0PN

- 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 Safeland Plc against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/4897/FUL, dated 14 March 2018, was refused by notice dated 13 September 2019.
 - The development proposed is described as new floors to 4no. existing blocks of 2 bed apartments to provide 7no. new 2 bed duplex apartments with roof terraces, dedicated off-street parking and cycle & bin storage.
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Decision

1. The appeal is allowed, and planning permission is granted for new floors to 4no. existing blocks of 2 bed apartments to provide 7no. new 2 bed duplex apartments with roof terraces, dedicated off-street parking and cycle & bin storage at Wellington Place, Great North Road, London, N2 0PN in accordance with the terms of the application, Ref: 18/4897/FUL, dated 14 March 2018, subject to the attached schedule of conditions.

Background and Main Issues

2. The Council's refusal notice includes three reasons for refusal one of which is '*The proposed development would provide inadequate parking to serve the additional flats and in the absence of appropriate mitigation in the form of a legal agreement to prevent future residents from obtaining parking permits, would result in increased pressure for on-street parking which would be detrimental to highway safety and the free flow of traffic. As such the development would be contrary to policy CS9 of the Adopted Barnet Local Plan Core Strategy (2012) and policy DM17 of the Adopted Barnet Development Management Policies DPD (2012)*'.
3. However, as part of the appeal, the appellant has submitted a completed Section 106 agreement which would secure the amendment of the existing traffic management order to restrict future occupiers of the proposed development from obtaining resident parking permits. The Council has been given the opportunity to comment on the S106 agreement and they are satisfied with its content and drafting. I agree that the S106 agreement does now overcome the reason for refusal relating to highway safety and that it meets the tests as laid out in paragraph 56 of the National Planning Policy Framework. In this context, the main issues are i) the effect of the proposal on

the character and appearance of the area, and ii) the effect of the proposal on the living conditions of existing residents with particular regard to privacy, daylight and the size of and access to amenity space.

Reasons

Character and appearance

4. The appeal site comprises of four, two storey blocks of flats with associated parking, gardens and garaging located on a busy thoroughfare into central London. The site is bounded by two storey development to the north, three storey development to the south, allotments to the west and beyond the main road which sits immediately to the east of the site, there is single storey commercial development. Properties within the vicinity of the appeal site are of varying architectural style, including mid- 19th century flats, modern apartment blocks and 19th century semi-detached houses. As such, the area has an eclectic character.
5. The proposal would see the removal of the existing pitched roofs and the introduction of two additional storeys to each of the four blocks, enclosed external staircases, rear storage areas and alterations to the rear garden areas. I note that the fourth storey would be set back from the principle elevation, thus reducing the overall bulk of the upper floor. In addition, the proposed staircase blocks would be set well back from the front wall and finished in a lighter coloured material than the main block, thereby reducing their prominence when viewed in context.
6. Policy DM01(b) of the Barnet Development Management Policies Development Plan Document (DMPDPD) requires that development preserves or enhances local character whilst respecting the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.
7. I acknowledge that there have been a number of third party comments relating to the general design and finishing materials of the proposed development and whether or not they are in keeping with the wider location. I saw during my site visit that there are a wide range of architectural styles and materials in the immediate vicinity including render, red brick and slate, hanging tiles and cladding. Consequently, whilst I appreciate that the proposal would introduce elements of modern design into the streetscene I do not consider that it would be out of keeping nor would it have a detrimental impact on the character or appearance of the area.
8. Furthermore, given the wide variation of building types, heights and architectural styles within the location, I consider that the introduction of the roof top extensions and external staircases would not look out of place in the location and therefore would not have a detrimental impact on the character and appearance of the area.
9. For the above reasons, I conclude that the proposal would not conflict with the requirements of Policies CS1 and CS5 of the Barnet Local Plan, Core Strategy Development Plan Document (CSDPD), Policy DM01 of the DMPDPD or the Barnet Local Plan, Residential Design Guidance Supplementary Planning Document (RDGSPD), which collectively seek to promote high quality design that preserves or enhances local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

Living conditions

10. At present, there are eight single garages on the appeal site. One at either end of the four blocks and two between each of the three central blocks. The garages are set back towards the rear of the blocks and between each block and each garage there are gates allowing access to the ground floor external amenity areas to the rear of the buildings.
11. Under the proposed development the garages would be removed and replaced with enclosed storage spaces and the staircase blocks. The staircases would be positioned towards the rear of the gable elevations and located adjacent to the bathroom windows of the rear flats on each block.
12. There are numerous third party comments relating to the previously proposed open staircases and the potential for users to peer into the existing flats from the staircase. In addition, comments have been made about the safety of the staircases in inclement weather. I note that during the application process the design of the proposed staircases was amended so that they would, under the current proposal, be enclosed within blocks and positioned away from windows serving habitable rooms. Furthermore, given the orientation and proximity of the existing buildings, I do not consider that they would give rise to an unacceptable loss of privacy or daylight into the existing flats.
13. The proposed storage areas and staircase blocks would result in some loss of external outdoor amenity space to the rear of the blocks. In addition, due to the loss of the side gates, users would need to access the garden areas by first walking through the proposed storage area. The Council consider that these elements would be harmful to the living conditions of the residents.
14. Barnet Local Plan, Sustainable Design and Construction, Supplementary Planning Document (SDCSPD) requires flatted development to include 5m² of amenity space for every habitable room. There appears to be some discrepancy regarding the delineation of the existing gardens and the amount of amenity space that would be lost due to the development. However, based on the evidence submitted by the main parties, the proposal would retain an average of around 18m² of amenity space for each of the existing flats and would include the provision of roof terraces of around 20m² to serve each of the new units. Based upon the evidence provided, each unit would have three habitable rooms and therefore require 15m² of amenity space. Therefore, the proposal would exceed the required level of amenity space set out in SDCSPD.
15. I accept that the revised access arrangements for the existing flats will change, meaning that that users would need access the rear external space via the new storage buildings rather than the side gate. However, users would still have access to an acceptable level of outdoor amenity space and therefore, I do not consider that the new arrangement would have an unacceptable effect on the living conditions of existing residents.
16. Accordingly, I conclude that the proposal would not cause harm to the living conditions of existing residents with regards to privacy, daylight or in terms of access to amenity space and as such the proposal would accord with the amenity requirements of DMPDPD policies DM01 and DM02, CS1 and CSNPPF of the CSDPD, the SDCSPD and the RDGSPD.

Other Matters

17. I have taken into account all representations made by other interested parties.
18. I have considered comments made about a reduction in property values. The Courts have held that this is not a material planning consideration. In any event, I have no objective evidence before me to demonstrate that the proposal would lead to a reduction in property values. Comments have been made by numerous third parties about the potential lease violations caused to existing residents during the construction process including the potential for damage to ceilings and loss of loft space with reference to the existing upper floor properties. These matters are not ones that can be assessed as part of a Section 78 appeal. Furthermore, I note the comments relating to the property ownership and whether or not the proposal could be built as well as the potential maintenance issues and costs arising from the proposed development. These are not planning matters and consequently, not something I can consider as part of this appeal.
19. There have been several comments regarding loss of views, daylight and potential for overlooking of properties at Cherry Tree Hill House and Highgate Edge as well as the potential impact to daylight into the allotments to the rear. I note that the Council raises no objection in this regard, and I could see on my site visit that the development would meet the separation distances of 21 metres between windows serving habitable rooms and 10.5 metres between new development and a neighbouring garden as set out within the RDGSPD. Accordingly, I am satisfied that the development would not have a detrimental impact on the living conditions of neighbouring occupiers. In relation to the allotments, given the orientation of the blocks in relation to the allotments and the intervening space between the two provided by the existing garden areas, I do not consider that there would be any significant reduction in daylight to the allotment gardens.
20. I have considered comments pertaining to potential environmental impacts, the increased demand for services and facilities such as the doctor's surgery and the adequacy of the existing utility networks. Nonetheless, I have no substantive evidence before me that would suggest the proposal would give rise to an unacceptable impact in these regards.
21. A number of points have been raised with regards to highway safety, bin storage locations and the omission of affordable housing from the proposal. The appellant and the Council are party to an acceptable and completed Section 106 agreement that addresses the highway safety issues that formed part of the reasons for refusal. The Council has raised no concerns in relation to the location of the bin storage areas and I would concur with this view.
22. In relation to the provision of affordable housing, paragraph 63 of the National Planning Policy Framework 2019 (the Framework) states that '*Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer)*'. The proposal would not therefore meet the threshold for affordable housing in the context of the Framework. I would also point out that the Council has not requested the provision of affordable housing in respect of the appeal development.

23. Finally, I am aware that comments have been made suggesting that the Council failed to properly notify occupiers of the adjoining allotments of the planning application which preceded this appeal. A lot of representations made by interested parties including users of the allotments. I have taken such comments into account as part of the determination of this appeal and there is nothing before me suggest that the Council did not undertake public consultation in accordance with minimum statutory requirements.
24. None of the other matters raised outweigh my overall conclusion on the main issues.

Conditions

25. The conditions set out in the accompanying schedule are based on those suggested by the Council. In the interests of precision and clarity, and where necessary, I have amended the wording of the suggested conditions and removed those that are repetitive in order to comply with advice in the Planning Practice Guidance.
26. Planning permission is granted subject to the standard three year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
27. In the interests of safeguarding the character and appearance of the area, I have also imposed conditions in relating to the submission of materials and the protection of trees.
28. In the interests of the living conditions of the occupiers of the proposed development and existing properties, it is necessary to impose conditions relating to site levels, refuse storage and proposed storage rooms, details of sound insulation, site operation timings and privacy screens as well as a Demolition and Construction Management and Logistics Plan. There is justification that conditions relating to the agreement of a demolition and construction management plan, site levels, tree protection and sound insulation are pre-commencement and such conditions have been agreed in writing with the appellant.
29. In the interests of highway safety, it is necessary to impose conditions that relate to on-site parking. I have also imposed a condition which requires provision for bicycle storage in order to encourage greater use of sustainable modes of transport.
30. In accordance with section 14 of the Framework and in the interests of environmental sustainability, I have imposed conditions relating to the reduction of carbon dioxide emissions and water consumption.

Conclusion

31. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

J Hunter

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not 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: 4.OS Site Location Plan, WP-AGD01B Proposed Site Development Plan, WP-AGP01B Proposed Floor Plans Blocks A, B, D Ground and First Floors, WP-AGP02A Proposed Floor Plans Blocks A, B, D Second, Third Floors and Roof, WP-AGP03A Proposed Floor Plans Block C, WP-AE01E Existing and Proposed Front Elevations, WP-AE02D Existing and Proposed Rear Elevations, WP-AE03D Existing and Proposed Side Elevations.
- 3) No development shall take place, including any works of demolition, until a Demolition and Construction Management and Logistics Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - 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 to 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) staff travel arrangement;
 - ix) details of contractor's compound and car parking arrangements;
 - x) details of interim car parking management arrangements for the duration of construction;
 - xi) details of a community liaison contact for the duration of all works associated with the development.

The approved Demolition and Construction Management and Logistics Plan shall be adhered to throughout the construction period for the development.

- 4) Notwithstanding details already submitted:
 - a) Prior to the first occupation of the development hereby permitted, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.

- b) The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.
- 5) Prior to the first occupation of the development hereby permitted the new dwelling houses (Use Class C3) 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 105 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.
 - 6) Prior to the first occupation of the development hereby permitted the proposed storage rooms and access to the rear gardens shall be provided for the existing ground floor flats, as shown on drawing WP-AGD01B and they shall be retained as such thereafter.
 - 7) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 6 % in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
 - 8) No development other than site works and demolition shall commence until details of the materials to be used in the construction of the external surfaces of the proposed development 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.
 - 9) No development shall commence until details of mitigation measures to show how the development will be constructed so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority. This sound insulation shall ensure that the levels of noise within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am. The report shall include all calculations and baseline data and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations. The mitigation measures as approved under this condition shall be implemented in their entirety prior first occupation of the development and retained as such thereafter.
 - 10) Demolition or construction works shall take place only between 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
 - 11) Notwithstanding details already submitted, prior to the first occupation of the development hereby permitted, details of privacy screens to be installed to the rooftop terraces shall be submitted to and approved in

writing by the Local Planning Authority. The screens 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.

- 12) No new dwelling shall be occupied until space has been laid out within the site for cycle parking and storage facilities in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. That space shall thereafter be kept available for the parking and storage of bicycles.
- 13) No new dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. WP-AGD01 for 14 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 14) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, roads and footpaths in relation to the adjoining land and highways have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 15) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.