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## Appeal Decision

Site visit made on 7 July 2020 by Thomas Courtney BA(Hons) MA

**Decision by Andrew Owen MA BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> August 2020**

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**Appeal Ref: APP/N5090/W/19/3238937**

**2-4 Deans Way, Edgware HA8 9NL**

- 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 Aviram Cohen against the decision of the London Borough of Barnet Council.
  - The application Ref 19/3989/FUL, dated 18 July 2019, was refused by notice dated 13 September 2019.
  - The development proposed is the demolition of building at 2-4 Deans way and erection 8no self-contained flats with revised vehicular and pedestrian access, forecourt and basement parking for 8no cars and basement bicycle storage, refuse and recycling.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. Three revised plans (drawing nos. DW.2-4.PR.01 Rev A; DW.2-4.PR.06 Rev A & DW.2-4.PR.02 Rev A) were submitted during the appeal process. The development shown includes a new light well and high-level window to the western flank of the basement flat. I note the Council have had the opportunity to comment on this revision and it is not significantly different to that which neighbouring residents understand as the proposal. I therefore accept the plans as I consider nearby residents would not be prejudiced despite not having had the opportunity to provide comments on it.

### Main Issues

4. The main issues are:
    - whether the proposal would provide satisfactory living conditions for the future occupiers of the proposed dwelling, with regard to the provision of private amenity space for units 3 & 4 and access to light for the basement unit; and
    - the effect of the proposed development on the living conditions of the occupants of the neighbouring property at 6 Deans Way, with particular regard to outlook and light.
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## Reasons for the Recommendation

5. The proposal would include the demolition of the existing pair of dwellings on site and the construction of 8no self-contained flats and basement parking. The proposed L-shaped building would be two storeys in height, reflecting surrounding houses, and would front onto both Deans Way and Deans Lane with the access drive for the underground parking sited off Deans Way.

### *Living conditions of future occupiers*

6. Proposed units 3 and 4 would have access to outside amenity space to the front of the building. These gardens would be clearly demarcated and set behind hedges shown as 1.2m in height on the plans. The designated garden for Flat 4 would be adjacent to Deans Way and the vehicular entrance to the basement parking. Due to its position, and the modest height of the hedging, it would not provide adequate privacy for its users and hence its usability would be limited. Similarly, the proposed garden for Flat 3 would directly abut the pavement for the busy Deans Lane and would also be edged with a 1.2m high hedge which would fail to provide sufficient privacy from passers by. It also would be awkwardly shaped as it would occupy the space surrounding the corner of the proposed building at the junction of Deans Way and Deans Lane with a very narrow section alongside Deans Lane. Due to its constrained shape and lack of privacy I find that it would also not be satisfactory. I recognise the existing garden on site abuts Deans Lane, but parts of it are not close to the road, whereas all parts of the proposed garden for unit 3 would be close to the road and no part of it would be private.
7. The future occupants of units 3 and 4 would have access to the communal garden located to the rear of the development. However, the Council's Sustainable Design and Construction Supplementary Planning Document identifies that flatted developments should have 5m<sup>2</sup> of communal amenity space per habitable room. If this communal space were to serve flats 3 and 4 in addition to flats 1, 5, 6, 7, and 8, there would be 19 habitable rooms in the flats served by this space. This would generate a requirement of 95m<sup>2</sup> of communal space. The plans show the space to be 84.6m<sup>2</sup> which is clearly below the requirement. Indeed, when taking account of the light well to serve the kitchen in the basement flat as shown on the amended plans, the communal space would be slightly smaller still. I therefore find that the occupants of flats 3 and 4 would not have access to a reasonable amount or quality of outdoor amenity space.
8. Although the appellants signalled their intention, if need be, to enter a planning obligation to compensate the lack of satisfactory outdoor amenity space, none was provided.
9. I note the reference to another appeal decision provided by the appellant. However, I have not been provided with the full details of that scheme and therefore cannot attest the extent to which its amenity areas are comparable. In any case, each proposal should be assessed on its own merits and this is the approach I have adopted.
10. Turning to the level of daylight penetration for the proposed basement unit, I have accepted the proposed revised plans which include a small light well and window to the rear elevation facing the communal outdoor amenity space. The appellant's daylight and sunlight report states that the Average Daylight Factor

for the lounge/kitchen area is 1.89 which would exceed the 1.5 BRE criterion. The assessment also shows that the amount of sunlight in the basement flat would be sufficient. Although I recognise the amount of visible sky from the basement would be below standard, this has little effect, in this case, on the amount of light penetration. I am therefore satisfied that the level of light penetration within the basement unit would be acceptable.

11. Given the above, although the basement flat (unit 1) would benefit from adequate levels of light, the development would fail to provide acceptable living conditions for the future occupiers of unit 3 and 4 with regards to the provision of adequate outside amenity space. Therefore, the proposal would conflict with Policy DM01 of Barnet's Development Management Policies Development Plan Document (the 'local plan') which seeks to ensure proposals are well-designed and allow for adequate privacy for potential occupiers, and the Sustainable Design and Construction SPD as set out above.

*Living conditions of occupiers of 6 Deans Way*

12. The Council contends the rear section of the proposed building would have an overbearing impact when viewed from the rear garden of the neighbouring property at 6 Deans Way and that, owing to the bulk and massing of the development, it would result in an increased sense of enclosure for the occupiers at No.6.
13. Though the proposed rear section of the building would extend deep into the site compared to No.6, I find there would be a sufficient amount of distance between this rear section and No.6 to ensure there would be no adverse sense of enclosure for the occupants of No.6. Whilst the 'Residential Design Guidance' Supplementary Planning Document (SPD) states that there should be a distance of 10.5 metres between a new development and a neighbouring garden, this guidance intends to mitigate the effects of overlooking rather than overbearing impacts, which would be secured here by the fitting of obscure glazing to the windows facing No.6. With a distance of 6.6 metres between the rear part of the development and No.6, the proposal would not have a dominant effect or appear overbearing when seen from the rear amenity area of 6 Deans Way. No.6 would still enjoy open rear views, overlooking plentiful garden space.
14. Furthermore, given the position and orientation of the buildings, as well as having had regard to the appellant's daylight and sunlight report, I am satisfied that there would be no significant loss of sunlight or daylight as a result of the proposed development.
15. In light of the foregoing, I consider the development would not harmfully affect the living conditions of the neighbouring occupiers at 6 Deans Way. As such, it would not conflict with Policies DM01 and DM02 of the local plan which together seek to ensure proposals are well designed and allow for adequate levels of privacy and outlook for adjoining occupiers. I have also had regard to the Residential Design Guidance SPD and the Sustainable Design and Construction SPD which seek the same.
16. I have not found that Policy CS NPPF of Barnet's Core Strategy Document of the local plan (the 'Core Strategy') which refers to the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF) is directly relevant to the case put before me. Similarly, Policy CS1 of

the Core Strategy is not directly relevant to my assessment of the proposal as it is a strategic policy which relates to the Council's general spatial approach to the delivery of development in the borough.

### **Other matters**

17. I acknowledge that the Council, the neighbours and the appellant all consider that the existing dwelling does not appear as a high-quality development. Nonetheless, that does not justify the proposal which would also have aspects which would be unacceptable.

### **Recommendation**

18. Overall, I conclude the proposal would fail to provide acceptable living conditions for the future occupiers with regards to adequate outside amenity space. Although I find the development would provide acceptable living conditions for the occupiers of 6 Deans Way with regards to outlook and light, and sufficient light would serve the basement flat, an absence of harm in these regards could not lend positive weight to the proposal.
19. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*Thomas Courtney*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*Andrew Owen*

INSPECTOR