

# Appeal Decision

Site visit made on 2 September 2020 by S Witherley CIHCH MRTPI

## Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

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### Appeal Ref: APP/N5090/W/20/3250524

### 20 West Heath Avenue, Golders Green, London, Barnet NW11 7QL

- 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 West Heath Management Ltd against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/1427/FUL, dated 11 March 2019, was refused by notice dated 13 November 2019.
- The development proposed as described on the application form is: Demolition of existing dwelling and redevelopment to provide three detached residential dwellings comprising 2no. four bedroom and 1no. five-bedroom units.

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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and redevelopment to provide three detached residential dwellings comprising 2no. four bedroom and 1no. five-bedroom units in accordance with the terms of the application, Ref 19/1427/FUL, dated 11 March 2019, and subject to the conditions in the attached schedule.

### 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.

### Main Issue

3. The effect of the proposal on the character and appearance of the area.

### Reasons for the Recommendation

4. The appeal site comprises a large two storey detached dwelling set within a wide and spacious corner plot with its southern boundary overlooking Golders Hill Park.
  5. The local area is suburban in character with the majority of neighbouring properties being large and detached. Many of the properties have similar architectural features including steep roof pitches, overhanging eaves, catslide roofs, with some having large dormer windows and prominent chimneys, reflective of the Arts and Crafts movement. Despite these similarities there is evidence of recent interventions throughout the immediate area and those generally well-designed modern additions have added to the overall character and appearance of the area.
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6. The appeal property along with the neighbouring dwellings appear to have a staggered building line as a result of the varied front elevations and roof profiles. In addition, as a result of the various single storey structures that sit forward of some of the neighbouring two storey dwellings, the space and size of the frontages between properties varies considerably. Thus, whilst the appeal site currently affords a large and spacious frontage, this is not a defining characteristic of many other plots within the street. The proposed two 4-bedroom dwellings would be sited on a similar building line and orientation as the existing dwelling with the proposed one 5-bedroom house set at a right-angle overlooking Golders Hill Park.
7. The proposed dwellings would adopt a very similar building line as the neighbouring properties and so as a result of their siting would retain the pleasant and comfortable arrangement that is seen throughout this part of the street. Moreover, the properties would each have adequate space between them to provide garden space, areas for parking, storage of cycles and refuse areas. As a result of the separation between properties, along with their proposed design and roof profiles, the dwellings would not appear overly dominant or overbearing in the immediate street scene or from wider viewpoints.
8. Furthermore, as the design and style of the proposed dwellings reflects the predominant Arts and Crafts style of neighbouring properties, in that they would have similar steep pitched gables and catslide roofs, the overall mass of the roof scape would not appear discordant. Even with the slight increase in the gradient of the street, the proposed height of the dwellings, which would exceed the height of the immediate neighbours, would not, as a result of their design, scale and form, appear overly dominant or overbearing in the immediate street or wider area.
9. In conclusion, as a result of their siting, design and scale, the dwellings would not appear overly constrained within their respective plots and would assimilate well within the existing pattern of surrounding development. I find that the proposed dwellings would not harm the character and appearance of the area and there would be no conflict with Policy CS1 and CS5 of Barnet's Local Plan (Core Strategy), 2012 (CS); Policies DM01 and DM02 of Barnet's Local Plan (Development Management Policies) 2012 (DMP); and Barnet's Supplementary Planning Document: Residential Design Guidance, 2016 (SPD). In combination, these policies aim to ensure that new development represents high quality design, respects the local context and preserves or enhances the area's character.

### **Other Matters**

10. Several representations have been received from interested parties raising various grounds of objections. Some relate to the issue of local character and appearance which I have addressed above.
11. A matter relating to the basement accommodation and flooding was raised. The Council did not raise any concerns regarding flooding issues, and I have not been presented with any evidence to suggest that there are any concerns in this regard. Having regard to the information before me, I have no reasons to consider a different view from the Council on this matter.

12. In addition, other matters related to traffic build up, both during and after construction. The Council have raised no issues in this regard and based on the evidence before me and from what I saw on site I have no reason to conclude otherwise. Whilst some disruption may occur during construction the working arrangements could be controlled through the imposition of a condition to require the submission and implementation of a Demolition and Construction Method Statement (DCMS) and I am satisfied that this would ensure that the impact on the highway and on neighbouring amenity during construction would be adequately mitigated. Each property would have sufficient off-road parking and the level of traffic generated by these additional homes would be minimal and unlikely to have any notable impact on overall traffic levels in the area.

### **Conditions**

13. I have had regard to the conditions suggested by the Council and have attached those which meet the relevant tests, as set out at paragraph 55 of the National Planning Policy Framework, making changes to the wording, where necessary, in the interests of precision and clarity.
14. The standard time limit condition is necessary to ensure that the development is built in accordance with the submitted plans for certainty. To safeguard the appearance of the area, it is necessary that samples of the external materials, boundary treatments and details of the hard and soft landscaping be submitted for approval. The landscaping details are to be submitted for approval prior to the first occupation of the development and then implemented in accordance with a programme to be approved as part of the submission of the details.
15. No engineering details for the construction of the level of the buildings, driveways and footpaths in relation to the site and the adjacent highway have been provided and, consequently, it is necessary to attach a condition requiring that these be submitted for approval. As some of these works would be necessary to be undertaken very early on in the construction period it is necessary that this be a pre – commencement condition.
16. For the reasons set out above, a DCMS condition is necessary to control the manner in which the development is carried out. This will be required to be in place for the entire duration of the construction period and, consequently, this must be a pre-commencement condition. I note that the Council have asked for separate conditions relating to; noise mitigation during the construction phase; wheel cleaning facilities and hours of construction works. These seek to duplicate matters which would be included in the DCMS, and, consequently, I do not consider that separate conditions for these is necessary.
17. The Council's suggested water supply condition which refers to 100% of the water supplied to the dwellings are to be supplied by mains water through a water metre and each new dwelling to include water saving and efficiency measures, to ensure a maximum of 105 litres of water is consumed per person per day. In relation to water supply the Planning Practice Guidance (PPG) states that where there is a clear local need local planning authorities can set out a Local Plan policy requiring new dwellings to meet the tighter Building Regulations optional requirement of 110 litres/person/day. Policy CS13 of the CS and London Plan Policy 5.15 support the imposition of such a condition, however, the Council have not provided any justified reason for the reduction in 5 litres of water per day is necessary. As such I have implemented the condition with the recommended 110/litres per person per day requirement as set out in the PPG.

18. The Council have suggested a condition that seeks the incorporation of carbon dioxide reduction measures of 6% below the proposed limits as set by Building Regulations. I consider in the interest of carbon reduction this is reasonable and necessary having regard to local policy requirements.
19. To ensure that the development maximises inclusive access for its occupiers, it is necessary that the new dwellings are constructed to comply with the requirements of M4(2) (accessible and adaptable dwellings) of the Building Regulations. I have therefore imposed a condition to that effect, in line with local policy requirements.
20. The Council suggested a number of conditions to protect against possible ground contamination. The site is residential and appears to have been in the same use for many years. Moreover, the Council has not provided reasons or submitted any substantive evidence to suggest that the appeal site is likely to be contaminated. I do not consider therefore that it is reasonable to attach the conditions suggested by the Council, however, it is necessary to impose a condition which would cover for any unexpected contamination.
21. The Council suggested a condition to assess the acoustic levels of the ventilation /extraction plant. However, there is no substantive evidence that any proposed ventilation equipment would cause noise disturbance and the Council's evidence has not identified any specific adverse effects to particular properties that it would be required to address. As such I do not consider that condition to be necessary.
22. The proposed development is in proximity to a number of trees that are subject to a Tree Preservation Order. The details submitted show a number of trees and hedges shall be removed. In order to ensure the remaining trees are appropriately protected during the construction period, it is necessary to impose a condition that requires that the submitted protection measures are implemented. These will be required for the entire duration of the construction period; therefore, it is necessary that this condition is a pre-commencement condition. I have amalgamated all of the Councils suggested tree protection conditions into one so as not to duplicate matters.
23. I am satisfied that the refuse storage collection would be in accordance with the Council's waste disposal scheme. It is not considered that a condition is necessary in this respect and ample storage space is provided within the approved layout.
24. To safeguard the operation of the highway and the living conditions for the occupiers of the development it is necessary that the on-site car and cycle parking is available for use prior to the first occupation of the development.
25. The Council suggested that a condition requiring a Maintenance Agreement for the operation of remotely operated gated access to be submitted, however, I have not been provided with any details of this gated access or reasons to justify why it is considered necessary. That would be a private matter for future occupiers and I do not consider this condition to be necessary.
26. The Council requested a condition to secure obscure glazing, however, there are no annotations on the submitted drawings that show opaque glazed windows and therefore the effect of the condition is that all of the windows throughout the development are to be opaque and for them to remain permanently shut in the

interest of privacy. I consider it unnecessary and unreasonable to apply such a condition particularly as the Council have not submitted any substantive evidence that the proposal would impact on the privacy of future occupants or nearby occupants in such a way that these measures are considered necessary.

27. The Council suggested a condition restricting development under Classes A, B, D, E, F of Part 1 of the Schedule 2 of the Town and Country Planning (General Permitted Development) Order (2015). The National Planning Policy Framework advises that conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The Council's reason for applying this condition is to protect the living conditions of neighbouring occupiers and the health of adjacent TPOs. There is no evidence before me that would indicate should these permitted development rights not be removed that the living conditions of future occupants and neighbours would be impacted, nor is there evidence that the health of nearby TPOs would be affected. I do not consider that this condition is necessary.
28. The Council suggested a condition that seeks the measures contained in the submitted Preliminary Ecology Appraisal dated August 2018 to be carried out prior to first occupation of the development, I consider that this is reasonable and necessary in the interest of nature conservation.
29. In addition to the above conditions, the Council also suggested a number of informatives. Whilst these are not added to appeal decisions, through the Council's evidence, the appellant is now aware of these.

### **Conclusion**

30. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

*S Witherley*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

31. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, agree that the appeal should be allowed.

*Chris Preston*

INSPECTOR

### **Schedule of Conditions**

1. The development to which this permission relates must be commenced not later than 3 years from the date of this permission.
2. The development shall be carried out in complete accordance with the approved plan(s) as detailed:

WHA-LGA-ZZ-DR-A-010-02 P3 (Proposed Plan Level 02)  
WHA-LGA-00-DR-A-010-04 (Proposed Plan Level B)

WHA-LGA-00-DR-A-020-01 P3 (All Houses - Stair Section)  
WHA-LGA-01-DR-A-020-10 P3 (House 01 - Long Section)  
WHA-LGA-02-DR-A-020-20 P3 (House 02 - Long Section)  
WHA-LGA-03-DR-A-020-30 P3 (House 03 - Long Section)  
WHA-LGA-00-DR-A-030-01 P3 (Proposed East Elevation Street View)  
WHA-LGA-00-DR-A-030-02 P3 (Proposed East Elevation)  
WHA-LGA-00-DR-A-030-03 P3 (Proposed South Elevation Street View)  
WHA-LGA-00-DR-A-030-04 P3 (Proposed South Elevation)  
WHA-LGA-00-DR-A-030-05 P3 (Proposed West Elevation)  
WHA-LGA-00-DR-A-030-06 P3 (House 01 North Elevation)  
WHA-LGA-00-DR-A-030-07 P3 (House 02 North and South Elevation)  
WHA-LGA-00-DR-A-030-08 P3 (House 03 North and South Elevation)  
WHA-LGA-ZZ-DR-A-010-01 P3 (Proposed Plan Level 01)  
WHA-LGA-ZZ-DR-A-010-03 P3 (Proposed Plan Level 03)  
WHA-LGA-ZZ-DR-A-010-10 P3 (Alternative Access Arrangements)  
Arboricultural Impact Assessment, PJC Consultancy Ltd (dated 13.08.2019)  
Arboricultural Method Statement, PJC Consultancy Ltd (dated 13.08.2019)  
Daylight & Sunlight Report, EB7 Ltd (dated 02.01.2019)  
Design and Access Statement, Lyndon Goode Architects Planning Statement and Statement of Community Involvement (SCI)), JLL (dated March 2019)  
Preliminary Ecological Appraisal, Phlorum Limited (dated August 2018)  
Regulations Compliance Report Plot 1, Darren Evans Assessments (dated 14.02.19)  
Regulations Compliance Report Plot 2, Darren Evans Assessments (dated 14.02.19)  
Regulations Compliance Report Plot 3, Darren Evans Assessments (dated 14.02.19)  
Sustainability Statement, Darren Evans Assessments (dated 14.02.2019)

3. No development shall take place 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. The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for;
  - a) the parking of vehicles of site operatives and visitors;
  - b) loading and unloading of plant and materials;
  - c) storage of plant and materials used in constructing the development;
  - d) the erection and maintenance of security hoarding;
  - e) wheel washing facilities;

- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- h) delivery, demolition and construction working hours;
- i) noise mitigation measures for all plant and processors.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

5. No development shall take place on site until the tree protection measures detailed in the Arboricultural Impact Assessment 13 August 2019 by PJC Consultancy and the Arboricultural Method Statement (AMS) prepared 13 August 2019 by PJC Consultancy, or any subsequent amendments to these documents have been implemented and said measures shall be retained for the duration of the construction works. If any unforeseen, additional or alternative measures required to protect the health and retention of the trees and hedges are identified during the construction phase that have not been identified in the above documents, work on site shall cease and a meeting on site shall first take place with the local planning authority to agree the addition measures and approval shall be given in writing by the local planning authority. The approved scheme shall be carried out before the development is resumed or continued and the agreed measures shall be retained thereafter.
6. Notwithstanding the submitted drawings, no external materials shall be used on any part of the development, hereby approved, until samples of the materials, colours and finishes to be used on that part of the external surface of the development have been made available for inspection and are subsequently approved in writing by the local planning authority.
7. No development above ground level shall be commenced until a detailed scheme of the hard and soft landscaping, including details of the retained trees and the use of surface materials has been submitted to and approved in writing by the Local planning Authority. In the event of failure of any trees or shrubs planted in accordance with any scheme approved by the Local Planning Authority, to survive for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced by the developer with such live specimens of such species in such numbers as may be approved by the Local Planning Authority.
8. No development above ground level shall be commenced until an Energy Statement has been submitted to and approved in writing by the local planning authority. The Energy Statement shall demonstrate how the development will achieve a 6% reduction in Carbon Dioxide emissions below the target emission rate based on Part L of the Building Regulations. The development shall be carried in accordance with the approved Energy Statement and the development shall not be occupied until details demonstrating compliance with the approved Energy Statement have been submitted to and approved in writing by the local planning authority.
9. Prior to the first occupation of the development, hereby permitted, the related parking areas and cycle storage areas as shown in Drawing No. WHA-LGA-ZZ-DR-A-010-10- P3 shall be constructed in accordance with the approved

drawings. Once created these parking areas and cycle storage areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

10. Prior to first occupation of the development, hereby permitted, details of all boundary treatments shall have been erected and/or planted in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter the boundary treatments shall be retained and maintained as approved.
11. Prior to first occupation of the development, hereby permitted, details of compliance with Approved Document G, Requirement G2, paragraph (2)(b) of the Building Regulations 2015 Edition for an estimated water consumption of 110 litres per person per day, shall be submitted to and approved in writing by the Local Planning authority. The water consumption details shall be calculated in accordance with the methodology set out in Approved Document G of the Building Regulations 2015 Edition.
12. Prior to the first occupation of the development, hereby permitted, details shall be submitted to and approved in writing by the local planning authority demonstrating that each new dwelling has been designed and constructed to accord with Part M4(2) of the Building Regulations.
13. Prior to first occupation of the development, hereby permitted, the ecological enhancements contained within the Preliminary Ecological Appraisal, dated 20 August 2019 shall be incorporated into the development and retained as such thereafter.
14. Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.