



Appeal Decision

Site visit made on 15 September 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2020

Appeal Ref: APP/N5090/W/20/3253507

Oak House, Cricklewood Lane, Cricklewood, London NW2 1HH

- 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 Hifzul Samad against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5319/FUL, dated 27 September 2019, was refused by notice dated 2 December 2019.
 - The development proposed is addition of two storeys to existing residential block (with commercial units at ground floor) to provide six new dwelling flats. Addition of a new staircase and lift shaft. Addition of raised communal garden and site office to rear of building over covered parking area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the site and surrounding area;
 - The effect of the proposed development on the living conditions of No 1A Oak Grove, with particular reference to outlook and privacy;
 - The effect of the proposed development on the living conditions of the exiting occupiers, with particular reference to privacy; and
 - Whether the proposed development would be acceptable in terms of its transport and highways effects, with particular regard to parking provision.

Reasons

Character and appearance

3. The appeal site is a residential block with commercial uses on the ground floor, which front on to Cricklewood Lane. The building consists of three storeys with 8 flats, 4 on the first floor and 4 on the second floor. The building is located on the junction with Oak Grove, with the pedestrian and vehicular access from Oak Grove. To the south-west of the junction there are Victorian terrace properties which form part of the immediate context of the site. The site also sits adjacent to the railway line bridge over Cricklewood Lane. On the opposite

side of Cricklewood Lane there is a large retail superstore, which is set back some distance from the Cricklewood Lane frontage.

4. The proposal would add 2 storeys to the existing residential block to provide 6 new flats. The third floor level would follow the external footprint of the building, while the fourth floor would be within a zinc clad mansard roof. The proposal also includes the addition of a new staircase and lift shaft, as well as the addition of a raised communal garden and site office, which would be located to the rear of the building over a covered parking area.
5. The top of the host building is only just higher than the ridges of both the nearby terraced buildings on Oak Grove and the parade of shops with properties above along Cricklewood Lane. Although the architecture of the host building is in contrast to the neighbouring buildings, the flat roof of the host building helps to contain the overall height. As such, the overall mass and scale of the host building complements and aligns with the nearby buildings. Whilst its overall appearance is distinctly different, its impact on the street scene is contained by its height. As such, it relates well to the surrounding context and street scene.
6. Due to the increased height, mass and bulk of the proposal on top of the host building, it would not relate well to the nearby buildings and the local characteristics of the immediate context. The proposal would dominate the street scene and would appear as a stark and incongruous feature, at odds with the prevailing height of the nearby developments and the nearby railway bridge. Furthermore, the proposed communal garden area and site office, new stairwell and lift shaft, would all be readily visible from the surrounding area, particularly along Oak Grove. These would also contribute to the increase of built form, mass and bulk on the appeal site to the detriment of the character and appearance of the site.
7. A number of developments that are proposed, approved and have been built, have been referred to by the appellant, some of which are high rise buildings and would be higher than the proposal. However, some of these are part of a masterplan for the area and have not yet been determined, and I do not have full details of the other schemes before me, or what may have led to their approval to determine if they are directly comparable. In any case, each proposal must be determined on its own planning merit and within its own immediate context.
8. The Council has referred to a previous appeal¹ on the site, which was dismissed. Although the appeal was a number of years ago, and development plan policy has since been superseded and updated, the character of the area appears to have remained broadly the same as when the previous appeal was determined. As such, this decision concurs with my findings.
9. The proposed development would harm the character and appearance of the site and surrounding area. Therefore, it would be contrary to Policy CS5 of Barnet's Core Strategy DPD (CS) (2012), Policy DM01 of Barnet's Development Management Policies DPD (DMP (2012), Policy 7.4 of the London Plan (LP) (2016). These policies, amongst other things, require development to be high quality and respect the local context and distinctive local character.

¹ APP/N5090/A/06/1198002

Living conditions of No 1A Oak Grove

10. The submitted plans show that the estate office would abut the boundary area adjacent to No 1A Oak Grove. The proposal would introduce a large blank wall in close proximity to the garden area of No 1A Oak Grove and it would run along the majority of the length of the garden. This structure would be visually obtrusive and would be an overbearing development on the occupiers of No 1A when in their garden area.
11. Furthermore, the proposed lift shaft and the stairwell access to the flats, would also be moved as part of the proposal and would be located near to the garden area of the neighbouring property. Due to the orientation, positioning and height of the stairwell it would increase overlooking to the occupiers when in their garden area and would be to the detriment of the occupiers. The proposal would be a noticeable, imposing and harmful change to what the occupiers currently experience.
12. The proposed development would have a harmful effect on the living conditions of No 1A Oak Grove, with particular reference to outlook and privacy. Therefore, it would be contrary to Policy DM01 of the DMP, the Residential Design Guidance SPD (RDG) (2016) and Sustainable Design and Construction SPD (SDC) (2016). This policy and guidance, amongst other things, requires development to protect the outlook of adjoining and potential occupiers and users.

Living conditions of the existing occupiers

13. The proposal would introduce a communal garden at the first floor at the rear of the building. Due to the location of the garden and the existing flats, it would mean that users of the garden would be in close proximity to windows of the existing first floor flats. The garden area would be an area where the occupiers and their visitors would be likely to dwell, and would walk past the windows when accessing and using this area. This would result in the loss of privacy for the occupiers of the flats on the first floor.
14. The appellant states that the proposed arrangement is no worse than the existing situation, with the walkways at the rear. However, the number of people using the walkway to access their flats at the first floor would be limited, compared to the potential number of people that could use the communal outdoor garden area, which would be available for all flats. Furthermore, as the proposal would increase the number of flats at the property, the frequency of occupiers and their visitors, would also significantly increase, compared to the existing circumstances on the site.
15. The appellant has suggested that the privacy issues could be addressed by a buffer zone secured by a planning condition. However, it would have to be a considerable height to preserve the privacy of the occupiers of the flats and it would need to be sited close to their respective windows. As such, this would impact on the outlook currently experienced from these windows. Therefore, I am not persuaded that this is a viable solution.
16. The proposed development would have a harmful effect on the living conditions of the exiting occupiers, with particular reference to privacy. Therefore, it would be contrary to Policy DM01 of the DMP, the RDG and Sustainable Design and the SDC. This policy and guidance, amongst other things, requires

development to protect the privacy of adjoining and potential occupiers and users.

Transport and highways effects, with particular regard to parking provision

17. The appeal site has a Public Transport Accessibility Level (PTAL) rating of 5 (very good). A score of 5 therefore suggests that the site is well connected and has easy access to public transport. The site is within close proximity to a number of bus stops and a rail station. I note that there is a range of shops and services in the immediate vicinity. There are parking restrictions in the section of Cricklewood Lane fronting the site with a controlled parking zone (CPZ) that operates from 9am-10pm every day. The proposal would include the provision of 2 off-street parking spaces. The submitted plans also show that provision of cycle parking which would be provided on the ground floor.
18. From the evidence before me, and from what I observed on my site visit, the occupiers of the proposal would benefit from genuine alternatives to car-based travel. However, residents may choose to own a car and apply for parking permits to park within the CPZ. I have no evidence before me which indicates that the Council has non-planning powers to restrict the availability of permits.
19. The Highways Officer has suggested that there would be no objection to the proposal subject to there being a s106 agreement with the Council to deny occupants of the development the right to purchase CPZ permits. The appellant has stated that an agreement could be made, or a condition applied to safeguard this matter if required.
20. However, there is no s106 agreement before me. In terms of imposing a condition were I minded to allow the proposal, the Planning Practice Guidance² advises that in exceptional circumstances a negatively worded condition may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). However, there is no substantive evidence before me to support this route.
21. I consider that an increased parking demand in this area where few spaces are available, would generate considerable pressure to find spaces with a significant risk of illegal or unsuitable parking, and on street parking which would displace existing resident parking in the area. I consider it unlikely that many residents would choose to park a significant distance away from their flats outside the CPZ in any significant numbers, such that this would reduce parking pressure within the CPZ.
22. Accordingly, in the absence of a reliable mechanism to ensure that occupiers of the development cannot hold parking permits, the proposal would be unacceptable. The proposal would lead to adverse transport and highways impacts, as it would generate considerable pressure to find spaces with a significant risk of illegal or unsuitable parking, and on street parking which would displace existing resident parking. Therefore, it would be contrary to Policy CS9 and CS15 of the CS, Policy DM17 of the DMP and Barnet's Planning Obligations SPD (2013). These policies and guidance, amongst other things, require development to not unacceptably increase conflicting movements on the road network and where it can be demonstrated that there is insufficient

² Paragraph: 010 Reference ID: 21a-010-20190723

capacity on street the applicant will be required to enter into a legal agreement to restrict future occupiers from obtaining on street parking permits.

Other Matters

23. I note that the appellant has sought to improve the energy efficiency and performance, access, security and amenity space of the host property as part of the proposal. I also acknowledge that it would provide 6 new homes for the borough. However, these factors would not overcome the harm that I have identified above.

Conclusion

24. For the reasons set out above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR