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## Appeal Decision

Site visit made on 8 February 2021

**by D Hartley BA (Hons) MTP MBA MRTPI**

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

**Decision date: 9<sup>th</sup> February 2021**

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**Appeal Ref: APP/N5090/W/20/3260021**

**730-732 High Road, North Finchley, London N12 9QD**

- 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 Upminster Properties Limited against the decision of the Council of the London Borough of Barnet.
  - The application Ref 20/0791/FUL, dated 11 February 2020, was refused by notice dated 19 June 2020.
  - The development proposed is demolition of part of rear storage area and associated structures, and the construction of a two storey upward extension and first floor rear extension to front building. Construction of two storey mews block at rear. Retention of the existing ground and basement floor retail unit (Class A1), with alterations to shopfront and fascia and two no. new fire escape doors to the front. Replacement of windows to frontage building. Provision of eight residential dwellings with first floor landscaped area with associated boundary railings, private amenity spaces, and refuse/recycling and cycle store (at the rear of the ground floor).
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of part of rear storage area and associated structures, and the construction of a two storey upward extension and first floor rear extension to front building. Construction of two storey mews block at rear. Retention of the existing ground and basement floor retail unit (Class A1), with alterations to shopfront and fascia and two no. new fire escape doors to the front. Replacement of windows to frontage building. Provision of eight residential dwellings with first floor landscaped area with associated boundary railings, private amenity spaces, and refuse/recycling and cycle store (at the rear of the ground floor at 730-732 High Road, North Finchley, London, N12 9QD, in accordance with the terms of the application Ref 20/0791/FUL, dated 11 February 2020, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The planning application drawings were amended as part of the determination of the planning application in order to address some of the concerns raised by the Council. In this context, the description of development in the banner heading above is taken from the appellant's appeal form and the Council's refusal notice as that more accurately describes the amended plans that were considered by the Council when it refused planning permission. In particular, the amended plans relate to a reduction in scale of the mews building from two family size houses to a single two-bedroom flat, thus reducing the number of residential units from the original nine to eight.

3. As part of this appeal, the appellant has submitted amended drawing No PO11 Rev L to replace drawing No PO11 Rev K relating to proposed Unit B. The change to Unit B relates to the inclusion of an additional internal wall so that bedroom 2 would be a single bed space and clarification that this residential unit would be a 2 bedroom and three person dwelling.
4. I acknowledge that this amended plan has been submitted in order to address part of the Council's first reason for refusal of planning permission. The amended plan proposes only a minor internal change to one of the proposed residential units and does not seek to intensify development on the site. Given the minor nature of the changes, I am satisfied that in accepting this amended plan it would not cause prejudice or injustice to any interested party. I have therefore determined this appeal on the basis of this amended plan as well as all of the other amended plans that formed the basis of the Council's reasons for refusal.

### **Main Issues**

5. There is no dispute between the main parties that the proposal would be acceptable in land-use principle and design terms and that material harm would not be caused to the occupiers of neighbouring properties in terms of the effect of the proposal on light, privacy, outlook or in terms of associated noise and disturbance. Furthermore, I do not disagree with the views expressed by the Council in respect of the alterations to the ground floor retail unit, including refuse storage and collection matters, and that the proposal would preserve the setting of The Tally Ho Public House which is locally listed.
6. The main issues are (i) the effect of the proposal on the living conditions of the occupiers of the proposed residential units in respect of the adequacy of outside amenity space and, in respect of proposed Unit B, the standard of internal space; (ii) whether in respect of the residential units, adequate provision would be in place for the collection of waste; and (iii) the effect of the proposal on on-street car parking demand.

### **Reasons**

#### *Living conditions*

7. As I have accepted drawing No PO11 Rev L for the purposes of determining this appeal, the proposal now accords with the minimum internal space standards in respect of residential units. In particular, Unit B now meets minimum internal space standards.
8. The point of contention between the main parties relates to the size and/or provision of outdoor amenity space for the proposed residential units. All of the residential units accord with policy 3.5 of the London Plan, and the associated Mayor of London Housing SPG 2016 (London Housing SPG), apart from one studio flat (Unit C) where no outside amenity space would be provided.
9. Whilst the proposal does not accord with the higher outside amenity space standards as outlined in Barnet's Sustainable Design and Construction SPD 2016 (Design and Construction SPD) and Barnet's Residential Design Guide SPD 2016 (Design Guide SPD), both SPDs allow for some flexibility in town centres. In particular, paragraph 13.2 of the Design and Construction SPD states "*for town centre residential accommodation the standards applied*

*elsewhere in the borough (for example, in relation to car parking and amenity space) should be considered in line with Policies DM11 and DM17 and will be assessed on a case by case basis”.*

10. I am satisfied that there is justification for departing from the outside amenity space standards as outlined in the SPDs. This is based on the fact that the proposal falls within a town centre location. Where outside amenity space is provided, it would be of good quality and well away from the busy and noisy High Road. Any technical conflict with the SPDs, and in respect of Unit C with the London Plan, would in this case outweighed by the flexibility afforded by the SPDs to the assessment of town centre residential proposals and by the fact that some of the residential units do in fact exceed internal space standards.
11. I accept that internal space is not the same as outside space, but nevertheless this is a matter to which I afford some positive weight in the overall planning balance. Furthermore, the proposal seeks to make efficient use of a brownfield site, located in a very accessible location, and would boost the supply and choice of market housing. These are matters which, on balance, outweigh the Council’s reference to the site falling within an area where there is a deficiency of open space, as outlined in Barnet’s Open Space Strategy 2016, and in the context that there isn’t a public park very close to the site.
12. On balance, I therefore conclude that whilst the proposal as a whole would not fully accord with policy 3.5 of the London Plan, the London Housing SPG or the Council’s SPDs, from a size of outside amenity space point of view, the occupiers of almost all of the proposed residential units would nevertheless have reasonable access to outside amenity space in the context of this town centre location. Furthermore, I have weighed the minor technical conflict with the aforementioned policies against the aforementioned benefits of the proposal.
13. In reaching the above conclusion, I am cognisant of the advice given to the appellant at pre-planning application stage, as well as the examples of other similar approved development provided by the appellant close to the appeal site. Whilst I do not have the exact details relating to such developments, the evidence before me does nonetheless appear to suggest that the Council has equally opted for a balanced and flexible approach in respect of the provision of outside amenity space for residential development in town centre locations, despite an apparent technical conflict with the aforementioned SPDs and/or London Plan. In any event, I have reached a conclusion based on the planning merits of this appeal proposal and in the context of the Council’s acceptance that *‘Planning Officer’s acknowledge that Supplementary Planning Guidance recognises that, in some instances, flexibility could be applied’.*

#### *Collection of waste*

14. As part of the appeal, the appellant has submitted a strategy for access and egress, storage requirements, vehicle specification (to suit the access road) and the tasks for operatives. The waste collection strategy, to be implemented by a private contractor known as Waste Concern, further includes a back-up option, should access not be available to the rear of the site, which is considered to be a robust solution. The back-up option would make use of the dedicated loading bay on Stanhope Road with operatives wheeling bins to and from the internal storage area for collection.

15. The submitted strategy therefore demonstrates that private refuse collection is feasible and suitable. It avoids the need for Council vehicles to travel down the rear access road or for bins to be stored on Stanhope Road for any prolonged period. I am satisfied that this strategy could address the concerns previously raised by the Council's Waste Team. In this case, compliance with an approved waste collection strategy would be secured by means of the completed (dated 26 January 2021) Unilateral Undertaking (UU) which accompanies this appeal. I am satisfied that this would meet the tests for planning obligations as laid out in paragraph 56 of the National Planning Policy Framework (the Framework).
16. Given the completed UU relating to the waste collection strategy, the proposal would accord with the waste, amenity and servicing requirements of Policy CS14 of the CS; Policies DM01 and DM17 of the DMP and Barnet's Sustainable Design and Construction SPD 2016.

#### *On-street car parking demand*

17. No car parking is proposed to serve the development. The site lies within a Controlled Parking Zone which is operational from Monday to Saturday. Unlike the planning application, the appeal is supported by a signed UU which would remove the ability of future occupiers to apply for residential parking permits, together with the provision of a contribution of £2,072.55 to be used to amend the Traffic Regulation Order.
18. I am satisfied that the UU meets the tests for planning obligations as laid out in paragraph 56 of the Framework and conclude that the proposal would therefore accord with the car parking, traffic management and planning obligation requirements of Policies CS9 and CS15 of the CS; Policy DM17 of the DMP and the Council's Planning Obligations SPD 2013.

#### **Other Matters**

19. I have taken into account comments made by other interested parties. I consider that the proposal would represent good design and that it would assimilate well into its surroundings. I have considered the position and scale of development and I do not consider that the development would cause any significant harm to the occupiers of neighbouring residential properties in respect of matters of light, privacy and outlook.
20. I note in particular the objection from the occupier of 15 Stanhope Road, but given the significant separation distances involved I do not consider that there would be any unacceptable overlooking of the garden of this property. I have no reason to doubt that a number of developments have taken place in the area in the last few years, but there is no objective evidence before me to indicate that doctors surgeries, hospitals or schools would be unable to accommodate residents living on the appeal site.
21. None of the other matters raised alter or outweigh my conclusions on the main issues.

#### **Conditions and Planning Obligation**

22. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.

23. 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.
24. In the interests of the character and appearance of the area, it is necessary to impose a planning conditions relating to materials, tree protection, landscaping, levels and means of enclosure.
25. In the interests of the living conditions of the occupiers of the approved residential development and the occupiers of existing surrounding properties, conditions are necessary in respect of levels, the provision of a demolition and construction management and logistics plan, the approval of secure by design details and the approval and implementation of a surface water drainage scheme.
26. In the interests of ensuring that the approved development efficiently uses water and energy and that the dwellings are accessible and adaptable , it is necessary to include conditions which ensure that the dwellings are able to comply with Building Regulations requirements and that the development accords with the recommendations of the Energy Strategy Report by Harley Haddow dated February 2020.
27. In the interests of encouraging sustainable travel, it is necessary to impose a condition which requires the approved provision of cycle parking and storage facilities.
28. I have not imposed the Council's suggested condition relating to the waste management strategy as this is a matter that would be fully controlled as part of the UU.
29. As detailed above, the completed UU is acceptable and all of its requirements are necessary to make the development acceptable. The completed UU meets all of the tests as outlined in paragraph 56 of the National Planning Policy Framework.

## **Conclusion**

30. For the reasons outlined above, I conclude that the appeal should be allowed.

*D Hartley*

INSPECTOR

### **Schedule of Conditions**

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Drawing No. E001 (Existing Location Plan); Drawing No. E002 (Existing Block Plan); Drawing No. P009 J (Proposed basement plan); Drawing No. P010 J (Proposed ground floor plan); Drawing No. P011 L (Proposed first floor plan); Drawing No. P012 J (Proposed second floor plan); Drawing No. P013 K (Proposed third floor plan); Drawing No. P014 D (Proposed roof plan); Drawing No. P030 B (Proposed north elevation); Drawing No. P031 B (Proposed south elevation); Drawing No. P032 H (Proposed east elevation); Drawing No. P033 I (Proposed west elevation); Drawing No. P040 A (Proposed section 10); Drawing No. P041 G (Proposed section 01); Drawing No. P042 G (Proposed section 02); Drawing No. P043 G (Proposed section 03); Drawing No. P044 C (Proposed section 04); Drawing No. P045 B (Proposed section 05); Drawing No. P046 D (Proposed section 06); Drawing No. P048 C (Proposed section 08); 3D visuals Drawing No. P1010 E (Proposed basement and ground floor plan GIA); Drawing No. P1011 D (Proposed first and second floor GIA); Drawing No. P1012 D (Proposed third floor GIA); Drawing No. P1020 I (Proposed basement and ground floor plan NIA); Air Quality Assessment by Miller Goodall dated 27 January 2020 report number: 102248; Delivery and Servicing Plan by EAS dated February 2020; Transport Statement by EAS dated February 2020; Energy Strategy Report by Harley Haddow dated February 2020; Noise Impact Assessment by ACA Acoustics Report Reference: 191203-R001 dated 26th January 2020; Cover Letter by Firstplan dated 11 February 2020; Letters by GCW Chartered Surveyors dated 20 January 2020 and dated 04 June 2019; Design and Access Statement by HUT dated February 2020 and addendum dated April 2020; Planning Statement by Firstplan dated February 2020; Daylight and Sunlight Report by Lumina dated 31 January 2020 and addendum dated 30 April 2020; and Agent emails dated 01 May 2020, 07 May 2020, 21 May 2020 and 12 June 2020.

3) (a) No development other than demolitions works 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. (b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

4) (a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. (b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.

5) (a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following: 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. details of contractors compound and car parking arrangements; ix. details of interim car parking management arrangements for the duration of construction; x. details of a community liaison contact for the duration of all works associated with the development; xi. For major developments only: provide a copy of an asbestos survey; For smaller developments -confirmation that an asbestos survey has been carried out. (b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

6) (a) Before development, other than demolition work, commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. (b) The approved mitigation scheme shall be implemented in its entirety in accordance with details approved under this condition before any of the development is first occupied or the use commences and retained as such thereafter.

7) The noise mitigation measures recommended in the Noise Impact Assessment by ACA Acoustics Report Reference: 191203-R001, dated 26th January 2020, shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

8) (a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. (b) The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces/storage shall be permanently retained thereafter.

9) Before the development hereby permitted is first occupied, information shall be submitted to and approved in writing by the Local Planning Authority detailing how the development would adhere to the principles of Secure by Design. The development shall be carried out and retained in accordance with the agreed details in perpetuity.

10) (a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. (b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site or adjacent to the site, including Council owned street trees. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in

accordance with the protection plan and method statement as approved under this condition.

11) (a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development. (b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use. (c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

12) Development shall not begin until a flood risk statement and a detailed surface water drainage scheme for the site, based on sustainable drainage principles, have been submitted to and approved in writing by London Borough of Barnet planning authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed and shall thereafter be retained.

13) (a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. (b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

14) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouses (Use Class C3) permitted under this consent annotated as Unit B to Unit H shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future, and Unit A shall have been constructed to meet and achieve all the relevant criteria of Part M4(3) of the abovementioned Building Regulations. The development shall be maintained as such in perpetuity thereafter.

15) Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they 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.

16) The development shall be implemented in accordance with the recommendations of the submitted Energy Strategy Report by Harley Haddow dated February 2020.