



Appeal Decision

Site visit made on 10 February 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2021.

Appeal Ref: APP/N5090/W/20/3257367

38-40 Sydney Grove, Hendon, London NW4 2EH

- 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 Sean Breslin of Boyer Planning against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/0375/FUL, dated 14 January 2020, was refused by notice dated 25 June 2020.
 - The development proposed is the demolition of 38-40 Sydney Grove and the construction of a two storey detached building with rooms in the roof space to provide 6.no self-contained flats including associated refuse and cycle storage and 3.no off street parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 38-40 Sydney Grove and the construction of a 2-storey detached building with rooms in the roof space to provide 6 no self-contained flats including associated refuse and cycle storage and 3 no off-street parking spaces at 38-40 Sydney Grove, Hendon, London NW4 2EH in accordance with the terms of the application Ref 20/0375/FUL, dated 14 January 2020, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. An application for costs has been made by the appellant against the Council. This application is the subject of a separate decision.
3. In March 2021, after the main parties had submitted their statements, the Mayor published The London Plan 2021 (the London Plan). It comprises the spatial development strategy for London and forms part of the development plan. The London Plan replaces all earlier versions. The main parties have had the opportunity to submit representations in relation to the London Plan insofar as this appeal is concerned. Comments have been received from the appellant, which I have taken into account.

Main issues

4. The main issues are the effect of the proposed development firstly, on the character and appearance of the local area; secondly, on the living conditions of the occupiers of nearby properties with regard to potential noise and general disturbance and privacy, and the occupiers of proposed flat 6 in terms of living accommodation; and thirdly, on vehicle parking, traffic flows and highway safety for users of Sydney Grove.

Reasons

Background

5. The proposal is to erect a single 2-storey building containing 6 self-contained flats on the site following the demolition and removal of 2 detached residential properties and their associated outbuildings. I am advised that No 38 is a dwelling house and that No 40 has been altered to form 4 flats. Interested parties have queried the lawful use of No 40 and, in the absence of evidence to the contrary, regard it to be as 2 flats.
6. The main parties agree that the proposal is similar to a development that was granted planning permission on appeal in 2017, which is hereafter referred to as 'the approved scheme'. Compared to the approved scheme, the proposal includes an extra residential unit and has a different mix of accommodation that includes 1, 2 and 3-bedroom flats. It also has a different pattern of openings in the side elevations and, unlike the approved scheme it does not include a basement.

Character and appearance

7. The site addresses Sydney Grove, which is a residential cul-de-sac along which 2-storey semi-detached and detached properties predominate. While the Council and others have referred to the presence of single-family homes along Sydney Grove and other streets, the evidence before me also indicates that there are a significant number of flat conversions, including one of the buildings on site (No 40), which is to be replaced. The Council has also granted planning permission to convert the other building on the site (No 38) to 2 self-contained flats. In that mixed residential context, which includes flats, the type of accommodation proposed is characteristic feature of the local area.
8. Compared to the main buildings to be replaced, the new addition would appear bulkier and larger from the road with a 2-storey front elevation extending across almost the full width of the site. Nevertheless, this 'purpose built' flat development has been designed to broadly resemble a matching pair of houses, the overall scale, height and mass of which would not be significantly greater than that of properties that prevail within the local street scene. The varied build lines, hipped roof and side dormers would all serve to visually break 'down' the bulk of the new built form.
9. Although the new building would include deeper 2-storey flank walls close to the site's boundaries than the existing buildings, the rearmost side elevations would be set in with adequate gaps to the properties on each side. Good-sized gardens would be provided to the rear of the site with the new building set back from the road. With sufficient space around the new building, the appeal scheme would not appear nor would it be perceived as overdevelopment.
10. The external materials to be used could be covered by a condition and the pattern of proposed openings would be in line with other properties with which the new building would be visually 'read'. While I saw that roof terraces and associated privacy screens were not a common feature at the back of existing buildings in the local area, these features would be modest aspects in the new rear façade and would not draw the eye. When seen from both the front and rear, the completed building would look very similar to the approved scheme, with forecourt parking already a feature of the existing properties on the site.

11. Compared to the approved scheme, an additional household would be introduced into the local area and more people would occupy the new building compared to the existing properties on the site. Consequently, the proposal could and probably would lead to some additional activity, such as the coming and going of people including residents, visitors and those making deliveries and in relation to use of the back gardens. Even so, I am not convinced that the potential noise and disturbance to local residents would necessarily be any greater than from the occupiers of the approved scheme or those that occupy the existing buildings on site.
12. Cycle storage would be towards the rear of the new building, away from public view, and bin storage would be discretely placed to one side of the forecourt. The details of these facilities including their enclosure could be covered by conditions. This arrangement would ensure the proposal would not result in domestic paraphernalia as several objectors suggest. Overall, I am not convinced that the proposal would represent an overly intense use of the site even though the number of people and households within the new building may be greater than other properties in the local area.
13. To sum up, the proposal has been designed to blend in with its immediate surroundings and it is well proportioned. As a purpose built flat development it would not stand out nor manifest itself significantly differently than the approved scheme or the existing uses on site insofar as the character and appearance of the local area are concerned. As such, it would not appear incongruous or obtrusive. In other words, the proposed development would be compatible in its particular context.
14. On the first main issue, I therefore conclude that the proposed development would not cause significant harm to the character and appearance of the local area. As such, it does not conflict with Policies D3 and D6 of the London Plan, Policy CS5 of Barnet's Local Plan (Core Strategy) (CS), Policy DM01 of Barnet's Local Plan (Development Management Policies) (DMP) or the Supplementary Planning Documents (SPDs), *Residential Design Guidance* and *Sustainable Design and Construction*. These policies and guidance seek to ensure that new development, amongst other things, represents high quality design; is contextually appropriate in design and general appearance; and preserves or enhances local character.

Living conditions

15. With up to 6 households occupying the new building, the proposal would lead to an increase in activity in and around the site compared to the approved scheme and the existing buildings. However, I am not persuaded that the additional noise and general disturbance to local residents from such activities would necessarily be greater than from use of the site as a building of 5 flats or as properties in residential use, as existing. Therefore, I am unable to agree with interested parties that the appeal scheme would be materially harmful in these particular ways.
16. The inclusion of privacy screens on each side of the proposed roof terrace would largely overcome overlooking problems from this platform towards the back gardens of 36 and 42 Sydney Grove. While some rearward views of the adjacent properties may still be possible from the new roof terrace, overlooking of this general type is, in my experience, a common characteristic of the relationship between residential buildings that stand side-by-side in built up

areas. The privacy screens would signal the presence of the roof terrace when seen from the back gardens of Nos 36 and 42. However, given the separation distance involved, I doubt that the sense of being overlooked would be so great as to significantly reduce the value and enjoyment of this outdoor space for the occupiers of these adjacent properties. To my mind, the overlooking possible and the perception of being overlooked would not have a significant impact on the living conditions of the occupiers of Nos 36 and 42.

17. The new 3-bedroom unit denoted as flat 6 on the plans would be potentially suited to a small family. However, access from this second floor unit to the communal rear garden would be less than convenient that may limit its value to the occupiers of flat 6 as attractive and useable external amenity space. For instance, to use the shared back garden for drying clothes or for children's play might involve carrying wet clothes or infants down 2 flights of stairs and around the front and side of the new building. Equally, the occupiers of flat 6 would still have some private space in the form of a roof terrace that would be suitable place to sit out. The considerable size of the communal rear garden may also offer the opportunity for a wide range of outdoor family activities that may compensate for the less than ideal access arrangement to it. Taking all these points into account, I consider that the outdoor amenity space provided for the future occupiers of flat 6 would be adequate.
18. On the second main issue, I conclude that the proposal would not cause significant harm to the living conditions of the occupiers of nearby properties or those of the new building including flat 6. Accordingly, the appeal scheme does not conflict with CS Policy CS5, DMP Policies DM01 and DM02, or the SPDs *Residential Design Guidance* and *Sustainable Design and Construction* insofar as they aim to safeguard residential amenity and encourage the provision of good quality amenity space.

Highway safety

19. Like the approved scheme, 3 on-site parking spaces would be provided to serve the proposal. Although this level of parking provision falls short of the maximum parking standards set out in DMP Policy DM17, the previous Inspector found that the scheme for 5 flats would provide adequate car parking provision on-site and would not be detrimental to the free flow of traffic or pedestrian and highway safety.
20. In this case, it is appropriate to take into account the reduction in on-street vehicle parking from residents and visitors associated with the existing uses on site that would otherwise occur. If these uses were to cease, as proposed, then the associated demand for on-street vehicle parking would be removed. When applying the Council's parking standards, the previous Inspector found that the existing residential units on the site had an almost identical requirement for on site parking to that of the 5 flats in the approved scheme. That assessment was based on No 38 in use as a dwelling and No 40 in use as 4 flats.
21. Compared to the approved scheme, an additional flat is proposed that according to the Council would increase the maximum parking requirement by 0.5 spaces. If the lawful use of No 40 is regarded as 2 flats, as some interested parties consider, the effect might lower the on-site parking requirement to serve the existing uses. These factors indicate that the on site

- parking requirement to serve 6 flats, as proposed, might be greater than that associated with the approved scheme.
22. In contrast, the appellant considers that the demand for vehicle parking would actually reduce as a consequence of providing fewer bedrooms within the overall development than the approved scheme. However, parking demand is influenced by a number of factors and it is unclear from the information provided on what basis that conclusion is reached.
23. During my late morning site visit, I saw that Sydney Grove was well used for kerb side parking with a small number of spaces available. My observations are clearly a snapshot and do not relate to evenings and weekends when the demand for parking spaces is likely to be higher. I also note that the local area experiences high parking stress that was acknowledged in the previous appeal relating to the approved scheme. Even so, I am unable to conclude from the submitted evidence that the proposal would increase the demand for on street parking to the extent that it would make matters significantly worse compared to the approved scheme or the residential units to be replaced.
24. If no space were available on site, future occupiers of and visitors to the appeal scheme may decide to park inconsiderately or obstructively on the adjacent road and potentially hinder traffic flow or cause a safety hazard to others. While that is a possibility, I saw no instances of such behaviour nor have any specific examples of such problems been drawn to my attention.
25. The Council is critical of the appellant in failing to carry out surveys to demonstrate that there is sufficient on street parking capacity to justify the level of on site parking. However, car parking survey information was taken into account in the previous appeal for 5 flats, the key finding of which is quoted in paragraph 11 of that decision as follows: *"the local area experiences high parking stress and is operating at capacity during periods of peak demand overnight during the week and during the commuter peak periods, no doubt exacerbated by Hendan Central station being nearby and the absence of CPZ in the locality"*. There is no persuasive evidence before me to indicate that local traffic and parking conditions have altered in the interim to such an extent that planning permission should be withheld as a result.
26. On the third main issue, I conclude that the proposed development, despite the identified shortfall in on site parking spaces, would not have an adverse effect on highway safety, parking or the free flow of traffic. Accordingly, I find no conflict with CS Policy CS9 or DMP Policy DM17, which seek to ensure that road safety is taken into account when considering development proposals and aim to ensure more efficient use of the road network.

Other matters

27. As each development should be assessed on its own merits, I am unable to share the concern of some interested parties that the grant of planning permission in this case would set an undesirable precedent. If allowed, the proposal would result in the loss of a single family-sized dwelling (No 38). However, that principle has been established through the grant of planning permission to convert this dwelling into 2 flats and its removal as part of the approved scheme. Therefore, I attach limited weight to these considerations.

28. The development has attracted local opposition including a petition against the proposal. The level of objection is not, in itself a reasonable ground for resisting development. To carry significant weight, opposition should be founded on valid planning reasons, which are supported by substantial evidence. Having taken into account all the submitted representations at the application and appeal stages, and all evidence before me, I am not persuaded that the objections raised, taken individually or together, outweigh my findings in relation to the main issues.

Conditions

29. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require that the development be carried out in accordance with them as this provides certainty. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of external materials and refuse storage, recycling and collection. A condition that requires cycle storage facilities be provided is necessary to promote sustainable travel choices for future occupiers. A condition to encourage water efficiency is also necessary to reduce water consumption.
30. To safeguard the living conditions of existing occupiers, it is necessary to impose a condition that restricts the times in which construction and demolition may take place and to limit the use of the new building to Class C3 (a) only. For the same reason, a condition requiring a Demolition, Construction and Transport Management Plan is necessary. This is a pre-commencement condition because full details of construction management have not yet been provided and must be approved before demolition or construction works commence on the site. The appellant has agreed to this particular condition.
31. Where necessary, I have amended the Council's suggested conditions for clarity, concision and to more closely reflect national policy. The Planning Practice Guidance states that conditions requiring compliance with other regulatory requirements will not meet the test of necessity and may not be relevant to planning. Accordingly, I have not imposed a requirement for compliance with building regulations, as suggested by the Council in relation to water use by future occupiers. A condition that specifies the number of bedrooms and occupants for the new flats is unnecessary since these details are denoted on the submitted drawings, which must be complied with under the plans condition (No 2).

Conclusion

32. For the reasons set out above, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

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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: Refs SV501, SV.01, SV.02, SV.03, SV.04, SV.05, SV.06, S.101, GA.101, GA.102, GA.103, GA.104, GA.105, GA.106, GA.107, GA.108, GA.109, GA.110 and the Location Plan, which shows the site edged red.
- 3) No development other than demolition works shall commence until details of the materials to be used in the construction of the external surfaces of the building and hard surface areas 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.
- 4) Demolition or construction works shall take place only between 0800 to 1800 hours, Monday to Friday, 0800 to 1300 hours on Saturday and shall not take place at any time on Sundays or on Bank Holidays or Public Holidays.
- 5) No part of the building hereby permitted shall be occupied until refuse storage, recycling and collection enclosures and screening facilities for the dwellings have been provided in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The approved refuse storage, recycling and collection facilities shall be permanently retained thereafter.
- 6) No development shall take place, including any works of demolition, until a Demolition, Construction and Transport Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Demolition, Construction and Transport Management Plan shall be fully adhered to throughout the demolition and construction periods for the development. 
- 7) No part of the building hereby permitted shall be occupied until cycle storage facilities for the dwellings have been provided in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority. The approved cycle storage facilities shall be permanently retained thereafter.
- 8) No dwelling hereby permitted shall be occupied until evidence has been submitted to and approved in writing by the Local Planning Authority, which demonstrates that each dwelling will not exceed a maximum water use of 105 litres per person per day in line with the Water Efficiency Calculator for new dwellings from the Department of Communities and Local Government. These approved measures shall be permanently retained thereafter.
- 9) The building hereby permitted shall be used as self-contained units as shown in the approved drawings under Class C3(a) and for no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

End of schedule