
Appeal Decision

Site visit made on 23 February 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/N5090/W/20/3263773

Garage Block Adjacent to 1 St Peters Court, Hendon, London NW4 2HG

- 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 Anthony Adler against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/2235/FUL, dated 1 May 2020, was refused by notice dated 10 September 2020.
 - The development proposed is described as: 'Demolition of existing garages to create 5no 1bed 2person flats. Associated bin storage'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The London Plan 2021 (LonP 2021) has been published by the Mayor during the course of this appeal. The LonP 2021 comprises the spatial development strategy for London and is now part of the development plan, to which I attribute full weight to its policies. Consequently, the policies¹ contained within The London Plan 2016 have been superseded. I am required to determine this appeal on the basis of the development plan policies² which are in force at the time of my decision. Both main parties were given the opportunity to comment on any implications for the appeal, although no comments have been received. In this instance, I will not prejudice either party in taking the LonP 2021 into account in the determination of this appeal.

Main Issues

3. The main issues of this appeal are the effect of the proposed development on:
 - i. the existing use and potential alternative business uses;
 - ii. the character and appearance of the appeal site and surrounding area;
 - iii. the parking of vehicles, highway and pedestrian safety; and,
 - iv. the living conditions of future occupants, particularly through the level of private outdoor space, outlook, light and privacy.

Reasons

Existing and alternative uses

¹ Policy 3.5 (quoted in respect of this appeal on the fourth refusal reason).

² LonP 2021 Policy D4 (relevant in respect of this appeal and the fourth refusal reason).

4. The appellant disputes the requirement for marketing as he considers that the site does not constitute employment land. However, whilst I accept that the site has a use classification of B8³, I cannot be certain on the details provided that all of the garages site are not or have been used commercially. Additionally, I note the assertion from the appellant to the physical condition of the garages and that many of them are unused and unoccupied with very little demand for the remaining vacant garages. However, this would appear contrary to the comments received from a number of interested parties on the planning application who either use the garages for storage or the parking of vehicles.
5. Even if there are no commercial uses undertaken at the site, due to the lack of specific detail surrounding occupancy, a condition survey and in the absence of a robust marketing report, undertaken for a sufficient and appropriate length of time, I am not convinced that there is no commercial demand for the garages, particularly from local residents.
6. For the reasons given above, I conclude that the proposed development would have a significantly detrimental impact on the existing use and potential alternative business uses. Consequently, it would fail to accord with the commercial aims of Policies CS NPPF, CS1, CS8 of the Council's Local Plan (Core Strategy) Development Plan Document 2012 (CS), Policy DM14 of the Council's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) and the requirements of the National Planning Policy Framework (the Framework).

Character and appearance

7. The proposed development is single storey in height and each unit would adjoin another unit in an 'L' shape configuration. I note the assertion by the appellant to the similarities between the proposed development and St Peters Court. However, I find that the similarities are minimal, as St Peters Court is much larger in scale, set in large communal grounds relative to the size of its built form. Additionally, I note that the properties to the rear of the proposed development on Queens Way are in the form of large detached properties, which generally appear to be in the form of single dwellings.
8. I recognise the presence of St Peters Bungalow to the left of the junction at St Peters Court with Queens Road. Additionally, I recognise the low, flat roofed, single storey appearance of the existing garages. However, the plot sizes of the appeal scheme in this location appears significantly smaller than the surrounding properties. These properties are all situated in generous plots, with notable rear gardens, fronting the road, except in some sections of St Peters Court. Nonetheless, this gives a distinct sense of spaciousness and ordered pattern of development to the immediate surroundings. The generous plot sizes contribute to a regular rhythm of development, making a positive contribution to the surrounding area. In the context of the area surrounding the appeal site, the appeal scheme would be distinctly at odds with the character of neighbouring dwellings, as it would appear discordant in its location and more cramped in its appearance.
9. For the reasons given above, I conclude that the proposed development would have a significantly detrimental impact on the character and appearance of the

³ Town and Country Planning (Use Classes) Order 1987 (as amended)

appeal site and surrounding area. Consequently, it would fail to accord with the design, character and appearance aims of CS Policies CS5, DMP Policy 01, guidance contained within the Council's Supplementary Planning Document: Residential Design Guide 2016 (the SPD1) and the requirements of the Framework.

10. The Council has cited its Supplementary Planning Document: Sustainable Design and Construction 2016 (the SPD2) on its decision notice in relation to its second refusal reason. However, the SPD2 sets out the Council's technical requirements for environmental design and construction management and is therefore not applicable to this main issue.

Highway and pedestrian safety

11. The scheme before me has no provision for any off-street parking spaces, which will result in an under provision of 3no. off-street car parking spaces. Although St Peters Court does not appear to be located within the Controlled Parking Zone (CPZ), there is a sign at the junction with Queens Road indicating that parking is only for existing residents. The appellant has alluded to the accessibility of the site and that no car parking spaces should be required. Additionally, on the planning application the appellant confirmed that the scheme would be a 'car free development'⁴. The appellant acknowledges that future residents would have to apply for a parking permit to park within the CPZ and that they could be prevented for applying for such permits through an appropriate planning obligation.
12. I noted during my mid-morning weekday visit that on-street parking along St Peters Court and the surrounding streets, including those, subject of the CPZ, was at or very near to capacity. Nevertheless, the site is sustainably situated near to facilities and services, including public transport, so I accept that there would be little need for future residents to own a car. However, in reality they may still choose to do so and apply for resident parking permits which would facilitate parking on local streets at times convenient to them.
13. Given the apparent stress on parking in the area and in the absence of any substantive evidence to the contrary, parking for the proposed development would displace existing resident parking. The likelihood is that this would lead to indiscriminate and anti-social parking which would impact negatively on the safe and efficient operation of the local highway network. In the absence of on-site parking or a reliable mechanism to ensure that the existing Traffic Regulation Order is amended, and future occupiers of the proposed development do not hold parking permits, I consider that the proposed development would be unacceptable.
14. For the reasons given above, I conclude that the proposed development would have a significantly detrimental impact on the parking of vehicles, highway and pedestrian safety. Consequently, it would fail to accord with the highway safety aims of CS Policies CS9, CS15, DMP Policy DM17, guidance contained within the Council's Supplementary Planning Document: Planning Obligations 2013 and the requirements of the Framework.

⁴ Design and Access Statement, Updated April 2020 p.12

Living conditions

15. There is no dispute between the main parties that the proposed dwellings would provide a satisfactory level of internal accommodation for future occupiers, which would accord with dimensions listed in the LonP 2021⁵. However, there is dispute between the main parties surrounding the provision of private outdoor space, outlook, light and privacy.
16. Whilst the Council has referred to the dwellings in the proposed development as flats in the Officer report and on its decision notice, it is contesting in its submission that the dwellings are not flats. I note that the reasoning behind this is surrounding the different requirement for private outdoor space in SPD2. The relevant criteria listed in the SPD2⁶ in the context of the proposed development, comprises dimensions for flats and for houses, with 5m² of space required per habitable room and 40m² of space required for up to four habitable rooms respectively.
17. It is evident on these requirements that more outdoor space is required for houses than flats. In this instance, I do not consider that the proposed development amounts to either a flat or a house, as the design is more similar to a series of bungalows. Even though the Council has provided a definition of flats to support its position on this matter, I find that a degree of judgment is required. Given the amount of accommodation proposed and its form, I find that the amount of private outdoor space for flats would be more applicable in this instance. In any event, the fact that Unit E would have 2no. habitable rooms and provide approximately 8.5m² of outdoor amenity space, would still result in an under provision when compared to the minimum requirements outlined in SPD2.
18. Whilst the level of private outdoor space for a flat is less, in the case of the Mayors Housing Supplementary Planning Guidance 2016⁷, the evidence before me suggests that due to its size and location, the proposed private outdoor space for Units D and E, would likely be an over shadowed area, through the surrounding trees and vegetation to the rear of neighbouring dwellings on Queens Way and Heriot Road. This would likely prevent the proposed areas of private outdoor space for Units D and E from being a successful usable space. Additionally, I consider that the level of communal space proposed to the front of the proposed development would do little to provide satisfactory mitigation, in respect of the above misgivings.
19. In reaching the above findings, I also observed a number of open spaces within walking distance, particularly Hendon Park. However, even when this is taken into account, I still consider that there is a shortfall in the amount of usable private outdoor space that one would ordinarily need and expect for a residential development of this nature. The site is within an urban setting and there is a functional difference between spaces which can generally be used by the public and the more private outside space which is reasonably required in association with the use of dwellings.
20. The outlook from the proposed development is limited due to its location, although I accept that in Units A, B, C and E that the dwellings have a dual

⁵ Table 3.1 p.127

⁶ Table 1.2: Outdoor Amenity Space Requirements for Barnet p. 77 of the SPD2

⁷ Standard 26, p. 84

aspect. Although, Unit E has a dual aspect, its outlook from its living room/kitchen is limited as it overlooks the modest garden area. In the case of Unit D, this has a single aspect with the only source of outlook from its habitable rooms being towards its modest garden area.

21. Given that both of the gardens to Units D and E are likely to be over shadowed, this would have a further negative effect on the future occupants of Units D and E in respect of their outlook and result in adverse issues with regards to the amount of natural light/sun light that these properties would receive. Concern has been raised towards the level of privacy that future occupants would be afforded. This is due to the proximity of the footpath to the windows serving habitable rooms. However, the Council have indicated that this could be mitigated through soft landscaping. I agree that such a landscaping scheme could prevent any loss of privacy to future residents. Consequently, I am confident in respect of privacy, that this particular issue, could be overcome through the imposition of a suitably worded condition, to ensure that otherwise unacceptable development could be made acceptable.
22. For the reasons given above, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers, particularly through an unsatisfactory provision of private outdoor space, outlook and day/sun light. Consequently, it would fail to accord with the amenity aims of CS Policy CS5, DMP Policies DM01, DM02, the SPD1, the SPD2, LonP 2021 Policy D6, the Mayors Housing Supplementary Planning Guidance 2016 and the requirements of the Framework.

Other Matter

23. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, particularly in respect of the pre-application advice, but this does not affect the planning merits of the case. I have considered this appeal on its own merits and concluded that the proposed development would be unacceptable for the reasons set out above.

Planning Balance and Conclusion

24. Whilst I accept the absence of other harm arising from the proposed development and the economic and social benefits of providing 5no. additional dwellings, through the construction phase and subsequent occupation. Additionally, I acknowledge the emphasis of the LonP 2021 and the Framework to significantly boost the supply of homes, including the role of smaller units in accessible locations.
25. Nonetheless, these factors do not outweigh my assessment on the main issues, which would result in significant harm. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework.
26. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR