The Planning Inspectorate

Appeal Decision

Site visit made on 17 May 2021

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2021

Appeal Ref: APP/N5090/W/20/3250121
26 Oaklands Road, Whetstone, London N20 8AX

- 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 R Calliste against the decision of the Council of the London Borough of Barnet.
- The application Ref 19/6571/FUL, dated 11 December 2019, was refused by notice dated 14 February 2020.
- The development proposed is 'Demolition of the existing and construction of 2 no. detached family dwellings. One replacement two-storey dwelling with partial lower ground at the front and a single storey dwelling with rooms in the roof space to the rear. Works include appropriate landscaping, access road, vehicular parking and refuse storage'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
   - The effect of the proposed development on the character and appearance of the local area and the Totteridge Conservation Area;
   - The effect of the proposed development on the levels of privacy of existing neighbouring residents and whether adequate levels of privacy would be provided for future occupiers of proposed Dwelling A; and
   - The effect of the proposed development on the living conditions of the occupiers of Nos. 24 and 25A Oaklands Road and future occupiers of proposed Dwelling A with particular regards to noise and disturbance.

Reasons

Character and appearance

3. The appeal relates to a large detached dwelling which sits within a generous plot. It is located within a residential road which is home to a variety of dwellings in terms of their size, designs and external finishes. This variety makes a positive contribution to the overall character and appearance of what is a pleasant street scene. It is located within the Totteridge Conservation Area (CA); although I note the Totteridge Conservation Area Character Appraisal (TCACA) describes Oaklands Road as an area of 'limited merit'.

4. No. 24 Oaklands Road sits to the west of appeal property. These two dwellings are separated by the vehicular access which serves two dormer style dwellings (Nos. 25a and 25B Oaklands Road) which have been built at the rear of No. 24 in what would commonly be described as a 'backland' arrangement. I understand that these dwellings replaced a historic dwelling at the rear of No. 24 following the grant of planning permission in 2015. In any event, they form part of the established pattern and arrangement of development and the overall character and appearance of the local area.

5. The National Planning Policy Framework (NPPF) refers to the desirability of maintaining an area's prevailing character and setting, including residential gardens (paragraph 122) and I note that residential gardens are excluded from the definition of previously developed land. I am also mindful that policy CS5 of the Council's adopted Core Strategy (CS) seeks to ensure that development respects local context and distinctive local character and indicates that development should protect and enhance the gardens of residential properties. The explanatory text (paragraph 10.7.2) states:

   '*Permissions for the development of garden land have in the past made a contribution to meeting our housing targets. However as Barnet has clearly identified areas for targeted housing growth we will take a robust approach to proposals that involve the loss of gardens and is detrimental to the suburban character than makes Barnet a distinctive place*'.

6. The next paragraph goes on to say that proposals involving gardens will be assessed against policy DM01 of the adopted Development Management Policies Development Plan Document (DMP DPD) which is concerned with protecting Barnet's character and amenity.

7. The Council accepts that policy CS5 '*does not explicitly state that residential development should never happen on garden or back land developmen*t'. My reading of policy CS5 is that proposals which involve the development of garden land will be resisted *if* they cause detriment to suburban character. Given the presence of the two dwellings which sit behind No 24 Oaklands Road and which form part of the context and character of the local area, I consider that the introduction of a dwelling adjacent to these dwellings would not be unacceptable as a point of principle.

8. Notwithstanding this, the plot for 'Dwelling B' is much narrower than the plots of Nos. 25A and 25B. I note Dwelling B would be set off the side boundaries of the plot. However, in the context of the size of these adjacent backland plots, I consider that the plot for Dwelling B would be small and the proposed arrangement would appear somewhat cramped and contrived. Furthermore, the access and driveway which would serve Dwelling B would be tight against the western boundary of the site and the side elevation of the proposed Dwelling A at the front of the site. This would contrast with the more spacious arrangement of the access serving Nos. 25A and 25B, which has at least some degree of separation from the side elevation of No. 24. In light of these factors, and regardless of the disagreements between the appellant and the Council regarding tree loss, I consider that the Plot B dwelling would not respond well to local character and context and therefore would not preserve the character or appearance of the CA.

9. The Council raises additional concerns about the design and scale of the replacement dwelling (Dwelling A). The existing dwelling is one of a small group of substantial 1970s style dwellings. They are not identical and although well maintained, they are of limited architectural merit. The proposed replacement dwelling would be taller than the existing dwelling, but not significantly so. I am also mindful that the nearby houses have a variety of ridge heights. Bearing in mind the mix of houses found locally, I am satisfied that the proposed replacement dwelling would sit comfortably on the plot whilst its size, scale, detailing and finishing materials would be appropriate to the existing street scene.

10. For the above reasons, I find that although Dwelling A would at least preserve the character and appearance of the local area including the CA, the Dwelling B proposal would be harmful in such terms. In this respect, the scheme conflicts with policies CS1 and CS5 of the CS and policies DM01 and DM06 of the DMP DPD along with the Council's adopted Supplementary Planning Documents (SPDs) titled '*Residential Design Guide*' and '*Sustainable Design and Construction*', which collectively promote high quality design which respects local character and context and heritage assets.

11. The harm to the heritage asset would be 'less than substantial' as directed by the Planning Practice Guidance, but I attach considerable importance and weight to the statutory duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

12. The NPPF explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, which I will consider later.

Privacy

13. The eastern boundary of the appeal site adjoins the garden boundaries of No. 27 Oaklands and Long Orchard, which is located on Barnet Lane. Long Orchard has a very long rear garden and the rear elevation of Dwelling B would be broadly in line with the bottom south-west corner of this garden. Given the separation distance involved, combined with the siting of Dwelling B, I am satisfied that the outlook from Long Orchard would not be unduly harmed. The proposed dwelling would only have one opening on its side elevation above ground level facing Long Orchard which would be a rooflight serving an en-suite. This would afford minimal overlooking. Whilst some views of the rear garden of Long Orchard would be achievable from the nearest first floor rear bedroom, these would be oblique and limited.

14. The front elevation of Dwelling B would be sited to the north-west of No. 27 Oaklands. However, the rear garden of this property is long and the distance between the front elevation of Dwelling B and the rear elevation of No. 27 would comfortably exceed the 21 metre minimum standard outlined within the Council's Residential Design Guide. Furthermore, it would be similar to the

relationship between the front elevation of No. 25A and rear elevation of No. 26 Oaklands. To this end, and bearing in mind the presence of some mature vegetation along the boundary which would provide a degree of screening, I am satisfied that any overlooking of the rear garden of No. 27 Oaklands would be within acceptable parameters for such a suburban location.

15. The Council argues that the front elevation of Dwelling B would unacceptably overlook Dwelling A. This is mainly due to the fact that the front elevation of Dwelling B would be some 7 metres from the rear boundary of the garden of Dwelling A which is below the 10.5 metre standard endorsed by the Residential Design Guide. This is not disputed, but the distance from the front elevation of Dwelling B and the rear elevation of Dwelling A would exceed the minimum 21 metre standard. Furthermore, the rear garden of Dwelling A would be long and appropriate boundary treatment and landscaping could provide adequate screening. With this in mind, I am satisfied that any overlooking would be within acceptable tolerances.

16. In light of the above, I conclude that the proposed development would not cause unacceptable privacy issues for existing residents and future occupiers of Dwelling A. In this regard, I find no conflict with policy C5 of the CS, policies DM01 and DM02 of the DMP DPD or the overall aims of the SPDs, which all seek to safeguard appropriate living conditions.

Noise and disturbance

17. As explained, Dwelling B at the rear of the site would be served by an access running alongside the existing access which serves Nos. 25A and 25B Oaklands Road and the side elevation of the proposed Dwelling A. The Council argues that this arrangement would result in unacceptable levels of noise and disturbance for residents arising from additional comings and goings.

18. The appellant asserts that any existing disturbance caused by the comings and goings along the access which serves Nos. 25A and 25B is adequately mitigated by acoustic fencing and similar fencing could be erected to enclose the proposed access to Dwelling B. I am mindful that the proposed access to Dwelling B would run directly alongside the side elevation of the proposed Dwelling A whereas there is at least some space between the access which serves Nos. 25A and 25B and the side elevation of No. 24. However, the existing access serves two dwellings whereas the proposed access would serve only one. To this end, and in the absence of any compelling evidence to the contrary, I am satisfied that any noise and disturbance likely to be generated by comings and goings along the proposed driveway could be adequately mitigated by the installation of acoustic fencing.

19. I am also mindful that the introduction of Dwelling B would increase in the intensity of the use of the existing rear garden of the appeal property because a separate family sized residential unit would be created. However, planning decisions must be based on a reasonable expectation that future occupiers will live in a considerate manner. Legislation is in place to deal with those who choose not to. On this basis, I see no reason why the introduction of a dwelling itself in this location would be unduly disturbing for surrounding residents.

20. I therefore conclude that with appropriate safeguards, which could be secured by suitably worded planning conditions, the proposed development would not

cause unacceptable levels of noise and disturbance. In this particular respect, I find no conflict with policy CS5 of the CS and policies DM01 and DM02 of the DMP DPD or the SPDs.

Other considerations including public benefits

21. The appellant argues that the proposal would contribute to the strategic housing needs of the Borough. However, the appellant accepts that the contribution in such terms would be very limited.

22. The appellant also asserts that the proposal would meet the sustainability and efficiency requirements of the London Plan and that it amounts to sustainable development. The NPPF explains that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. I have explained why the proposal would not preserve or enhance the character or appearance of the local area and the CA, therefore it does not exhibit good design when considered in the round. On this basis, it does not amount to sustainable development in the widest sense of the definition.

23. In reaching my decision, I am mindful that additional concerns have been raised by third parties including those relating to parking, access and highway safety. I am satisfied that the proposed dwellings would be served by adequate private parking and nothing I have seen or read leads me to disagree with the Council's Highway Officer that the development would not cause undue risk to the safety of highway users.

Overall Conclusions

24. I conclude that although adequate living conditions would be safeguarded and provided for existing and future residents respectively, the proposed development would be harmful to local context and would fail to preserve or enhance the character or appearance of the CA.

25. The arguments advanced by the appellant, including the public benefits of the proposal, do not outweigh this harm and policy conflict therefore the appeal does not succeed.

David Fitzsimon

INSPECTOR