



Appeal Decision

Site Visit made on 17 May 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2021

Appeal Ref: APP/N5090/W/20/3257641

The Brookdales, Bridge Lane, Golders Green NW11 9JU

- 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 Bishop, on behalf of Bishops, against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0527/FUL, dated 18 January 2019, was refused by notice dated 18 February 2020.
 - The development proposed is the demolition of existing garages and erection of a three-storey building to provide six 3-bedroom dwelling units and 16 integral garages.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garages and the erection of a three storey building to provide six 3-bedroom dwelling units and 16 integral garages at The Brookdales, Bridge Lane, Golders Green NW11 9JU in accordance with the terms of the application, Ref 19/0527/FUL, dated 18 January 2019, and the plans submitted with it, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr M Bishop against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council has cited policies 3.5, 5.1, 7.14, 7.15 and 7.21 of the London Plan (2016) in its reason for refusal. These policies have been transposed and renumbered as policies D6, G1, G5, SI4, SI1, D14 and G7 within The London Plan (2021) which has now been published. These policies are substantially the same as the ones they replace. I shall take these into account in my decision.
4. The trees on the embankment of the site have been felled since the scheme was refused by the Council. I understand that these were not protected by Tree Preservation Order. The Council's officer report explains that these were conifer and sycamore trees and were considered to be of low value. Two groups of trees have been retained in the southeast and northeast corners of the site that are beyond the development area. As a result, the impact of the proposed development on existing trees has fundamentally altered since the Council made its decision. I shall take this new context into account in my decision.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the streetscene and area, with particular regard to the impact on trees,
- the effect of the proposal on the living conditions of future occupiers, with respect to the quantity and quality of external garden space and with particular regard to noise and air quality.

Reasons

Character and appearance

6. Bridge Lane is within a residential area that mostly consists of detached and semi-detached dwellings. The site is adjacent to the junction with the North Circular Road. The Brookdales is a flatted development, with blocks within the site ranging in height from 4 to 6 storeys. These are contemporary brick buildings with considered window detailing and generally good quality design features. The area proposed to be developed consists of a row of garages. These are partially embedded into the embankment behind, as the North Circular road is around four metres higher than the adjacent garages. Between the garages and the boundary to the highway the embankment consists of open land and the remanent of fallen trees. A partially dilapidated fence and advertisement hoarding mark the boundary. Due to the current appearance of the garage block and its surroundings, the appeal site makes a neutral contribution to the character and appearance of the area.
7. The proposal would replace the existing garages with six terraced dwellings. Due to the embankment, these would appear three storeys from The Brookdales and two storeys from the North Circular. The proposed dwellings would have a simple design that complements window form and alignment found within the adjacent residential blocks. It would be a subservient addition to the site that would frame the North Circular with build form and would reinforce the perimeter of the site. Detailed matters, such as materials, could be required by condition to ensure that the building would further complement the character and appearance of the area.
8. Furthermore, the proposal includes the removal of the advertisement hoarding, and the addition of new fencing and landscaping. The proposed beech hedge and tree planting would strengthen the delineation of the boundary of the site. These measures would assist with the integration of the proposal with the local context. As such, although the recent removal of the tree group is regretful, the proposal would sufficiently offset this loss to the streetscene and would make a positive contribution to the character and appearance of the area.
9. Consequently, the proposed dwellings would comply with policy DM01 of the London Borough of Barnet Local Plan DPD (2012) (LP). This includes seeking development of high-quality design that respects the pattern of surrounding buildings. The proposal would also comply with policies G5 and G7 of the London Plan (2021). These seek, among other matters, for development to support urban greening and retain existing trees of value.

Living conditions

10. The Framework requires, at paragraph 180, that new development should avoid noise giving rise to significant adverse impacts on health and the quality of life. Also, Planning Practice Guidance (PPG) requires decision making, with respect to noise impacts, to consider whether or not a good standard of amenity can be achieved.
11. The proposed dwellings would be located adjacent to the A406. Main habitable rooms of the proposal would overlook the North Circular to prevent overlooking of neighbouring residential properties. The Appellant's Noise Assessment (by Re December 2018) identified that the A406 was the greatest local noise source. During three survey periods it found the maximum noise levels to be 78.9dB during the morning rush hour (from monitoring point 1). The Assessment explains that the highest noise anticipated at the facade facing the road would be 63 dB(A). The Assessment therefore recommends acoustic glazing that would create effective noise reduction to prevent noise disturbance. A mechanical ventilation system with acoustic trickle vents would also prevent the need to open windows that face the A406. Furthermore, the proposed acoustic fence and landscaping would further mitigate noise impact.
12. These mitigation measures, in combination, would result in a development that would be unlikely to lead to a significant adverse noise effect on the living conditions of future occupiers.
13. The PPG explains that air quality can be a material consideration if future occupiers could experience poor living conditions or health due to poor air quality. The Framework requires new development to be appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment. It also identifies that opportunities should be taken to improve air quality, or to mitigate impacts, through measures including green infrastructure provision. The Air Quality Assessment, by Regional Enterprises dated December 2018, explains that the key air pollutions sources are the local roads. It recommends the use of passive acoustic ventilation with good acoustic properties, such as the Vent-Axia Fresh vent 100 with a filter. This would remove traffic fumes and provide noise attenuation similar to acoustic glazing.
14. Furthermore, prevailing winds from the south west would take the majority of vehicle pollution away from the development site. Moreover, the proposed mechanical ventilation system would provide future occupiers with good quality air and negate the need to open windows. Also, the proposed beech hedge and trees would provide some absorption of nitrogen dioxide NO₂ and other particulates which would moderately improve local air quality. Accordingly, the proposed mitigation measures would reduce the effects of the proximity of the North Circular. Furthermore, the enhancement measures would deliver improved air quality to the betterment of future occupiers. Consequently, the proposed development would not result in a significant adverse effect on local air quality and would not have a significant effect on the health of future occupiers.
15. Policy DM02 of the LP requires development to demonstrate compliance with a range of measures, including for outdoor space to be in accordance with the Council's Sustainable Design and Construction SPD (2016). The SPD requires, at table 2.3, for houses with four habitable rooms to have access to 40 sqm of

outdoor amenity space and for those with six habitable rooms to have access to 70 sqm. The London Plan's Housing SPG (2016) requires, a minimum of 5 sqm of private outdoor space to be provided for 1-2 person dwellings and an extra 1 sqm for each additional occupant.

16. Each dwelling would have access to rear gardens that range from 32 to 41 sqms. These would consist of a terraced area adjacent to each front door and an area of land between the dwellings and the boundary to the site. Future occupiers would also have access to the communal gardens around the existing blocks. Furthermore, Brent Park is adjacent to the site. In combination these areas would result in a reasonable provision of external space for new residents associated with the proposal. Therefore, although the proposed outdoor areas would be marginally below the recommended guidelines, the provision is adequate and of sufficient quality within the identified local context.
17. Consequently, the proposal would provide an adequate quantity and quality of external garden space in support of the living conditions of future occupiers with respect to noise or air quality. Accordingly, the proposal would satisfy policy DM02 of the LP, The Housing SPG and the Council's Sustainable Design and Construction SPD with respect to the provision of outdoor amenity space. Furthermore, the proposal would satisfy policies D6, D14, SI 1, SI 4, G1 and G7 of the London Plan (2021). These seek, among other matters, for development to be of high-quality design, avoid significant adverse noise impacts on health and quality of life and to incorporate green infrastructure.

Other Matters

18. The proposal would include sixteen garages. This provision would exceed the maximum requirements established in the London Plan and the LP. However, the site is within an area with a public transport accessibility level (PTAL) of zero. Therefore, future occupiers would have limited access to transport other than the private car. Consequently, the level of parking provision is appropriate in consideration of the context of the site. Moreover, the proposal raised no objection from the Highway Authority, a point of significant weight. Accordingly, matters raised by interested parties with respect to the safety of the access, increased traffic on local roads and parking provision for existing and proposed occupiers do not alter my findings on the main issues.
19. The Council's Sustainable Design and Construction SPD requires a separation distance of 21 metres between facing habitable room windows. The proposal would be around 11.75 metres from the existing block. However, the elevation of the proposal that would look toward The Brookdales would consist of windows serving kitchens and bathrooms. These could be obscurely glazed by way of condition to prevent overlooking. Furthermore, the rooflights above would only enable oblique views. The proposed development would be to the east of The Brookdales. As a result, the proposal would obscure some morning sunlight. However, due to the limited number of windows on the west elevation of this block, the separation distance and low profile of the proposal the impact of loss of sunlight would be negligible. For similar reasons the effect on access to daylight would also be limited. Accordingly, the proposal would not substantially affect the living conditions of neighbouring existing occupiers with respect to privacy, sunlight or daylight.
20. The proposal would largely screen noise from the A406. As a result, the noise impact of the proposal on existing residents would be limited to the arrival and

- departure of new residents that would be unlikely to change the behaviour of existing occupiers. Additionally, in partially screening the North Circular the proposal would improve the air quality for existing residents. Furthermore, the impact of car exhaust pollution, from vehicles of future occupiers, would be negligible due to the limited number of dwellings proposed. Therefore, the proposal would have no adverse effect on existing neighbouring occupiers with respect to noise or air quality.
21. Concerns raised with respect to potential damage caused to adjacent properties during construction is a private matter between landowners and has no particular bearing on the appeal. However, noise disruption during construction could be suitably addressed through a condition to limit the hours of construction, avoiding unsociable hours.
 22. The proposed development would be unlikely to affect the security of existing occupiers within the site. There is also no clear reason why it would result in an increase of rubbish or vermin, due to the provision of a secure refuse store.
 23. The Council's Scientific Services Department recommended that, due to the former use of the site as a builder's yard, a contamination survey and remediation strategy (if required) would be required by condition. Therefore, although ground contamination has not been assessed, this can be addressed by a condition.
 24. The Hendon and District Archaeological Society identify that the appeal site is within an Archaeological Priority Area. However, the Council has not drawn attention to any specific archaeological interest within the site. This has therefore had no substantive bearing on the consideration of the merits of the proposal.
 25. The site is partly within flood zones 2, 3a and 3b. The submitted Flood Risk Assessment, by STM Environmental August 2019, concludes that the development footprint is within flood zone 1 and the parts of the site within zones 2 and 3 would remain as soft landscaping. Accordingly, conditions requiring surface water runoff mitigation and a drainage strategy would be appropriate to ensure the sustainable drainage of the site.
 26. The red lined site includes the development plot, the adjacent car park and connects to the public highway. The planning application form indicates that 'Certificate B' was served on Meadowgold Ltd who have a tenant/title interest in land within the application site. Despite a concern raised by an interested party, the appellant is not required to own a site to seek planning permission. As such, I have no compelling reason to find that land ownership matters have not been procedurally addressed correctly.
 27. Interested parties indicate that a condition of the 1986 approval sought to retain the trees to screen residents from the North Circular. If accurate, this is a separate matter for the Council to consider outside of this appeal.
 28. A notification of the appeal was sent to local occupiers by the Council informing them of the appeal and that any comments should be sent to the Planning Inspectorate within a prescribed timeframe. The Council's consultation list satisfies me that adequate consultation was undertaken to announce the appeal.

Conditions

29. I have considered the use of conditions in line with the guidance set out in the PPG. The Council has not suggested any conditions in connection with the appeal. I shall therefore use the conditions that were appended to its officer report as a framework to consider appropriate conditions.
30. I have imposed conditions 3, 5, 6, 14 and 19 that require details to be submitted to the Local Planning Authority for agreement prior to the commencement of development. These relate to details of levels, tree works, contaminated land assessment, sustainable drainage and construction management. These are necessary at a pre-commencement stage as they may require works to take place within the footprint of the development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. The appellant has agreed to the imposition of these, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
31. The requirement for a landscape condition is challenged by the appellant, having recently submitted a landscape plan. However, the specification of this must be agreed by the Council to ensure its design would deliver the necessary carbon offset benefits. Nevertheless, I have changed the timeframe for these details to be submitted from pre-commencement to prior to occupation. Additionally, I have simplified the contamination and landscape detail conditions and adjusted the text on a number of other suggested conditions for clarity. I have also simplified the condition requiring the removal of the advertisement hoarding to remove the ambiguity of some of the suggested text. In terms of surface drainage, suggested conditions 17-20 have been condensed and simplified into two conditions.
32. A condition requiring details of excavations would not be necessary due to the proximity of the highway enabling direct access to services. I have also omitted suggested condition 22 as this was repeated within the detailed requirements of the Construction Management Plan. Furthermore, I have excluded a requirement that the development achieves secured by Design accreditation as this would not be necessary to enable the scheme to proceed. Furthermore, confirmation of compliance with the arboricultural protection measures would be unnecessary as this would be addressed through the tree protection plan. It would also be unnecessary for the development to comply with a delivery and servicing plan due to its limited scale and the anticipated limited impact on the surrounding highway network.
33. Accordingly, I have applied the standard timeframe and approved plans conditions in accordance with the PPG [conditions 1 and 2]. Conditions are also necessary in the interests of the character and appearance of the area [3, 4, 5, 6, 12 and 13] and to protect the living conditions of existing residential neighbours [8, 9, 11, 18, 19 and 20]. Furthermore, conditions are necessary in the interests of the living conditions of future occupiers [7 and 10] and to limit the impact of highway activity on the local infrastructure [21]. Drainage related conditions are necessary to ensure that the proposal complies with the requirements of policy CS13 of the LP [14 and 15]. Also, water management requirements and a refuse and recycling strategy are necessary to comply with the Council's Sustainable Design and Construction SPD [16 and 17].

34. Despite the appellant's comments I consider that it would be necessary to require contamination details as the development would not only take place over the footprint of the existing garage block. This therefore is required to protect the living conditions of future occupiers [6]. Also, I have included the Council's suggested conditions with respect to external plant. These were requested by its Scientific Services department in response to the noise output of the proposed mechanical plant having not been fully addressed in the Noise Report.

Conclusion

35. The proposal would complement the character and appearance of the area and would not result in an adverse impact on the living conditions of existing or future residents. As a result, the proposal would comply with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal be allowed and planning permission granted subject to the imposed conditions.

Mr Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 475118/2, 475118/3, 475118/4, 475118/5, and 475118/7.
- 3) No development shall take place until details of the levels of the building, service road and footpath alongside the North Circular Road, and any other changes proposed in the levels of the site, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved.
- 4) Notwithstanding the submitted details, prior to the occupation of any approved dwelling, a scheme of landscaping shall be submitted to and approved in writing to the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan 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) or later amendment, have been submitted to and approved in writing by the Local Planning Authority. 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. 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.
- 6) Prior to the commencement of development, other than for investigative work, a desktop study (Preliminary Risk Assessment) shall be carried out and a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. These shall be submitted to the Local Planning Authority and if they indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority. If they indicate any risk of harm, a site

investigation (including a risk assessment, refinement of the Conceptual Model and Method Statement) shall be submitted to, and approved in writing by, the Local Planning Authority. Where remediation of contamination on the site is required, completion of the remediation shall be carried out, and a confirming verification report, shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

- 7) Prior to the first occupation of the dwellings, the mitigation measures of the Air Quality Assessment (by Regional Enterprises dated December 2018) for passive acoustic ventilation with air quality filters, as identified at section 3.7 and construction measures as identified at 3.5 shall be fully installed. Also, the noise attenuation measures of the Noise Assessment (by Regional Enterprises dated December 2018), relating to acoustic mitigation in section 4 including glazing attenuation and acoustic trickle vents, and the installation of an acoustic fence, shall be fully implemented in accordance with the approved development.
- 8) The level of noise emitted from the plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.
- 9) No development other than demolition works shall commence on site in connection with the development hereby approved until a report has been carried out by a competent acoustic consultant that assesses the likely noise impacts from the development of the ventilation/extraction plant, and mitigation measures for the development to reduce these noise impacts to acceptable levels, and has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations. The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.
- 10) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby approved shall not be first occupied or brought into use until details of all acoustic walls, fencing and other acoustic barriers to be erected on the site have been submitted to the Local Planning Authority and approved in writing. The details approved by this condition shall be implemented in their entirety prior to the commencement of the use or first occupation of the development and retained as such thereafter.
- 11) The building hereby permitted shall not be occupied until the windows on the west elevation facing The Brookdales (Flats 1-18) have been fitted with obscured glazing, of Pilkington level 5 or equivalent, and no part of

those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

- 12) Prior to the commencement of development works, all existing advertisement hoardings within the site, and associated structures and materials, shall be removed.
- 13) No development other than demolition works shall take place until details/samples of the materials to be used in the construction of the external surfaces of the building and hard surfaced 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/samples.
- 14) Prior to the commencement of development, a detailed surface water runoff mitigation and drainage strategy for the site shall be submitted to and approved in writing by the local planning authority. The details should include, but are not limited to: a plan showing the drainage arrangements within the site, outlining the discharge point during demolition, downstream capacity and details of the mechanisms that will be used to limit the rate of discharge and reduce pollution of surface water during demolition. The surface water drainage strategy shall use SuDS to manage peak surface water runoff rates in accordance with S2 and S3 of the Non-statutory Technical Standards for Sustainable Drainage Systems. SuDS shall be used to provide volume control in accordance with S4, S5 and S6 of the Non-statutory Technical Standards for Sustainable Drainage Systems. The surface water mitigation and drainage strategy shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before development is completed.
- 15) The surface water drainage strategy for the site must be accompanied by evidence of an Adopting Authority accepting responsibility for the safe operation and maintenance of SuDS within the development. The Adopting Authority must demonstrate that sufficient funds have been set aside and / or sufficient funds can be raised to cover operation and maintenance costs throughout the lifespan of the development. The Adopting Authority shall be responsible for satisfying themselves of the suitability of the adopted SuDS prior to adoption, and shall keep records of operation and maintenance activities, for possible inspection by the Council.
- 16) 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.

- 17) Notwithstanding the details submitted with the application and otherwise hereby approved, no development other than demolition works shall take place until details of: (i) A Refuse and Recycling Collection Strategy, which includes details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider; (ii) Details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable; and (iii) Plans showing satisfactory points of collection for refuse and recycling, have been submitted to and approved in writing by the Local Planning Authority. b) The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.
- 18) Demolition or construction works shall take place only between 08:00 and 18:00 on Monday to Friday and between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 19) 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. This shall include the routing of construction vehicles, hours of access, access and egress arrangements, site preparation and construction stages of the development, the provision for the storage/delivery area for all plant and materials, details showing how all vehicles associated with the construction would be properly washed to prevent the passage to mud onto the adjoining highway, methods to be control the emission of dust, noise and vibration arising from construction works, noise mitigation measures for all plant and processors, details of contractor's compound and car parking arrangements, details of car parking management arrangements for the duration of construction, and the details of a community liaison contact. The development shall thereafter be implemented in accordance with the measures detailed within the statement.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the west elevation facing The Brookdales (Flats 1-18).
- 21) 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. The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.

End of conditions