



Appeal Decision

Site Visit made on 29 June 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2021

Appeal Ref: APP/N5090/W/21/3269040

Land to rear of 9-11 Sunningfields Road, Hendon, London NW4 4QR

- 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 L Calzavara & Epping Property Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/4174/FUL, dated 8 September 2020, was refused by notice dated 4 November 2020.
 - The development proposed is erection of an outbuilding to the rear of both properties to provide ancillary office accommodation in conjunction with the main blocks of flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council issued its decision, the London Plan 2021 (LP) was published and became an operative part of the development plan, superseding policies of the London Plan 2016 cited within the reasons for refusal. The Council has addressed this in their appeal statement and identified policies of the LP that it considers relevant to this case, and the appellants have been able to respond as part of their final comments. As a result, I am satisfied that no prejudice would be caused by my considering the appeal against the relevant policies of the LP, and I make no further reference to the previous London Plan.
3. The appeal submission includes an Arboricultural Impact Assessment (AIA) which was not before the Council at the time of its decision. The AIA provides further information on the effect of the proposal on trees in response to the third reason for refusal, and while it suggests replacement planting within the site, it does not fundamentally alter the development that is proposed. The Council has also been able to comment on the AIA as part of its evidence and has done so. In these circumstances, I am satisfied that my consideration of the AIA would not prejudice the interest of any party and I have accordingly taken it into account in determining the appeal.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area including with regard to its effect on trees; and
 - ii) the effect of the proposal on the living conditions of the occupiers of dwellings on and neighbouring the site including with regard to outlook, privacy and disturbance.

Reasons

Character and Appearance

5. Buildings on Sunningfields Road in the vicinity of the appeal site differ in form, design and appearance and include residential and other uses, but they are for the most part large buildings set on generous plots. Some have areas of rear parking accessed from Church Terrace, but the spaces to the rear of buildings typically include limited built development, and in many cases contain established vegetation which is apparent in views between buildings from the street frontage. Together with prominent trees along Sunningfields Road and the open backdrop and mature tree cover contributed by the church yard and Sunny Hill Park which sit beyond Church Terrace, this results in a suburban and generally spacious and verdant character to the area.
6. The appeal proposes 2 outbuildings to the rear of 9 and 11 Sunningfields Road which the appellants intend would provide ancillary office spaces for use by residents of flats within these buildings. The Council has raised concerns about potential commercial use of the development including on traffic, congestion and the need for community facilities. It notes however that a condition could be imposed to require that the use remained ancillary to the host buildings, and has suggested wording in the event that I were to allow the appeal. From the evidence before me, I see no reason that such a condition would be inappropriate or ineffective in controlling the use of the development.
7. Nevertheless, the outbuildings would be fairly large structures in comparison to the usually modest scale of other outbuildings that I observed to the rear of residential properties in the vicinity of the site. I recognise that they would be single storey in comparison to the host buildings which are two-storey with further accommodation within their roofs, and that they would also be of lesser width. I also note the appellants' comment that the retained gardens would exceed external space requirements set out within the Sustainable Design and Construction Supplementary Planning Document (SPD) 2016, and that the buildings would occupy around 16.6% of the spaces. I do not therefore consider that the outbuildings would be disproportionate to the host buildings or site. Even so, the flat roof designs would emphasise the bulk of the buildings, and they would both have sizeable footprints of around 52sqm affecting a fairly large part of the plots to the rear of Nos 9 and 11.
8. Moreover, the outbuildings would each include 3 doors facing away from Nos 9 and 11 and towards the rear boundary, and while the doors would open onto the appeal site, there would be accesses from Church Terrace to the rear part of the site independent of the host buildings. In contrast to Nos 9 and 11 which differ in form, external finish and overall appearance, the outbuildings would also be of matching design and appearance to one another. I see no reason that the materials in themselves would be unacceptable, but it seems to me that this relationship would serve visually to set the outbuildings apart from their individual host buildings. In combination with their scale, I find that the outbuildings would not be appreciated as subordinate features. Instead, the overall impression would be of structures that were separate and discrete from the host buildings, irrespective of whether they were in practice in ancillary use.
9. The rear part of the appeal site is sectioned off and may not be used by occupiers of Nos 9 and 11 as amenity space, but the division to the rear of No 9 is not readily visible from Church Terrace, and there was little outward

indication that the parking and storage I saw to the rear of No 11 were not associated with this building. Parking and garages on neighbouring sites similarly appear used in connection with the buildings fronting Sunnyfields Road and thus form part of their overall setting.

10. Boundary treatment and vegetation would provide some screening of the development. However, this would not be complete, and despite their set back the outbuildings would be appreciable from Church Terrace, albeit that I accept they would not be prominent in the street scene. They would also be apparent from neighbouring sites. The visual impact would be localised, but in my judgement the presence of the buildings seemingly unrelated to Nos 9 and 11 would be discordant and incongruous, and would harmfully disrupt the characteristic pattern of large plots to buildings which contributes to the area's spacious quality and distinctiveness.
11. The proposal would also result in the removal of a number of trees. The Council does not dispute that the AIA provides a reasonable assessment of the trees at the site, and has commented that those to be removed are of low quality. I agree, and while they are visible from the street scene and add to the overall verdancy of the area, I saw that these trees are fairly small, and they make a relatively limited contribution beyond the site. Given this context, I am satisfied that their removal would not result in a significant adverse impact on the character or appearance of the site or wider area. Furthermore, the AIA outlines that the loss would be mitigated through replacement planting. Full details have not been provided, but with regard to the spacing around the development I see no reason that replacement planting of suitable size and quality to effectively mitigate the loss of these features could not be delivered, with details secured by an appropriately worded planning condition. Moreover, while it is not determinative, I note that effects on trees were not a reason for refusing a previous application for development of greater scale on the site.
12. The AIA also outlines how other trees to be retained, including those most visible from the surrounding area, would be protected during construction. The Council asserts that insufficient information has been submitted, referring particularly to potential harm through a lack of detail on how services for the outbuildings would be connected. However, the AIA confirms that the development would either connect directly to existing underground services or via a route outside of the Root Protection Areas (RPAs) of retained trees, while also indicating how works within RPAs could be carried out in the event this was unavoidable. In the absence of compelling evidence to suggest that such measures would be ineffective, it seems to me that this could be addressed through a planning condition to require further details of provision of services.
13. Subject to conditions, I do not therefore find that the proposal would unacceptably harm trees or the landscaped edge to Sunny Hill Park. In this regard, I find no conflict with Policy DM01 of Barnet's Local Plan (Development Management Policies) 2012 (DMP) or Policy G7 of the LP in so far as they seek adequate protection for trees and the retention of existing trees of value wherever possible. Nevertheless, this does not overcome my findings above that the proposal would fail to integrate sympathetically with its surroundings.
14. I therefore conclude on this main issue that the proposal would cause unacceptable harm to the character and appearance of the area. As a consequence, it would conflict with Policies CS1 and CS5 of Barnet's Local Plan

(Core Strategy) 2012 (CS) and DMP Policy DM01 which broadly require, amongst other things development that respects local context and protects local character. It would similarly be contrary to Policy D3 of the LP which sets out that development should enhance local context including through buildings and spaces that respond to local distinctiveness.

Living Conditions

15. The development would be apparent from windows to Nos 9 and 11 as well as from adjacent buildings, and the outbuildings would include windows facing towards the rear of these properties. However, the Council has not disputed that there would be over 21m between the development and neighbouring properties. I acknowledge that the proposal does not involve a separate residential property, but this would exceed the minimum separation distance generally sought by the Sustainable Design and Construction SPD between properties with facing windows to avoid overlooking. In this context and noting also that the windows would be at ground floor level, I do not find that overlooking from within the outbuildings would be significant or cause an unacceptable loss of privacy for neighbouring occupiers. Given the scale and nature of the offices proposed and this separation, I also see no reason that activity within the buildings would be likely to result in excessive noise or disturbance to the detriment of the living conditions of neighbours.
16. In addition, the outbuildings would not occupy the full width of the site with spacing to the boundaries at their sides allowing for open views around them, and while they would have fairly large footprints, they would be single-storey structures of modest height. In combination with the separation between the outbuildings and neighbouring windows, I am satisfied that while views would change, these factors would ensure that the proposal would not unduly enclose or dominate outlook for the surrounding occupiers.
17. However, I saw that the path and steps leading from the entrance of No 11 to the rear part of the garden pass in very close proximity to a ground floor window to its rear. I accept that users of the communal rear garden would currently use this route and that in the absence of defined defensible space they could access the area immediately outside of the window. Be that as it may, the garden is stepped with the larger part offering alternative space positioned at a lower level further away from the building. Given the provision of 6 individual office spaces in the outbuilding where use would be far less dependent on factors such as the weather and the time of day or year than the garden, the development would in my judgement be likely to result in greater numbers of movements to and from No 11 than currently. These movements would be by occupiers of different flats within the building, and though of short duration, I consider the activity in such close proximity to the ground floor window would be noticeable and intrusive causing disruption that would detract from the living conditions of the occupiers of the dwelling it serves. My concerns in this regard do not however extend to No 9 or other neighbouring properties given the differing relationships which provide for separation of activity from them.
18. Notwithstanding my findings that the outbuildings themselves would not harm outlook or privacy for neighbouring occupiers, I conclude for these reasons that the proposal would result in activity that would cause unacceptable harm to the living conditions of some occupiers of No 11 through disturbance. This would be

contrary to Policy CS5 of the CS and Policies DM01 and DMP02 of the DMP in so far as they together broadly seek high quality places and protection of amenity. For the same reasons, there would be conflict with the requirement within the National Planning Policy Framework (the Framework) for a high standard of amenity for existing and future users.

Other Matters

19. The Framework advises that sustainable economic development should be supported, and that every effort should be made to identify and then meet needs for housing, business and other development. The COVID-19 pandemic has led to increased numbers of people working from home, and I acknowledge that the proposal would offer workspaces for residents of the appeal site to use. However, while the dwellings at Nos 9 and 11 are flats, I have no substantive information before me to demonstrate that workspace could not be accommodated within these properties necessitating separate buildings, nor any firm details of demand for the space by occupiers. These factors limit the weight that I afford to the provision of the proposed space for home-working.
20. The appellants also state that the proposal would increase the amenity space available to occupiers of Nos 9 and 11 by opening up the rear part of the site which is not currently available to them. Nevertheless, it is not clear from the submitted evidence that access to this space for occupiers could only be achieved through the appeal development.
21. In this context, I find that even taken together, the benefits of the proposal would not outweigh the harm that would be caused to the character and appearance of the area or to the living conditions of the occupiers of No 11 and the resulting conflict with the development plan.

Conclusion

22. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR