



Appeal Decision

Site Visit made on 20 July 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2021

Appeal Ref: APP/N5090/W/21/3266952

28 Prospect Road, New Barnet, Barnet EN5 5AL

- 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 Dr Alun Johns against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/6788/FUL, dated 20 December 2019, was refused by notice dated 21 July 2020.
 - The development proposed is demolition of the existing house and erection of block of 6 2-bed self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and erection of new two storey block with accommodation at roof level to provide 6 no self-contained flats. Associated parking, cycle storage, refuse and recycling and amenity space at 28 Prospect Road, New Barnet, Barnet EN5 5AL in accordance with the terms of the application Ref 19/6788/FUL dated 20 December 2019 subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Dr Alun Jones against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the banner heading above is taken from the application form. The Council altered the description to 'demolition of the existing dwelling and erection of new two storey block with accommodation at roof level to provide 6 no self-contained flats. Associated parking, cycle storage, refuse and recycling and amenity space.' I consider this to be a more accurate description of the proposal, and as it is also the description used by the appellant on the appeal form, I have used it in my formal decision.
4. Since the Council issued its decision, the London Plan 2021 (LP) was published. Consequently, policies of the previous London Plan 2016 have been superseded. The Council's statement identified the policies of the LP that it considers relevant to the appeal, and the appellant had the opportunity to address this through appeal submissions. I am therefore satisfied that no prejudice would be caused by my consideration of the appeal against the policies of the LP, and I have determined the appeal accordingly.
5. Also in the period since the appeal was submitted, the Government published a revised National Planning Policy Framework 2021 (the Framework). The main parties were given the opportunity to comment on any implications for the

appeal of this change, and I am therefore satisfied that no prejudice would be caused by my consideration of the appeal against the revised Framework.

6. I have noted references to the Council's emerging Local Plan. However, from the evidence before me, this has not yet reached examination stage. It is therefore subject to change, and I can have little confidence that policies will be adopted in their current form. Consequently, it carries limited weight in my decision.

Main Issues

7. With regard to the evidence before me, including the representations of interested parties, the main issues are:
 - i) the effect of the proposal on the character and appearance of area;
 - ii) the effect of the proposal on the living conditions of neighbouring occupiers; and
 - iii) the effect of the proposal on the provision of a mix of housing.

Reasons

Character and Appearance

8. The appeal site includes a large, detached dwelling set on a substantial plot which it is proposed to replace with a building containing 6 flats. The Council has not disputed the appellant's assessment that around 72% of the dwellings on Prospect Road are flats or maisonettes with the remaining 28% a mix of detached, semi-detached and bungalow properties. An interested party highlights that some buildings considered are on adjoining streets. Nevertheless, I walked along the length of Prospect Road and observed a mix of single dwellings, semi-detached properties as well as buildings that evidently accommodated multiple dwellings. The buildings themselves are of typically traditional appearance and external materials, but vary in scale and their architecture. As a result, my impression was of a residential street, but one which is characterised by a fairly diverse mix of buildings and dwelling types.
9. Despite the location of the appeal site within a group of semi-detached and detached dwellings, I do not therefore find that the street overall is characterised by houses. In my view, the presence of flats would be compatible with the mixed pattern of residential development along Prospect Road, and while the existing dwelling is of attractive Arts and Crafts design, the evidence before me does not demonstrate that it is of architectural quality or historical significance meriting its retention. In principle, I therefore see no reason that the loss of the existing dwelling or its replacement by flats would undermine or diminish the street's residential character. Accordingly, I find no conflict in this regard with Policy DM01 of Barnet's Local Plan Development Management Policies 2012 (DMP) which seeks to protect Barnet's character and amenity and provides that loss of houses in roads characterised by houses will not normally be appropriate.
10. The proposed building would undoubtedly be of much larger overall scale than the one it would replace, with an increased width, depth and footprint. However, its height would sit comfortably between the buildings to either side. It would not be significantly deeper than the adjacent building containing 30 and 32 Prospect Road, and would be of slightly lesser width and footprint. I accept that Nos 30 and 32 are a semi-detached pair and that the design and

single entrance to the front of the building would largely give the appearance of a single dwelling. Even so, there is considerable variety in the scale and form of other buildings along Prospect Road, including other large buildings containing flats which share an entrance. In this context, I do not consider that the size of the building in itself would be inappropriate or conspicuous.

11. Closest to the flank boundaries, the two-storey part of the building would be set back from Prospect Road a similar distance to the existing dwelling, and would broadly align with the corresponding fronts of the buildings to either side. A double gable feature would project forward of the building across much of its width. However, many of the buildings along Prospect Road include projecting front gables. I also saw buildings which step forward of one another including 34c Prospect Road which is forward of 1 Todhunter Terrace, and 36 Prospect Road which is forward of 11 Todhunter Terrace. The projection of the development beyond its neighbours would be fairly slight, and given that the position of buildings relative to the street and one another is not uniform, I do not find that the resulting building line would be jarring or cause the development to appear unduly prominent.
12. There is also little consistency in the spacing provided between buildings along Prospect Road. I acknowledge that separation between the development and boundaries to its sides would be reduced from that currently provided on the site. Nevertheless, the spacing to either side of the existing dwelling is unusually generous, and while the resulting openness is pleasant, it is not a distinguishing element of the area's character. The set in of the building from its side boundaries and neighbours would not be out of keeping with other examples that I saw of fairly narrow gaps between buildings nearby, and in my judgement would be sufficient together with the space to the front and rear of the site to balance the built form. Accordingly, the proposal would not disrupt any overall rhythm along the street scene, and I find that there would be a suitably spacious setting to the development so that it would sit comfortably on its plot and within its context.
13. Existing soft landscaping to the front of the site would be removed, and much of the frontage would accommodate parking and access. However, the visual impact of this would be broken up by some planting. Moreover, I noted other buildings in the vicinity with frontages predominantly given over to hardstanding. As a consequence, I do not find that this treatment would be out of keeping or dominant within the street scene.
14. For the collective reasons outlined above, and in light of the mix of types, sizes and architectural designs of nearby buildings, I consider that the development would assimilate well with its surroundings as a sympathetic addition to the existing visual interest and diversity of the locality, and I am satisfied that it would not be a notable or detrimental feature within the street scene. In my view, the appeal scheme would make effective use of the site without undermining or detracting meaningfully from the area's character or appearance.
15. I therefore conclude on this main issue that the proposal would not cause unacceptable harm to the character or appearance of the area. Accordingly, I find no conflict with Policies CSNPPF, CS1 or CS5 of Barnet's Local Plan Core Strategy 2012 (CS), Policy DM01 of the DMP or Policies D1, D3 or D4 of the LP insofar as they together broadly require high quality design and sympathetic development that respects and enhances local context and distinctive local

character. In addition, it would accord with the Council's Residential Design Guidance 2016 (RDG) which seeks to ensure that development is appropriate to its context, and the Framework which attaches great importance to the design of the built environment.

16. The Council has also referred to Policy D6 of the LP, but this policy particularly concerns housing quality and standards of residential accommodation, and seems to me to be of lesser relevance to the matters at issue here.

Living Conditions

17. Although not one of the Council's reasons for refusing permission, interested parties have raised a variety of concerns in relation to the effect of the development on neighbouring occupiers.
18. The site would remain in residential use, and with regard to the spacious plots to surrounding buildings and the scale of the development, I do not consider that the level of activity associated with 6 dwellings, including use of the amenity space, refuse store and cycle store, would be likely to result in unacceptable noise or disturbance. Nor that there would be harmful light spill.
19. Windows to the side of the building are indicated as obscure-glazed and openable only at high level. This could be secured by condition, and because side rooflights would either serve non-habitable rooms or would be additional to other fenestration to rooms, a condition could require that they were also obscure glazed preventing harmful overlooking to neighbouring dwellings. The primary outlook from glazing to the rear of the building would be along the rear of the site, and while views towards surrounding gardens would be possible, the relationship would not be unusual within a residential area such as this. There would be substantial separation to neighbours to the rear and on King Edward Road, and glazing would not afford direct sight of windows to buildings at either side of the site. Views towards the closest adjacent gardens would be oblique and at a very tight angle closest to the rear of the buildings and for these reasons I do not consider that the proposal would cause a harmful loss of privacy or unacceptable overlooking of neighbouring dwellings or gardens.
20. A projecting bay to the side of 26 Prospect Road is the only window serving a room currently used as a nursery. At my visit, I saw that the existing building is the main element in outlook from the central and rear panes, but that there are more open views from the front pane across the appeal site frontage. While positioned closer to the boundary, the closest two-storey part of the development would not project significantly forward of the existing building, and given the relationship of this window with the steep slope to the projecting gable, I consider that similar open views to the front of the site would be maintained. Although the building would be of larger scale and bulk, given these factors and the orientation and existing relationship of the appeal building to No 26, I do not consider that the development would cause significant new overshadowing or loss of light or outlook to this window so as to impact meaningfully on the living conditions of occupiers.
21. To the rear, I saw at my visit that the closest ground-floor part of No 26 is being used as a study which includes a rear window set very close to the boundary as well as a rooflight. The development would extend some way deeper than this window, and would be of significantly greater height. No 26 is also at a lower land level. Be that as it may, the position of the window in close

proximity to the existing boundary wall already results in a fairly significant degree of enclosure of views towards the appeal site. The development would be set off the boundary and viewed at an oblique angle, and there would be no change to the main outward aspect from the window along the deep garden to No 26. Given this relationship, additional enclosure as a result of the development would be modest, and I do not consider that it would be excessively dominant or cause any significant loss of outlook. I find however that the scale of the development and its position broadly to the south west of No 26 would be likely to affect light to this room with some increased overshadowing, albeit that this would be of fairly limited duration in comparison to the existing situation where the current building would also result in shadowing in the afternoon/evening.

22. While I therefore find that the proposal would result in some loss of light to the ground floor study to No 26, other windows to the main rear elevation are set in further from the boundary. With regard to their resulting relationship with the development and guidance in the RDG, I do not find that it would be unacceptably overbearing or cause harmful overshadowing or light loss. The development would also be apparent from the rear garden to No 26, but would only extend along a fairly small part of the large space. As a consequence, impacts would be relatively limited, and would not in my judgement result in an unacceptable reduction in light or sense of dominance or enclosure. Noting the even greater separation between the development and neighbours beyond No 26, I am also satisfied that there would not be material harm to occupiers of these properties through loss of light or outlook.
23. For these reasons, I find that the proposal would result in loss of light to the occupiers of No 26. However, this would be restricted to one room within the dwelling, with outlook and light to the remaining rooms not significantly affected. The resulting impact on occupiers' quality of life would be small overall, and I consider that the dwelling would continue to offer generally suitable standards of light and outlook. I therefore conclude on this main issue that the proposal would result in some minor harm to the living conditions of occupiers of No 26 through loss of light, but that this harm would not be significant. The proposal would not therefore conflict with Policy DM01 of the DMP insofar as it seeks adequate daylight, sunlight and outlook for adjoining occupiers.
24. Because I have found that the proposal would not cause unacceptable harm to the living conditions of neighbouring occupiers, including at No 26, I do not find that the development would result in a degree of interference so as to give rise to a violation of rights under Articles 1 of the First Protocol or Article 8 of the European Convention on Human Rights, as enshrined within the Human Rights Act 1998.

Housing Mix

25. I have already found that replacement of the existing dwelling with flats would not undermine or diminish the residential character of the street contrary to Policy DM01 of the DMP. Nevertheless, Policy CS4 of the CS, Policy DM08 of the DMP and Policy H10 of the LP seek a range of dwelling sizes and types including family homes to meet housing priorities and needs. Policy DM08 of the DMP further advises that development should provide where appropriate a mix of dwelling types and sizes to provide choice for a growing and diverse population.

26. The proposal would result in the loss of a four-bedroom home which DMP Policy DM08 identifies as the highest priority for market housing. However, while the policies cited by the Council seek a mix of housing which it is clear should include family housing, they do not establish specific targets for provision and to my mind, set out overall objectives rather than requiring that family housing must always be provided, or indeed retained, as part of any individual development. Similarly, although Policy H10 of the LP advises that regard should be had to factors which include the need for additional family housing, this is noted alongside the role of one and two bed units in freeing up existing family housing and not as an overriding requirement.
27. There is no firm evidence before me to suggest that the proposed two bedroom, four-person dwellings would be unsuitable for occupation by small families. The appellant has also drawn my attention to the more recent Barnet Housing Strategy 2019. The Council has not disputed that this identifies that the greatest market housing need is for homes with three-bedrooms, and then for four-bedrooms, albeit only very slightly ahead of two-bedrooms. Notwithstanding the priority given within the DMP to four-bedroom homes, it therefore seems to me that the need for the existing dwelling and for homes of the size proposed is not dissimilar.
28. Despite the number of other flats and maisonettes along Prospect Road, a large proportion of the buildings would remain as single dwellings and I am not persuaded that the proposal would be detrimental to the provision of a balanced community here. There is also no firm information before me demonstrating any local deficiency in family housing. Nor is there substantive evidence that the proposal would undermine the Council's ability to meet the objectives of policies seeking an overall mix of housing to meet needs.
29. The proposal would result in a net gain of 5 dwellings, adding to the supply of housing locally. Whether or not the development would not be required to meet targets for development on small sites, this is not a ceiling on development and the Framework highlights the Government's objective to significantly boost the supply of housing. In this context and taking the above factors into account, I consider that the contribution to the supply of housing would in this case outweigh the loss of a single family dwelling.
30. I therefore conclude on this main issue that while there would be a loss of one family dwelling, the proposal would not unacceptably harm the provision of a mix of housing, and I find that it would accord generally with Policies CS4 and CS5 of the CS, Policies DM01 and DM08 of the DMP and Policy H10 of the LP.

Other Considerations

31. Previous applications to develop the site may have been refused, but I have limited details of these and so do not know how the circumstances relate to the appeal before me which I have in any event considered on its own merits.
32. I note that the site is within an area considered to have poor access to public transport, and that there may be some reliance by future occupiers of the development on private vehicles. Nevertheless, the site is within walking distance of local shops and public transport links on the A1000 and on Potters Road/Meadway, and there is no substantive evidence before me to demonstrate that the accessibility of the development would be inappropriate.

33. Provision of parking on the site would be below maximum standards, but the appellant's Parking Survey Report indicates that parking locally is not under stress and there would be on-street capacity to accommodate parking. Interested parties dispute this assessment. However, a large number of potential parking spaces were available on Prospect Road and nearby streets at my visit, and while I acknowledge that this represents a snapshot, I saw no parking restrictions on the street or other indications of a high degree of pressure. In residential areas such as this, it will not always be possible for residents to park immediately outside their homes, and while there may be instances of inconsiderate parking currently, these are matters for the relevant authorities and do not fall to be considered within the scope of this appeal.
34. The Public Sector Equality Duty (PSED) contained in the Equality Act 2010 requires that I have due regard to needs which include to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act, and to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics include age, disability, sex, pregnancy and maternity, and the level of parking locally could affect some persons who share protected characteristics through the availability of spaces and potential for obstruction by parked vehicles. However, the degree of shortfall in parking provision against standards, which the Council refers to in any event as 'maximum standards', would not be large, limiting the likely impact, and there is no clear evidence before me that the development would unacceptably increase on-street parking to a level that would cause congestion, detriment to highway safety or other harm. Having had due regard to the aims of the PSED, I therefore see no reason to take a different view to the Highways Authority and Council who have not raised concern in relation to parking.
35. The Council's evidence indicates that the proposed dwellings would meet or exceed standards intended to ensure that residential accommodation is of satisfactory size and quality, and I am satisfied that they would offer suitable living conditions for future occupiers. I am also satisfied that appropriate provision for refuse and recycling could be accommodated within the site.
36. There is no firm evidence to suggest that there is insufficient capacity in local services to meet needs generated by the development, nor that the proposal would harm biodiversity or suffer inadequate drainage. Any impacts during development works would be short-term and could be mitigated by careful construction management secured by an appropriately worded condition.
37. While I have taken into account representations by interested parties, I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal, and they do not alter my findings on the main issues.

Conditions

38. I have considered suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity or clarity.
39. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. To safeguard the living conditions of neighbouring occupiers and highway safety

and in the interests of the character and appearance of the area, I consider that conditions to agree details of how construction will be managed and trees protected are necessary. These are pre-commencement conditions as details need to be agreed before any works take place to ensure that they are satisfactory, and the appellant has provided written agreement to them.

40. Details of external materials, boundary treatments and provision for landscaping are also required to ensure a satisfactory appearance and in the interests of the living conditions of neighbouring occupiers. However, from the information before me I see no reason it would be necessary to require details of materials prior to any works taking place above ground level, and I have amended the suggested condition accordingly. Interested parties have also raised concerns about the provision of refuse storage, and I agree that a condition to require further details is necessary in the interests of the character and appearance of the area, the living conditions of neighbouring occupiers and to ensure adequate provision.
41. Conditions to require implementation of parking and provision for cycle storage are necessary in the interests of the character and appearance of the area, highway safety and to promote sustainable travel. However, the Council would be able to consider the acceptability of cycle storage provision against relevant standards and guidance at the time of an application, and I have therefore amended the suggested condition to avoid unnecessary prescription.
42. To safeguard the living conditions of neighbouring occupiers, I have imposed conditions to require the use of obscure glazing to windows and rooflights to the sides of the building and that the dwellings are used as self-contained units. I have also attached conditions to require that the dwellings are accessible and adaptable and that the development incorporates measures to reduce carbon dioxide emissions in the interests of the living conditions of future occupiers and resource efficiency, and to secure compliance with policies of the development plan.

Conclusion

43. For the reasons given above, I find that the proposal would accord 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. For the avoidance of doubt, I also consider that the modest harm to the living conditions of the occupiers of No 26 would in this case be outweighed by the wider public benefits associated with the provision of 5 additional dwellings, a factor to which I give great weight in the context of the objectives of the Framework to significantly boost the supply of housing. Even if I were to have found that the harm to living conditions resulted in some conflict with Policy DM01 of the DMP, material considerations would therefore indicate that the appeal should be allowed.
44. I therefore conclude that the appeal should be allowed.

J Bowyer

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: Location Plan, 485118-27, 485118-28, 485118-29 and 485118-30.
- 3) No site clearance, preparatory work or development shall take place until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
 - i) details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii) site preparation and construction stages of the development;
 - iii) details of provisions for recycling of materials;
 - iv) the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - v) details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway;
 - vi) the methods to be used and the measures to be undertaken to control and mitigate the emission of dust, noise and vibration arising from construction works including from all plant and processors;
 - vii) details of contractors compound and car parking arrangements;
 - viii) details of interim car parking management arrangements for the duration of construction; and
 - ix) details of a community liaison contact for the duration of all works associated with the development.

The development shall thereafter be implemented in accordance with the measures detailed within the statement

- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of trees to be retained (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 5) No development above proposed ground level shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
- 6) Prior to the first occupation of the development hereby approved, details of the means of enclosure, including boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority. The

development shall be implemented in accordance with the approved details before it is first occupied, and shall be retained as such thereafter.

- 7) Prior to the first occupation of the development hereby approved, a scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority.

All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the development or completion of the development, whichever is sooner.

Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

- 8) Prior to the first occupation of the development hereby approved, details of storage of refuse and recycling on the site shall be submitted to and approved in writing by the Local Planning Authority. The storage shall be provided in accordance with the approved details before the development is first occupied, and shall be permanently retained as such thereafter.
- 9) Prior to the first occupation of the development hereby approved, details of cycle parking including the type of stands, gaps between stands, location and type of cycle store proposed shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details before the development is first occupied, and shall be permanently retained as such thereafter.
- 10) Prior to the first occupation of the development hereby approved, the car parking spaces as shown in approved plan no. 485118-28 and the access to the parking area from the public highway shall be provided. Thereafter, the access to the parking spaces shall be maintained at all times, and the parking spaces shall be used only as agreed and shall not be used for any purpose other than the parking and turning of vehicles in connection with the approved development.
- 11) Prior to the first occupation of the development hereby approved, the windows in the side elevations facing 26 and 30 Prospect Road shall be fitted with obscure glass and fixed shut with only a fanlight opening, and the rooflights in the side roofslopes facing 26 and 30 Prospect Road shall be fitted with obscure glass and fixed shut. The windows and rooflights shall be permanently retained as such thereafter.
- 12) Prior to the first occupation of the development hereby approved, all dwellings shall have been constructed to meet and achieve all the relevant criteria of 'The Lifetime Homes' standard (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be permanently retained as such thereafter.
- 13) Prior to the first occupation of the development hereby approved, it shall have been constructed incorporating carbon dioxide emission reduction

measures which achieve an improvement of not less than 25% when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be permanently retained as such thereafter.

- 14) The dwellings shall be used as self-contained units as shown in the hereby approved drawings under Class C3(a) and 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