



Appeal Decision

Site visit made on 7 December 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2022

Appeal Ref: APP/N5090/W/21/3276065

51 Beresford Avenue, Whetstone, London N20 0AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of planning permission.
 - The appeal is made by Millen against the decision of the London Borough of Barnet.
 - The application Ref 20/6076/RMA, dated 14 December 2020, sought approval of details pursuant to Condition No 1 of planning permission 19/5079/OUT granted 29 October 2020.
 - The application was refused by notice dated 14 May 2021.
 - The development proposed is described as 'Retention of 49 and 51 Beresford Avenue to provide 6 Passive Eco Houses'
 - The details for which approval is sought are: appearance, scale and landscaping.
-

Decision

1. The appeal is allowed and the reserved matters are approved, namely appearance, scale and landscaping at 51 Beresford Avenue, Whetstone, London N20 0AD in accordance with the terms of the application, Ref 20/6076/RMA, dated 14 December 2020 subject to the conditions set out in the Schedule to this decision.

Applications for costs

2. An application for costs was made by Millen against the London Borough of Barnet. This application is the subject of a separate decision.

Procedural Matters

3. The application form refers to the appeal site as being 51 Beresford Avenue, however, the Council have referred to the site as 'Land at 49 and 51 Beresford Avenue'. The site address used by the Council is more accurate and I have borne this in mind when making my decision.
4. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. Both main parties have been given the opportunity to comment on this. My decision is made in the context of the revised Framework and I am satisfied that no interested party has been prejudiced by my approach.

Background and Main Issues

5. Outline planning permission was granted on appeal for a residential development for 6 houses in 2020. The outline permission sought details of the access and layout with all other matters reserved for future consideration.

6. The main issues are:

- The effect of the proposed development upon the character and appearance of the area; and
- The effect of the proposed development upon the living conditions of nearby residents with regard to outlook.

Reasons

Character and appearance

7. The appeal site comprises a pair of semi-detached dwellings with large rear gardens located at the end of a cul de sac. Dwellings in the road largely comprise semi-detached two storey dwellings and bungalows of a similar vernacular. There is a fall in land levels down Beresford Avenue towards the railway line behind the site. The scale of buildings and position of dwellings down the slope results in variation in the height of dwellings.
8. In my view the scale, mass and architecture of the proposed development would be reflective of existing houses in the area. The position and height of the proposed dwellings would be an appropriate response to the ground levels along the road and across the site. Taking into account the character of the area including the varying heights of dwellings locally I am satisfied that the proposed development would successfully integrate into the area and the overall height of the proposed dwellings and their relationship with neighbouring houses would not be incongruous.
9. It is not for me, in assessment of this appeal, to second guess what height differential the previous Inspector envisaged. I have considered the appeal on its own individual merits as presented by the appellant. As such, I give this negligible weight in coming to my decision.
10. I conclude that the proposed development would not harm the character and appearance of the area. It would accord with Policy CS5 of the Barnet Local Plan Core Strategy (2012) (CS), Policy DM01 of the Development Management Policies Development Planning Document (2012) (DPD) and Policy D3 of the London Plan (2021) (LP) which, amongst other things, seek to ensure that development respects local context and character; respects the scale, mass, height and pattern of surrounding buildings, spaces and streets and positively responds to local distinctiveness.
11. It would also accord with guidance set out in the Council's Supplementary Planning Document 'Residential Design Guidance' (2016) (SPD) which, amongst other things, requires development to relate to its setting and local character.

Living conditions of existing occupiers

12. I acknowledge that the proposed development would not fully accord with separation guidance set out in the SPD and would be visible from the rear of No 53. Whilst the view of occupants of this property would undoubtedly change I am satisfied that the proposed development would be a sufficient distance from existing windows and the boundary so as not to unacceptably diminish the outlook experienced by the occupants of this property, irrespective of the height of the planting along the boundary.

13. Furthermore, I note that the layout was a matter approved under the outline permission. Based on the evidence before me the reserved matters application is consistent with the terms of the outline permission in this regard.
14. Consequently, the proposal would not adversely affect the living conditions of occupants neighbouring the site. It would accord with CS Policy CS5, DPD Policy DM01 and LP Policy D3 which, amongst other things, seek high quality design that allows for adequate outlook for adjoining occupiers and users and delivers appropriate outlook, privacy and amenity. It would also accord with guidance contained within the SPD which, amongst other things, seeks to protect the amenity of neighbouring occupiers.

Other Matters

15. Matters relating to land ownership, restrictive covenants and the potential damage to property and the number of applications submitted by the appellant are not matters for me in this appeal. As such, I have not taken these matters into account when making my decision.
16. The comments regarding the application process and the relationship between the appellant and the Council do not concern the planning merits of the proposal and as such have no bearing on the determination of this appeal.
17. I note the representations made in respect of highway and pedestrian safety and the operation of the highway network. There is no substantive evidence before me to suggest that construction traffic or the development would be harmful in this respect, particularly as the highway authority did not object to the planning application. Moreover, the previous Inspector concluded that the access was suitable.
18. Despite the representations received, based on the evidence before me, there is no substantive evidence to suggest that the proposed development would unduly affect protected trees, biodiversity, drainage, Network Rail's infrastructure in the area or that future occupiers would experience undue noise. In any event the relevant conditions imposed on the outline permission would manage such matters.
19. Whilst comments have been made in respect of the creation of a gated community the previous Inspector noted that a gated access would not make the development unacceptable, and I have not been provided with any evidence to lead me to reach a different view on this matter.
20. I note the comments made in respect of security and religious grounds. Whilst these concerns may be legitimate there is no credible evidence that the proposed development would compromise existing resident's wellbeing or their way of life.

Conditions

21. I have considered the imposition of conditions in accordance with the Framework and the Planning Practice Guidance (PPG). I have undertaken some rationalisation of the conditions proposed by the Council in the interests of precision and clarity.
22. It is necessary to specify the approved plans in the interest of certainty. Conditions relating to the external materials, landscaping and boundary

treatments have been imposed to ensure the satisfactory appearance of the development.

23. I have found it necessary to ensure that dead or diseased plants in relation to the green roofs and proposed landscaping are replaced for 5 years following completion of the development and therefore a condition requiring this has been imposed.
24. In the interests of highway safety, I have imposed a condition in relation to the garages and parking areas serving the development.
25. A condition for obscure glazing in the side elevation facing No 53 has been imposed in the interests of safeguarding the living conditions of neighbouring occupants.
26. The Council has suggested a condition for an additional landscaping scheme along the boundary with No 53. However, in my view, it is not necessary and thus has not been imposed.
27. The Council has suggested a time limit condition for implementation. However, it is not necessary to reinstate this condition as it has already been imposed on the outline permission.

Conclusion

28. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Site Layout and Landscaping Plan Revision 2 Drawing Number BAB001; Plans and Elevations Revision 1 Drawing Number BAB EL 001; AIA and Habitat Plan Revision 3 Drawing Number BAB002; Site Sections Revision 3 Drawing Number BAB004; Garage Plan Revision 1 Drawing Number BAB006 and Double Garage Plan Revision 1 Drawing Number BAB008.
- 2) No development other than demolition works shall take place until details/samples of the materials to be used for the external surfaces of the buildings and hard surfaced areas hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) The site shall not be brought into use or first occupied until details of the privacy screens, means of enclosure, including boundary treatments and the main entrance gates, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before any part of the development is first occupied and thereafter retained for the lifetime of the development.
- 4) All green roofs, planting, seeding or turfing comprised in the approved landscape details shown on Site Layout and Landscaping Plan Revision 2 Drawing Number BAB001; AIA and Habitat Plan Revision 3 Drawing Number BAB002; the Bauder Extensive Biodiverse Green Roof Solution Spec Details and the Tree Planting Schedule shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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) Before the development hereby permitted is first occupied or the use first commences the parking spaces/garages hereby approved shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the development.
- 6) Before the building hereby permitted is first occupied the proposed first floor window in the flank elevation of dwelling No 6, facing 53 Beresford Avenue, shall be glazed with obscure glass only and shall be retained as such thereafter and shall be fixed shut with only a fanlight opening for the life time of the development.