



Appeal Decision

Site visit made on 11 January 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/N5090/W/21/3275462

Flat 1, Buxmead, 67 The Bishops Avenue, East Finchley, London N2 0BG

- 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 Temirlan Safin against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/0771/FUL, dated 8 February 2021, was refused by notice dated 9 April 2021.
 - The development proposed is the erection of a garden building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Barnet's Draft Local Plan Regulation 19 Publication was approved for consultation on 16 June 2021. The Regulation 19 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. Since determination of the application, Barnet's Draft Local Plan Regulation 22 Submission was approved by the Council on 19 October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public (EiP). As this Draft Local Plan has not yet reached EiP stage, I afford it only limited weight as part of the determination of this appeal.

Main Issue

3. The main issue is whether the proposed development preserves or enhances the character or appearance of the Hampstead Garden Suburb Conservation Area (CA).

Reasons

4. It is proposed to erect a single storey outbuilding to be used on an ancillary basis (i.e. an office, library, store and WC) in association with the adjacent Flat 1. It would measure about 13.1 metres wide, 6.3 metres deep and 2.5 metres high. While the building would be 2.5 metres in height, it would actually be seen as being 2.0 metres above surrounding ground level. The development would include brick walls and stone pillars and there would be a green roof. Two windows would face towards Flat 1. The building would be erected on land that is currently part of a landscaped communal garden area and which is essentially devoid of built form. It would be positioned between Flat 1 and Bishops Avenue albeit separated from this road by a brick wall with infill

- railings and boundary landscaping. There are protected trees immediately surrounding the proposed outbuilding.
5. In considering the significance of the CA as whole, I have taken into account the Hampstead Garden Suburb Conservation Area Design Guidance 2010 (Design Guidance), the Hampstead Garden Suburb Character Appraisal 2010, and the Bishops Avenue Conservation Area Appraisal 1999 (1999 Appraisal) submitted by the appellant as material planning considerations.
 6. Hampstead Garden Suburb was founded in 1906 by Dame Henrietta Barnett, who described the care with which every aspect of the design was to be considered. The Suburb today is a unique area characterised by the inter-relationship of high quality building materials and traditional craftsmanship; rich planting and landscaping, retained original trees and landscape features; the ingenious grouping of buildings which reinforce a sense of community, and houses designed to harmonise with each other and often grouped around greens, squares, walks and closes. Prevalent architectural features include large or elaborate chimneys, dormer windows and bays designed to add variety and visual interest.
 7. Bishops Avenue is located on the outer edge of the CA. Unlike other parts of the CA, the evidence is that permitted development rights have not been removed by way of an article 4 direction. Nonetheless, this area also displays some of the positive and distinctive attributes of the CA as a whole that add to its special significance. This includes a clearly planned environment where there is relative harmony and consistency in terms of the use of materials and where there is a significant emphasis on open and green private spaces, thereby promoting a sense of spaciousness and relief to surrounding and well-designed buildings.
 8. Extensive tree planting and landscaping is appreciated in most parts of the Suburb, including Bishops Avenue, and there is a clear emphasis on buildings being set well back from roads and with intervening and predominantly undeveloped frontage spaces. Trees, landscaping and a sense of openness provide a complementary and positive setting to the built form in the CA including to those properties in Bishops Avenue. It is of note that the Design Guidance states that the *'original concept of the Suburb was for gardens without structures such as sheds and greenhouses, to maintain the green appearance of the area'*.
 9. My findings above are also clearly expressed in the 1999 Appraisal which states that *'green spaces in The Bishop's Avenue take the form of large private gardens which can be glimpsed between trees, bushes and railings along the footway. The large size and scale of planting of these gardens form an important part of the semi-rural character of the Avenue which recent infill and enlarged development has in part diminished. The lines of trees in verges and along front boundaries add grandeur to the Avenue, guide the eye along, and clearly define spaces. This boundary between public and private further underlines the exclusivity of properties and the area providing soft screening and privacy. As such they are a vital part of its special character'*.
 10. The proposal would not be a small outbuilding. It would take up a large part of the communal garden area and would be positioned on land that currently makes a positive contribution to the open, spacious and green setting of the more modern appeal building and the wider complex of development known as

Buxmead. While the building would be single storey in height, it would nonetheless be long and so would not be seen within the immediate context as a subservient and sympathetic addition in this garden setting. While the evidence is that nearby trees would be capable of being retained and protected, this in itself would not overcome my aforementioned concerns.

11. I recognise that the outbuilding would be set back from Bishops Avenue and that only glimpses of the structure would be seen from the adjacent pavement and from the football pitches to the side. In this respect, the development would be largely unnoticed in the majority of public views. It would, however, be seen by occupiers of and visitors to the flats and, in any event, the character of the CA derives from the buildings, layout and surrounding spaces as a whole, regardless of whether particular elements are open to public view. Its significance does not therefore rely only on the elements that can readily be seen.
12. I acknowledge that there is some single storey development positioned close to Bishops Avenue at the main driveway entrance to the north of the appeal site. I do not know the exact circumstances which led to this development being allowed or constructed. In any event, such development is positioned alongside the side boundary of the Buxmead complex and has not had the effect of breaking up an attractive communal garden setting. It is appreciated within a different environmental setting and does not make a positive contribution to the overall significance of the CA. Its existence does not justify allowing the harmful appeal development.
13. The appellant has referred to the Design Guidance which, in addition to the commentary above, also states '*in substantial gardens, larger structures, such as home offices and summer houses, may be approved where they can be well screened by planting*'. I cannot be sure what the Design Guidance envisages in terms of a '*substantial garden*', or what is meant by '*well screened by planting*'. In this case, a large outbuilding is proposed which would unacceptably urbanise and dominate an essentially open and green communal garden. Such development would be prominent from views within the site and from glimpses outside the site, despite the existence of landscaping. It would relate poorly to the spacious and landscaped garden setting and, in that regard, I do not find that it would meet the requirements of the Design Guidance.
14. The appellant has also referred me to a number of planning permissions for development in the area and the contention that the area has changed such that '*creeping urbanisation*' is now very much part of the character of the area. I acknowledge that the CA has evolved over time and that some development has been allowed in the CA which to some degree has closed gaps or has lost a sense of overall spaciousness. Notwithstanding the above, my site visit to both the appeal site and to the CA as a whole did not leave me with an impression that such development had materially altered the overall special significance of the CA. I have determined this appeal on its individual planning merits and, in this case, and notwithstanding the development referenced by the appellant, I find that harm would be caused to the character and appearance of this part of the CA and hence to the overall significance of the CA as a whole.
15. For the above reasons, and having regard to paragraph 202 of the National Planning Policy Framework 2021 (the Framework), I find that the proposal would lead to less than substantial harm to the significance of the CA. This

harm is not outweighed by any identified public benefits of the proposal. I conclude that the proposal would not preserve or enhance the character and appearance of the CA and therefore it would conflict with the design and conservation requirements of policies CS NPPF and CS5 of Barnet's Local Plan Core Strategy 2012; policies DM01 and DM06 of Barnet's Local Plan Development Management Policies DPD 2012 and Chapter 16 of the Framework.

Other Considerations

16. The appellant has referred me to the approval of a certificate of lawful development application¹ (LDC) for the formation of a walled garden in a very similar position to the appeal outbuilding. The LDC walls would be 2 metres above ground level and, in this regard, would be similar in both height and appearance to the walls of the proposed outbuilding. The outbuilding would be positioned slightly further towards Flat 1 than the walled garden, but the length of the walls would be similar to those of the proposed outbuilding.
17. I acknowledge that the LDC walled garden could be built as permitted development. Indeed, the evidence is that such development has commenced by digging and concreting a length of foundation, although I could not see that any further works were underway on my site visit. The LDC development does represent a fall-back position: there is a prospect of it being fully constructed. However, and for similar reasons to those outlined above, I find that such permitted development would also cause some harm to the prevailing spacious, green and essentially undeveloped garden land and hence to the overall significance of this part of the CA.
18. The walled garden would be open at one end, would not include a roof and would be devoid of window/door openings. In relative terms, the LDC development would retain a greater sense of openness to the garden area of the flatted development and hence would not be appreciated in the same adverse way as the dominant and more out of keeping appeal development. Therefore, the existence of the LDC, and the ability to lawfully construct a permitted development walled garden, does not justify allowing the subject appeal. Put another way, I consider that the appeal development would have a more harmful impact on the CA than the LDC development.
19. It is understood that there are a number of locally listed buildings in the immediate area including Bishop's Mead. A finding that the proposal would not cause harm to the significance of the of non-designated heritage assets would not overcome my conclusion on the main issue. Therefore, it has not been necessary for me to consider this matter any further.

Conclusion

20. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley, Inspector

¹ LDC Reference 21/0047/192