



Appeal Decision

Site visit made on 31 January 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/N5090/W/21/3277976

Phredella House Lodge, Hyver Hill, London NW7 4HU

- 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 & Mrs P Ragona against the decision of London Borough of Barnet.
 - The application Ref 20/0619/FUL, dated 6 February 2020, was refused by notice dated 22 March 2021.
 - The development proposed is the demolition of the existing dwelling, garage, shed and outbuilding and replacement with two-storey detached family dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of the existing dwelling, garage, shed and outbuilding and replacement with a two-storey detached family dwelling at Phredella House Lodge, London NW7 4HU in accordance with the terms of the application, Ref 20/0619/FUL, dated 6 February 2020, and the plans submitted with it, subject to the conditions within the attached schedule.

Preliminary Matters

2. A Lawful Development Certificate was issued¹ in 2014 for the retention of a self-contained residential unit within the first floor of the detached garage. Permission was also granted² in 2017 to convert the garage into further residential accommodation in support of the first floor flat. Furthermore, the dwelling gained planning permission³ in October 2019 for several extensions that would increase its volume by around 25%. These decisions are material in my consideration, and I shall return to these later in my decision.
3. The Council's fourth reason for refusal relates to the absence of ecological surveys. The Preliminary Ecological Appraisal and Roost Assessment⁴, submitted in support of the appeal, found no evidence of protected species within the building or the site. The Council, upon review of these documents, is content that ecological matters can now be dealt with by planning condition. I see no reason to disagree with this position and shall take this into account in my consideration of the merits of the appeal.

¹ Certificate of Lawfulness Reference: B/05587/14

² Planning Application Reference: 16/7731/HSE

³ Planning Application Reference: 19/2092/HSE

⁴ Preliminary Roost/Ecological Assessments, by Coyne Environmental, dated March/June 2021

Main Issues

4. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt; and
- the effect of the proposed dwelling on the character and appearance of the area.

Reasons

Inappropriate development

5. The development plan for the district includes Barnet's Development Management Policies (2012)(DMP). Policy DM15 of the DMP, and policy G2 of the London Plan, require development in the Green Belt to comply with the National Planning Policy Framework (The Framework). These policies state that development that does not comply with the Framework will be refused unless very special circumstances exist. The Framework explains that the Government attaches great importance to the Green Belt and that substantial weight is to be afforded to any harm. Paragraph 149 establishes that new buildings would be inappropriate unless it would meet a listed exception. Paragraph 149(d) states that the replacement of a building would not be inappropriate provided that the new building is in the same use and is not materially larger than the one it replaces.
6. The phrase 'Materially larger' is not defined by the Framework. This is therefore ultimately a matter for the decision maker, with much depending on the individual circumstances of the proposal. However, a conclusion on this matter cannot be arrived purely on a mathematical calculation as a single factor as the test is primarily an objective one based on size, as referenced by the Framework.
7. It is undisputed that the approved extensions to the building, currently unimplemented, would result in an increase in volume of 25% (with an extended volume of around 430 cubic metres). This was deemed by the Council to not be disproportionate to the original building. The Council's residential design guide states that extensions to dwellings within the Green Belt should not be extended by more than 25% for them to be deemed as proportionate to the size of the original dwelling. Although not directly applicable to this scheme, this shows the proportion of addition that would generally be found to be appropriate in the Green Belt. Therefore, whilst not in itself determinative, this provides a useful indicator as to when additions to existing buildings in the district could be deemed to be materially larger.
8. Although not yet built, the approved extension remains extant. The evidence does not dissuade me from the view that the extension would have a reasonable prospect of being implemented if the proposal were refused. As such, the fallback position presents a significant material consideration when assessing the effect of the existing building and its extensions on the Green Belt.

9. The volume of the proposed dwelling would be around 420 cubic metres. As such, the replacement dwelling would represent a smaller increase in volume, from the original building, than would be achieved by the extended dwelling. Also, the proposed dwelling would be a two-storey flat roofed building and therefore be substantially lower than the existing building. Given this, and my observations on site, I am of the view that the proposed dwelling would not be materially larger than the one it would replace.
10. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would accord with the provisions of paragraph 149(d) of the Framework. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it. Additionally, as the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances.
11. Accordingly, for the above reasons, the proposal would satisfy policy G2 of the London Plan, policies CS1 and CS7 of the Barnet Core Strategy (2012) (CS), policy DM15 of the DMP and the Framework. However, policies CSNPPF and CS5 of the CS, policy DM01 of the DMP and the Council's Residential Design Guidance are not directly relevant to this issue.

Character and appearance

12. Hyver Hill is a single width road. The area consists of large residential properties of diverse styles within landscaped grounds. These stand within generous plots within a dispersed settlement pattern. Mature tree planting exists within these plots, and the wider area, forming a verdant and open character. Phredella Lodge is within the grounds of Phredella House. The Lodge is subservient in form, scale and design to the House. The Lodge was originally built as garaging and ancillary accommodation in support of the main dwelling. Nonetheless, the Lodge has since become a separate dwelling, although this plot is not subdivided by a physical boundary. As such, the Lodge and surrounding land maintain a strong visual connection to Phredella House and its garden. Consequently, the site makes a positive contribution to the open character and appearance of the area.
13. The proposed dwelling would be contemporary in design with bold rectangular shapes and large window openings. Interest and articulation is added by multi-layered elevations, contrasting brick tones and timber boarding. The design would not be traditional in form. Nevertheless, it would be similar to the design approach taken at High Acres and would provide a contrast of style that would complement the diverse range of styles evident within the street. It would also be of limited size and would remain subservient to Phredella House.
14. The proposal would be set behind frontage landscaping and would therefore be relatively discrete within the site. Although views would be gained when travelling north along Hyver Hill, these would be tempered by frontage landscaping and the presence of surrounding built form. Furthermore, due to the size of the plot, and spaciousness evident, the proposed dwelling would not appear cramped or out of character with its surroundings.

15. The land associated with Phredella House and the Lodge is currently not subdivided. However, the garden to the immediate rear of Phredella House is a wide formal lawn area. The lawn is gradually elevated from natural ground level forming a terrace. In contrast, the land to the rear of the Lodge follows the contours of the surrounding land, falling downhill. As a consequence, the landform behind these two buildings is substantially different. As such, a more formal subdivision would not result in a significant alteration to the existing established context of the land. Furthermore, a condition could be imposed to ensure that any proposed boundary between the plots would retain the open character of the site.
16. As such, the proposed dwelling would be in keeping with, and complement, the established open character and appearance of the area. The proposal would therefore comply with policies D1, D3 and D4 of the London Plan, policies CS1 and CS5 of the CS, policy DM01 of the DMP and the Council's Residential Design Guide. These policies seek, among other matters, for development to respond to local distinctiveness and be of a high-quality design.

Other Matters

17. Concerns have been raised by interested parties that the proposal would harm wildlife and affect trees within the site. However, the proposed dwelling would be located largely within the footprint of the existing building with limited further effect on the surrounding land. Furthermore, the ecological surveys have found no protected species would be affected by the scheme. These matters would therefore not raise significant issues that would warrant refusal of the scheme. Furthermore, conditions could be imposed to ensure that trees on site are not damaged during construction and that wildlife enhancement measures are delivered with the development.
18. I am cognizant of the previous appeal decision for the replacement of both dwellings on site. Although each case must be considered on its own merits, that scheme was materially different to the current proposal. The previous Inspector found that the replacement dwelling for Phredella Lodge would be materially larger at 15.2%. However, this related to a comprehensive redevelopment of the site. Furthermore, the dwelling has since gained planning approval to be extended by 25%, which is material to this case. This therefore raised matters which were broader than just the effect of the replacement of the Lodge. The findings of that appeal is therefore of limited weight in my consideration of the merits of this proposal.
19. Each case must be judged on its own merits. Nonetheless, the proposed scheme presents a relatively uncommon set of circumstances and a planning context that would be unlikely to be readily replicated. As a result, concerns raised by interested parties with respect to precedent are unwarranted.
20. The proposed dwelling would include a quantity of parking provision that would be suitable for the size of the dwelling and its location. The level of traffic associated with the proposal would be limited. As such, this would have a negligible impact on the volume of traffic using Hyver Hill.

Conditions

21. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's

suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity.

22. It is necessary for details relating to a Construction Method Statement and Tree Protection Plan to be submitted prior to the commencement of development. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. These are required prior to construction commencing because this relates to the initial setting out of the site and important frontage trees on site could be harmed by construction activity. These measures ensure that the construction process would have a limited impact on the living conditions of adjacent residential occupiers and highway safety and that the trees continue to make a positive contribution to the character and appearance of the area [conditions 3 and 4].
23. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [1 and 2]. Conditions are necessary with respect to the provision of planting, boundaries and materials in the interests of the character and appearance of the area [5, 7 and 8]. It is also necessary to ensure the delivery of the required ecological mitigation to enhance local biodiversity in accordance with policy DM16 of the DMP [6]. Furthermore, it is also necessary for development to reduce water consumption and carbon emissions, to accord with policy CS13 of the Barnet Core Strategy (2012) [9 and 10]. Furthermore, policy D7 of the London Plan requires the dwelling to be constructed to accessibility and adaptability standards to provide for a lifetime home [11].
24. The land is relatively flat and the submitted plans show the proposed dwelling in context with adjoining land and boundaries. As such, the details of site levels are not needed. Furthermore, separate conditions requiring details to prevent mud on the highway and for construction hours are not necessary as these requirements can be included within the Construction Management Plan.
25. The Council has suggested that Permitted Development (PD) rights, conveyed by Schedule 2, Part 1, Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) (England) Order 2015, are removed. The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. The effect of PD works would result in additions to the proposed dwelling that would already be an amalgam of the original building and its extant approval. As such, any further additions would be likely to result in an adverse effect on the openness of the site. Consequently, I am satisfied that these rights should be removed in the interests of the protection of the Green Belt [12].

Conclusion

26. The proposal would accord with the development plan, when taken as a whole, and there are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. As such, the appeal is allowed, and planning permission granted subject to the attached conditions.

B Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1615.P2.02, 1615.P2.05 and 1615.P2.01.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned Tree Protection Plan (TPP) and method statement has been submitted to and approved in writing by the Local Planning Authority. No site works shall take place until the approved TPP 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.
- 5) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building 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 materials as approved under this condition.
- 6) Prior to the occupation of the dwelling, an ecological mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be implemented in accordance with details approved by this condition.
- 7) 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 before the development hereby permitted is occupied. 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 buildings or completion of the development, whichever is sooner, or commencement of the use. 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) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
 - 9) Prior to the first occupation of the dwelling hereby approved it shall have been constructed to have 100% of the wholesome water supplied to them by the mains water infrastructure provided through a water meter or water meters and the 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. Any use of grey water and/or rain water systems needs to be separate from the potable (wholesome) water system and needs to meet the requirements and guidance set out in Part G of the Building Regulations. The development shall be maintained as such in perpetuity thereafter.
 - 10) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 25% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be retained in perpetuity thereafter.
 - 11) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the dwelling it shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future) and 10% constructed to meet and achieve all the relevant criteria of Part M4(3) of the abovementioned regulations. The development shall be maintained as such in perpetuity thereafter.
 - 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, B, C, D and E of Part 1 of Schedule 2 of that Order shall be carried out within the area of development hereby approved.

End of conditions