
Appeal Decision

Site visit made on 15 February 2022

by J Davis BSc (Hons) BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24TH February 2022

Appeal Ref: APP/N5090/W/21/3278652
77 Milesplit Hill, Mill Hill, London, NW7 2RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Philip Reichman against the Council of the London Borough of Barnet.
 - The application Ref 21/1625/FUL, is dated 23 March 2021.
 - The development proposed is demolition and replacement of dwelling house with associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition and replacement of dwelling house with associated car parking and landscaping at 77 Milesplit Hill, Mill Hill, London, NW7 2RS in accordance with the terms of the application, Ref 21/1625/FUL, dated 23 March 2021, subject to conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr & Mrs Reichman against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matter

3. The Council's officer report recommended approval of the application, subject to conditions. Although the Council issued a decision notice to this effect, this was not until the 12 July 2021, some 3 days after the appeal had been lodged. Jurisdiction had therefore transferred from the Local Planning Authority. Accordingly, I have proceeded on the basis that the appeal is against the failure of the Council to determine the planning application within the prescribed period.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Background

5. The appeal site has been the subject of recent planning history, the most relevant of which is the determination of a previous planning application¹ which was subsequently dismissed on appeal² in February 2021 by another Inspector (the previous appeal decision). That Inspector determined that the proposal would be harmful to the character and appearance of the appeal site and the surrounding area due to the proposed roofing materials. The main parties have confirmed that the current appeal proposal is identical to the previous appeal scheme in all respects, apart from the proposed materials for the roof. I consider that the previous appeal decision is a material consideration of significant weight, in the determination of this appeal before me.

Character and appearance

6. The appeal property is a detached two storey dwelling that is of a similar design and appearance to the neighbouring property, No 79 Milesplit Hill. The topography is such that the land rises steeply to the north, towards No.79 and beyond.
7. The surrounding area comprises mainly of two storey detached houses of individual architectural styles and designs, which also display a variety of mainly traditional materials. The dwellings along this part of the road are all set back from the road frontage behind green verges, resulting in it having a verdant character and appearance.
8. The proposed dwelling would respect the scale, form and general proportionality of the existing dwelling and the neighbouring properties. It would also address the change in levels across the site such that it would appear in the street scene to be lower than No 79 and broadly level with No 75.
9. The dwelling would be of a contemporary design and appearance. Nonetheless, the proposed materials comprising red brick and light grey render walling would remain in keeping with the surrounding area. The previous appeal scheme proposed a powder coated metal cladding to the pitched roof. However, the current proposal now proposes a grey tiled roof which, in my view, would be in keeping with the character and appearance of other dwellings in Milesplit Hill which predominantly have tiled roofing materials. Overall, I find that the proposed dwelling would be of a high quality contemporary design that would respect the appearance, scale, height and mass of surrounding dwellings and would be appropriate within its landscape setting.
10. I therefore conclude that the proposed development would not have a harmful effect on the character and appearance of the surrounding area. Thus, it would accord with Policy D3 of the London Plan (2021), Policy CS5 of the Barnet's Local Plan (Core Strategy) Development Plan Document (2012), Policy DM01 of the Local Plan (Development Management Policies) Development Plan Document (2012) and the Residential Design Guidance Supplementary Planning Document (2016). These policies and guidance seek to ensure that, amongst other matters, new development is of a high quality design that respects the appearance, scale, height and mass of surrounding buildings and

¹ LPA ref. 20/0084/FUL

² APP/N5090/W/20/3258682

respects local context and distinctive local character. The proposal also accords with the National Planning Policy Framework (the Framework) in this regard.

Other Matters

11. With regard to comments received from the Mill Hill Preservation Society regarding privacy, I am satisfied that the design of the proposal, including the design of the proposed balcony, would ensure that the living conditions of the occupiers of neighbouring dwellings would not be materially harmed by the proposal.

Conditions

12. I have had regard to the conditions suggested by the Council in their officer's report. The Framework states that conditions should only be attached where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Moreover, it states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. I have assessed the suggested conditions on this basis and made modifications to their wording where necessary in the interests of clarity.
13. I have imposed a condition specifying the approved plans as this provides certainty. I have also imposed a condition requiring details of materials to be provided to ensure a satisfactory external appearance. I also consider it necessary to impose conditions concerning the approval of landscaping details, levels, tree protection and service runs in the interests of the character and appearance of the area. A condition is also required to protect the biodiversity of the site.
14. I have imposed a condition requiring the submission of a Construction Method Statement in the interests of the living conditions of nearby occupiers.
15. I have imposed conditions relating to cycle and refuse storage in order that the proposed development makes acceptable arrangements for these to be provided.
16. I have added conditions relating to water usage, carbon savings and adaptability to ensure a sustainable development.
17. As there are no first floor windows on the flank elevation facing No.79, there is no need to impose a condition controlling glazing.
18. Having regard to the advice within the Framework, I am not persuaded that there is sufficient justification for the blanket removal of permitted development rights set out in Part 1 of Schedule 2 of the Order³.

Conclusion

19. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be allowed.

J Davis

INSPECTOR

³ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

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: Drawing Nos. 10826: E12 Rev A; E13 Rev A; E14; E15; E16 Rev A; E17; L05 Rev A; L07 Rev A; L08 Rev A; P04 Rev A; P05 Rev A; S05 Rev A; S06; SL02; V09 Rev A; V10 Rev A; V11 Rev A and V12 Rev A.
- 3) No above ground works (slab level) shall commence until details of the materials to be used for the external surfaces of the building and hardsurfaced 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.
- 4) No development other than demolition shall take place until the following information shall have been submitted to and approved in writing by the local planning authority: a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings; full details of the proposed finished floor levels of all buildings and hard landscaped surfaces. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place, including demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. This Statement shall provide for:
 - 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, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
 - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
 - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
 - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
 - vii. noise mitigation measures for all plant and processors;
 - viii. details of contractors compound and car parking arrangements;

ix. details of interim car parking management arrangements for the duration of construction;

x. details of a community liaison contact for the duration of all works associated with the development.

The approved Construction Method Statement shall be adhered to throughout the construction period of the development.

- 6)
 - a) 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 prior to the occupation of the hereby approved development.
 - b) 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.
 - c) 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.
- 7)
 - a) The development shall be implemented in accordance with the details contained within: Arboricultural Survey and Impact Assessment Rev A (Tree Survey) - LandArbSolutions; dated 10 March 2021 & associated plan nos. 02 Rev A - Tree Retention and Loss Plan; 03 Rev A - Tree Protection – Demolition; and 04 Rev A - Tree Protection - Construction.
 - b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved 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.
- 8) No development shall take place until details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with details approved under this condition.
- 9) No works hereby permitted shall commence until a licence for development works affecting bats has been obtained from the Statutory Nature Conservation Organisation (Natural England) and a copy has been submitted to the Council. Thereafter mitigation measures in the licence shall be maintained in accordance with the approved details.
- 10) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.

- 11) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.
- 12) Prior to the first occupation of the new dwellinghouse (Use Class C3) hereby approved it shall have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new 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. The development shall be maintained as such in perpetuity thereafter.
- 13) 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 6% 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 maintained as such in perpetuity thereafter.
- 14) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse (Use Class C3) permitted under this consent they 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). The development shall be maintained as such in perpetuity thereafter.

End of Schedule