



Appeal Decision

Site visit made on 21 March 2022

by Cullum J A Parker BA(Hons) PgCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25th April 2022

Appeal Ref: APP/N5090/W/21/3278518

Braewood, 45 Winnington Road, East Finchley, N2 0TR

- 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 KFR Services (UK) Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/0925/FUL, dated 19 February 2021, was refused by notice dated 6 May 2021.
 - The development proposed is described on the appeal form and decision notice as:
Demolition of existing dwellinghouse and erection of replacement dwellinghouse including basement levels, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing dwellinghouse and erection of replacement dwellinghouse including basement levels, landscaping and associated works at Braewood, 45 Winnington Road, East Finchley, N2 0TR in accordance with the terms of the application, Ref 21/0925/FUL, dated 19 February 2021, subject to the conditions set out in Appendix A.

Background and Main Issue

2. Put simply, planning permission was refused for two reasons; firstly relating concerns over harm to the character and appearance of a conservation area, secondly over concerns of the lack of bat surveys.
3. With regard to the latter, a *Bat Emergence Survey Report* has been submitted. The Council, in its Statement¹, confirms that they are '*satisfied...the development could be carried out in such a manner as to have an acceptable impact on protected species. The LPA would therefore be prepared to withdraw its second reason for refusal.*' I see no reason to not concur. In the absence of significant evidence to the contrary, I have proceeded on the basis that it is the first reason for refusal which is in dispute between the main parties.
4. Accordingly, the main issue is whether the proposed development would preserve or enhance the character or appearance of the Conservation Area.

Reasons

5. The appeal site is located on the eastern edge of Winnington Road and is located within the Hampstead Garden Suburb Conservation Area. It comprises

¹ See Paragraph 5.12

a detached, two-storey dwellinghouse which has been extended since it was erected. As detailed within both the Council's and Hampstead Garden Suburb Trust's evidence, the building is an unlikely Elizabethan style manor house by Ewart Dixon from the 1950s with a central shaped gable flanked by two conventional gables; materials are brick with stone facings, mullion windows at first floor level.

6. The surrounding area comprises large, detached two-storey dwellinghouses, sited within large plots with generous front and rear amenity space. The Character Appraisal indicates that *'The final extension to the Suburb came in 1930 with the co-partners' development of the Finchley leasehold extension which added Winnington Road and Ingram Avenue to the Suburb. Houses in these roads were aimed at the very upper end of the housing market, large houses in extensive plots. Uniquely in the Suburb, Winnington Road was developed over a long period, with houses built throughout the 1930s, 50s, 60s and 70s².*
7. It is the overall planned nature of the suburb together with the large dwellings located on spacious plots from which the significance of the conservation area derives; with the Winnington Road element identified as having been built over a long period. I saw during my site inspection that there have been further additions to Winnington Road since the 1970s, formed by large detached dwellinghouses.
8. The proposal seeks the demolition of the existing building on the site and its replacement with another detached dwelling. The building is recognised as a 'positive contribution to the character or appearance of the conservation area'. Policy DM06 of the *Barnet's Local Plan, Development Management Policies September 2012* (DMP) sets out that there will be a presumption in favour of retaining such buildings. Whilst this is not a statutory presumption, it nonetheless requires the decision-maker to consider the total effect of the proposal including the effects of demolition within any balanced judgement.
9. As evidenced by the submitted drawings, and shown on page 13, Paragraph 4.24 of the Appellant's Rebuttal Statement³ the replacement building would be taller. Furthermore, its core - formed by the central gable and flanks - would be wider than the existing building; albeit with a narrower width across the site.
10. Whilst the footprint would alter from an 'L-shape' to a squarer shape, its depth would not be dissimilar to those at the directly adjoining dwellings. Moreover, in practical terms the narrowing of the footprint proposed would reflect both the prevailing pattern of development along Winnington Road and the likely original footprint of the dwelling in terms of its width. Whilst the proposed building would have a visibly larger appearance due to its height and bulk, it would not be out of keeping with other large dwellings found along the eastern edge of Winnington Road.
11. Accordingly, I find that the proposed replacement building would be of an acceptable design which would, in accordance with s72(1) of the PLBCAA, preserve the character of the Hampstead Garden Suburb Conservation Area. I recognise the Council's view that the appeal building is a non-designated

² Hampstead Garden Suburb Conservation Area, Character Appraisal Statement Introduction (undated), page 20

³ Rebuttal to Council's Statement of Case for and on behalf of KRF Services (UK) Ltd, January 2022

heritage asset requiring consideration under Paragraph 203 of the National Planning Policy Framework (the Framework). Taking a balanced judgement, I find that the loss of one building within one small part of the overall larger conservation area and its replacement with a building which would preserve it and be in keeping with the prevailing pattern of development means that the proposal is acceptable in this case.

12. Accordingly, the proposal would accord with Policies DM01 and DM06 of the DMP and Policies D5 and HC1 of the London Plan 2021, which, amongst other aims, seek to ensure that all heritage assets are protected in line with their significance. For similar reasons, the proposal would also accord with the Policies of the Framework and in particular those set out in Chapter 16 – Conserving and enhancing the historic environment.

Other Matters

13. Concerns have been raised by occupiers of nearby properties; I consider these before coming to an overall conclusion. In terms of concerns over the basement and this causing a diversion of a subterranean brook, this is a matter during the construction phase which would be addressed, if necessary, when groundworks take place. In terms of trees and construction impacts, these could be mitigated through the use of appropriately worded planning conditions.
14. With regard to the potential impact on residential amenity, whilst the proposed building would be higher than existing it would be set back further from the adjoining boundaries. In practical terms this would still permit light to enter the adjoining properties. With regard to outlook and sense of enclosure, Nos 47 and 49 are roughly in line with the rear elevation of No 45 and No 43 would continue to have a greater depth than that proposed at No 45. As such, I do not find that the proposal is likely to result in an unacceptable loss of outlook, privacy or light, nor would it create a sense of enclosure for adjoining occupiers.
15. As such, in considering all matters raised by interested parties, I do not find whether individually or in combination, they provide justification for the dismissal of the appeal proposal.

Conditions

16. The Council has suggested 19 planning conditions. I have considered these in light of Paragraph 56 of the Framework and the guidance set out in the national Planning Practice Guidance. I have also considered the Appellant's comments on the suggested conditions contained within their 'Rebuttal to Council's Statement'.
17. Conditions requiring the proposed development to be started within three years, to be built in accordance with the submitted drawings, and details of levels are necessary to provide certainty. A condition relating to the submission and approval of details is necessary and reasonable to provide certainty and protect the character of the conservation area. However, it is not necessary for this to be a pre-commencement condition, and I have amended its wording accordingly.
18. A condition relating to details of refuse collection details is not necessary, enforceable, or reasonable given that there is already a residential building on

site which would benefit from such services. Conditions relating to landscaping plans, tree protection plan, and services are necessary and reasonable to ensure the site is adequately landscaped and that trees within the conservation area are protected. A condition requiring details of the gradient for the proposed vehicular access ramp is not necessary as this information is contained within the Vehicle and Access Parking document which would be subject to condition 1.

19. A condition securing a traffic light control system is not reasonable for a development pertaining to a single dwelling. Likewise, a condition requiring car and cycle parking would be onerous given that there is clearly large areas within the site for the safe storage of both.
20. A condition requiring demolition and construction management plans is reasonable to mitigate the impacts during construction on neighbouring occupiers. A condition requiring visibility splays to be maintained is necessary to protect other highway users, including pedestrian and cyclists.
21. A condition requiring the recommendations of the Bat Survey Report to be implemented and retained is necessary and reasonable in order to protect and enhance local biodiversity. A condition removing permitted development rights is not necessary or reasonable given that such conditions should generally only be used in exceptional circumstances.
22. Lastly, conditions relating to building regulations and water saving, accessibility and carbon dioxide emissions are necessary and reasonable in order to improve the sustainability of the proposal and future occupiers.

Overall Conclusion

23. The proposed development would accord with the adopted development plan and there are no material considerations that indicate a decision otherwise than in accordance with it.
24. For the reasons given above I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appendix A – Conditions imposed

- 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 implemented in accordance with the following approved plans: Drawings: 001A; 002A; 009A; 010A; 011A; 012A; 013A; 020A; 021A; 025B; 030A; 202.1B; 204.1A; 208.1B; 209.1B; 210.1B; 211.1B; 212.1B; 213.1B 220.2C; 221.2C; 225.1C; 226.1A; 227.1A; 230.1C, and Vehicle Access and Parking, ref: 45WR-ARUP-XX-XX-RP-TR-000001, KRF Services (UK) Ltd., 25.11.2020..
- 3) No development above finished floor level, other than demolition works 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 materials as approved under this condition.
- 4) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been 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 retained as such thereafter.
- 5) a) A revised 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.
- 6) a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a tree protection plan and a method statement in accordance with British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) (or any subsequent update or replacement document) have been submitted to and approved in writing by the Local Planning Authority.
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 under this condition 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.

- 7) 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.
- 8) No demolition or construction work shall commence until a Demolition and Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:
 - 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 a community liaison contact for the duration of all works associated with the development.
- 9) No structure including fences or planting exceeding 0.6 metres in height shall be erected to the left or right of the access within the visibility splay at the junction of private access and the public highway.
- 10) Before any demolition works take place, the recommendations for enhancements detailed within the submitted Bat Survey Report (Greengage June 2021) shall be implemented in full and retained as such thereafter.
- 11) Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all 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. Such measures shall be retained thereafter.

- 12) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (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). Such measures shall be retained 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 in carbon dioxide emissions of a minimum of 10% when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. Such measures shall be retained thereafter.

*****END OF CONDITIONS*****