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## Appeal Decision

Site visit made on 16 August 2022

**by Mr M Brooker DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2022**

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**Appeal Ref: APP/N5090/W/21/3287588**

**Land Between 44 and 48 Formerly Known as 46, Brentmead Place, London NW11 9LJ**

- 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 A Wahid Metro Properties Ltd against the decision of London Borough of Barnet.
  - The application Ref 20/4235/FUL, dated 11 September 2020, was refused by notice dated 30 July 2021.
  - The development proposed is Erection of a pair of two-storey semi-detached dwellinghouses with rooms in the roofspace. Associated amenity space and off-street parking.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - i. Flooding
  - ii. Character and appearance of the area
  - iii. Highway safety, with particular regards to car parking
  - iv. Living conditions of the future occupiers with particular regards to internal space.

### Reasons

#### Flooding

3. The appeal site backs on to the River Brent. It is not at dispute between the parties that, as detailed in the appellant's Statement of Case, "The Environmental Agency's Flood Map identifies that the site is located within Flood Zones 1, 2 and 3."
4. In such circumstances, the National Planning Policy Framework (the Framework) states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Sequential Test should therefore be applied to proposals for new development.
5. The appellant has prepared a Sequential Test, dated May 2019. The Planning Practice Guidance clearly states that "the applicant will need to identify

whether there are any other 'reasonably available' sites within the area of search, that have not already been identified by the planning authority in site allocations or relevant housing and/or economic land availability assessments, such as sites currently available on the open market."<sup>1</sup>

6. The study area of the appellant's Sequential Test is detailed as being restricted to the Local Authority Area only and only sites identified in the London Housing Land Availability Assessment, which is identified by the report as dating from 2017, have been considered. It does not appear that the appellant has made any substantive effort to identify any other reasonably available sites in the study area. Furthermore, the report discounts many of the identified sites as a result of the cost or value. No substantive evidence has been submitted to justify this reasoning.
7. As such, I am not satisfied that it has been demonstrated that the appellant has identified and considered all reasonably available sites and has not therefore demonstrated that there are no preferable sites available for development. Therefore, I find that the proposed development would fail to minimise flood risk as it would locate new housing development in an area of higher flood risk contrary to the Sequential Test.
8. As a consequence, the appeal scheme is contrary to policy DM04 of Barnet's Local Plan Development Management Policies (the DMP) and the Framework in so far as they relate to flood risk.

#### Character and Appearance

9. The appeal proposal is for a pair of two-storey semi-detached dwellings with the second storey of accommodation situated in the roof space, set within an established street of single storey properties. At the site visit I saw that there are two-storey dwellings located elsewhere in the local area. It is not at dispute between the parties that the appearance of the proposed dwellings are generally in keeping with the surrounding area and based on the evidence before me I find no reason to conclude otherwise.
10. However, the submitted plans show that the proposed dwellings are set back into the site marginally further than the neighbouring properties in order to accommodate car parking to the front of the appeal site.
11. There is an established building line of the properties fronting on to Brentmead Place. Nonetheless, I saw at the site visit that the properties are not set back by a uniform distance and there are examples of properties being set further back into the site and with larger or smaller front gardens.
12. As such I am satisfied that the appeal scheme would not harm the character and appearance of the area and is not therefore contrary to Policies CS5 of Barnet's Core Strategy DPD (the CS), Policy DM01 of the DMP and the Residential Design Guidance SPD that amongst other matters seeks to protect and enhance Barnet's character.

#### Highway Safety

13. The submitted plans show car parking to the front of the proposed properties. The appellant has submitted a plan titled 'Swept Path Analysis' that shows

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<sup>1</sup> Paragraph: 029 Reference ID: 7-029-20220825

vehicles manoeuvring on the wide footpath and either entering or leaving in a forward gear. The manoeuvring shown on the plans is significantly greater than simply crossing the footpath.

14. The appellant has referred to the infrequent trips generated by the appeal scheme and at the site visit I noted the widespread parking of cars to the front of properties in the local area that would also have to cross or manoeuvre on the footpath to access the carriageway in a forward gear.
15. I also saw that the carriageway is very busy with few gaps in the flow of traffic and find it highly unlikely that the appellants suggestion that "vehicles travelling northeast bound along Brentmead Place, could "take appropriate action should a vehicle be reversing out of the Appeal Site wishing to enter the carriageway" would occur in reality or without impacting on highway safety.
16. It is my planning judgement that the manoeuvring of vehicles on the pedestrian footpath and the entering or existing of vehicles from the busy road carries with it an unacceptable risk to highway safety.
17. The appellant has submitted extensive evidence with regards on street carparking in the area, concluding that there is sufficient car parking capacity to accommodate any additional carparking demand generated by the appeal scheme. Based on the evidence before me I find no substantive reason to conclude otherwise.
18. For the reasons detailed above I find that as a result of vehicles manoeuvring on the footway adjacent to the front of the appeal site the appeal scheme would result in unacceptable harm to highway safety and thus is contrary to Policy T4 of the London Plan, Policy CS9 of the CS and Policy DM17 of the DMP with regards highway safety.

#### Living Conditions

19. The appellant acknowledges that "each dwelling has a gross internal floor area of 67 sqm, which is just 3 sqm below the standards set out within Table 3.1 of the London Plan" and that "79% of the GIA has a floor to ceiling height of 2.5m or more" as such the amount of usable floorspace would be further reduced as a result of insufficient ceiling height.
20. While the appellant refers to the shortfall as minimal, no substantive justification or reasoning for the shortfall in what are two new build residential properties has been provided. Reference is made to another development where a short fall was accepted, however I do not have all of the details of the policies and circumstances that applied in respect of that scheme.
21. There is a clear shortfall in the gross internal floor area required by policy D6 of the London Plan and the accompany table 3.1 without any reasoned justification. I therefore find that the appeal scheme would fail to provide adequate living conditions for future occupiers contrary to the provisions of Policy D6 of the London Plan, Policy CS5 of the CS and Policies DM01 and DM02 of the DMP that amongst other matters seeks to protect the living conditions of future occupiers.

### **Other Matters**

22. The development of the appeal site as proposed would create two dwellings in an accessible location with good access to public transport and services. However, this benefit would not outweigh the harm I have above.

### **Conclusion**

23. For the reasons given above I conclude that the appeal should be dismissed.

*Mr M Brooker*

INSPECTOR