



Appeal Decision

Site visit made on 13 September 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2022

Appeal Ref: APP/N5090/W/21/3287757

Canteen Building, Pembroke Road, London, N10 2NL

- 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 A Matur of Harman Enterprise Ltd against the Council of the London Borough of Barnet.
 - The application Ref 20/6029/FUL, is dated 7 December 2020.
 - The development proposed is demolition of existing school canteen building and construction of six No. 3 bedroom two storey dwellings with room in roof space, associated off-street parking, refuse/waste storage.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing school canteen building and construction of six No. 3 bedroom two storey dwellings with room in roof space, associated off-street parking, refuse/waste storage at Canteen Building, Pembroke Road, London, N10 2NL in accordance with the terms of the application, Ref 20/6029/FUL, dated 7 December 2020, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr A Matur of Harman Enterprise Ltd against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Main Issues

3. The main issues are whether the development would, firstly, secure adequate replacement playing field provision and, secondly, provide adequate living conditions for future occupiers with regard to outdoor private amenity space.

Reasons

Replacement playing field provision

4. The appeal site comprises a disused former canteen building and part of a playing field. It fronts onto Pembroke Road and adjoins the remaining part of the school playing field to the east.
5. Paragraph 99 of the National Planning Policy Framework ('the Framework') states that "*existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless ... the loss resulting from*

the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location". Policies DM13 and DM15 of Barnet's Development Management Policies DPD (2012) set out similar requirements in this regard. These policy requirements are clearly applicable to the development despite the appeal site being in separate ownership to the school.

6. Hollickwood Primary School received a letter from the Secretary of State for Education (dated 31 July 2019) that approved the disposal of the playing field under Schedule 22, s77(1) and s77(3) of the School Standards and Framework Act 1998, subject to conditions. One such condition stated that *"the capital cost of the new facilities (including the 1,385 m2 MUGA) at Hollickwood School is fully funded by the receipt"*. However, no timetable is attached to this requirement, and these works could therefore be significantly or indefinitely delayed. In this regard, it is more than 3 years since this letter was issued and no works have yet been undertaken to deliver the replacement provision.
7. In these circumstances, greater certainty is required to ensure that the replacement provision is delivered. This is capable of being secured via a Grampian condition requiring that the replacement playing field provision is delivered prior to commencement of development. As this matter is capable of being dealt with by condition, a planning obligation is unnecessary in this case.
8. For the above reasons, I conclude that the development would secure adequate replacement playing field provision. It would therefore accord with Policies DM13 and DM15 of Barnet's Development Management Policies DPD (2012), and guidance in the Framework relating to sports and recreational buildings and land, including playing fields.
9. Separately, the Decision Notice also refers to Policy DF1 of the London Plan, and the Planning Obligations SPD (2013). However, as I have concluded that this matter is capable of being dealt with via a planning condition, this policy and guidance are not directly relevant to this matter.

Living conditions – future occupiers

10. The Sustainable Design and Construction SPD (2016) states that new houses with up to 6 habitable rooms should provide a minimum of 70 square metres of outdoor amenity space. However, it also states that any room of more than 20 square metres is calculated as two habitable rooms. In this regard, the submitted plans indicate that bedroom 3 would be 20.8 square metres in size. It is therefore submitted that the development should meet the higher SPD requirement for houses with up to 7 habitable rooms, which is a minimum of 85 square metres of outdoor amenity space. Only one of the proposed garden spaces would achieve this latter standard.
11. Table 2.2 of the SPD defines habitable floorspace in rooms with sloping ceilings as that with 1.5 metres or more of ceiling height. In this regard, bedroom 3 is located in the roof space and has sloping ceilings on 2 sides. The appellant states that bedroom 3 would have 19.5 square metres of floorspace with at least 1.5 metres of ceiling height. Whilst the basis for this calculation is not before me, it is a plausible figure in light of the submitted floorplan and section drawings. Accordingly, I consider that the development would meet the relevant SPD standard, which is for new houses with up to 6 habitable rooms.

12. For the above reasons, I conclude that the development would provide adequate living conditions for future occupiers with regard to outdoor private amenity space. It would therefore accord with Policy D6 of the London Plan (2021), Policy DM02 of Barnet's Development Management Policies DPD (2012), and guidance contained in the Sustainable Design and Construction SPD (2016). It would also be consistent with the Framework in this regard, which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

13. The surrounding area consists mainly of 2 storey terraced and semi-detached houses. Whilst many of the surrounding properties have a traditional appearance, there are several examples of modern and infill developments in the vicinity, including along Pembroke Road itself. The development would have a contemporary appearance but would incorporate traditional features such as bay windows, roof parapets, and slate roofs. It would also be comparable in height and density to other terraced properties along the street. In my view, it would not appear out of keeping in this context.
14. Concerns have been expressed regarding a shortage of on-street parking in the area. However, the development would provide a policy compliant level of off-street parking to accommodate vehicles associated with the development. Whilst some existing on-street spaces would be displaced, this would only affect a small number of spaces, and there is already a crossover in place at present to access the canteen building. I further note that the Highway Authority has not objected to the development on these grounds.
15. The interface distance between the proposed houses and those opposite would replicate the arrangement that exists along the street. This would not result in any significant loss of privacy in my view. Whilst it is asserted that the development would result in the loss of spacious views across the site, a change of view from a private window is not in itself regarded as a planning consideration.
16. Any disturbance during the construction period would be short-term and could be mitigated by careful construction management. This is capable of being controlled by condition.
17. It is asserted that the development would raise safeguarding issues given that it would have direct views over the school playing field at the rear. However, it is not uncommon for housing to back onto school playing fields, and I note that the school itself has not objected to the development on these grounds.
18. The creation of 6 houses would generate only a modest amount of traffic. This would not have any significant impact on either the local road network or local air quality.
19. It is indicated that permeable paving would be used at the front of the proposed dwellings to enable rainwater to percolate directly into the ground below. This is capable of being secured by condition.
20. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this decision.

Conditions

21. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A condition relating to replacement playing field provision is necessary to ensure that this is delivered before the development commences. In this regard, a letter from Hollickwood School has been submitted setting out an anticipated timetable for the delivery of a new multi-use games area, which is expected to be completed by September 2024. However, I have adjusted the standard time limit condition from 3 to 5 years to allow for any slippages in those timescales.
22. A condition requiring the submission and approval of a Construction Method Statement is necessary in order to protect local air quality and the living conditions of neighbouring occupiers during the construction process. A further condition requiring the submission and approval of a Tree Protection Plan is necessary to protect adjacent trees and to implement the recommendations of the submitted Tree Survey, Arboricultural Impact Assessment and Method Statement. A condition requiring the submission of a further bat survey is necessary in order to ensure that any roosts are detected before construction begins. In this regard, the submitted Bat Emergence Survey is dated to September 2021, and states that it is valid for 1 year only. These conditions are pre-commencement in nature as they will inform the construction and/or demolition process. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to these conditions in writing.
23. Conditions requiring the submission and approval of level details, and a parking layout, are necessary in order to protect the character and appearance of the area, to provide an appropriate access gradient, and to ensure appropriate visibility splays. Conditions relating to boundary fencing and requiring the submission and approval of a lighting strategy are necessary in the interests of ecology. Further conditions relating to accessible and adaptable dwellings, water saving and efficiency measures, and carbon dioxide emissions, are necessary in order to comply with standards adopted in the London Plan (2021). Another condition relating to cycle parking is necessary to ensure the cycle stores are appropriately located. Conditions relating to external materials and landscaping are also necessary to ensure an acceptable appearance and to deliver biodiversity enhancements. Finally, it is necessary to remove some permitted development rights in order to preserve the character and appearance of the area, and to ensure that adequate garden space is retained.
24. The Council also suggested a condition relating to refuse collection arrangements. However, this is unnecessary for a scheme of this size where frontage bin stores are proposed. A condition requiring a before and after survey of the highway is also unnecessary for a scheme of this size. Another suggested condition relating to electric vehicle charging points is unnecessary given that this is now a requirement of the Building Regulations.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 5 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1411-00; 1411-01; 1411-02; 1411-03; 1411-09 Rev A; 1411-10 Rev A; 1411-20 Rev A; 1411-30; 1411-40; 1411-50 Rev A; 1411-60 Rev A; 1411-70 Rev A; 1411-100; 1411-101.

Pre-commencement conditions

- 3) No development shall take place until a new multi-use games area, as indicated in Annex 1 of the Department of Education letter (Ref LT 2284-2286, dated 31 July 2019), has been implemented within the grounds of Hollickwood Primary School, or alternative replacement playing field provision has been implemented having previously been submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until a bat survey has been undertaken by a professional ecologist and the results and recommendations have been submitted to and approved in writing by the Local Planning Authority. The survey must follow current good practice guidelines (Collins, 2016). Any necessary mitigation measures identified by the survey shall be implemented in accordance with a timetable that shall first be submitted to and approved in writing by the Local Planning Authority.
- 5) 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:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the methods to be used and the measures to be undertaken to control noise and vibration arising from the construction works;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) No site clearance, preparatory work or development shall take place until a tree protection plan in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the

Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

Pre-commencement conditions (other than demolition)

- 7) No development other than demolition shall take place until details of the levels of the proposed buildings and footpaths in relation to the adjoining land and highway 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 approved details.

Prior to development above ground level conditions

- 8) Notwithstanding condition 2, no development above ground level shall take place until a parking layout plan including details of visibility splays shall be submitted to and approved in writing by the Local Planning Authority. The approved parking layout shall be implemented prior to the first occupation of the development. The off-street parking spaces shall thereafter not be used for any purpose other than the parking and turning of vehicles in connection with the development.

Pre-occupation conditions

- 9) Notwithstanding condition 2, the development hereby permitted shall not be occupied until details of boundary treatments that are permeable to species such as hedgehogs and common toad have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) Notwithstanding condition 2, the development hereby permitted shall not be occupied until details of cycle parking, including the location and type of cycle stands and store proposed, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the development and shall thereafter be retained.
- 11) Notwithstanding condition 2, the development hereby permitted shall not be occupied until it has been constructed to meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. The development shall thereafter be maintained as such in perpetuity.
- 12) Prior to the first occupation of the development, it shall be constructed to include water saving and efficiency measures to ensure that a maximum of 105 litres of water is consumed per person per day. The development shall thereafter be maintained as such in perpetuity.
- 13) Prior to the first occupation of the development, it shall be constructed to incorporate 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. The development shall be maintained as such in perpetuity thereafter.
- 14) Prior to the first occupation of the development, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the materials, species, planting heights, and positions of the proposed landscaping works. All planting, seeding or turfing comprised in the approved scheme

shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 15) Prior to the first occupation of the development, material samples of the privacy screens to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved privacy screen materials shall be installed prior to the first occupation of the development and shall thereafter be maintained as such in perpetuity.
- 16) Prior to the first occupation of the development, a lighting strategy to minimise impacts on bats and their insect food shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be installed prior to the first occupation of the development and shall thereafter be maintained as such in perpetuity.

Other conditions

- 17) No development involving the use of any facing or roofing materials shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by Classes A, B, D, E, or F of Part 1 of Schedule 2 of that Order shall be carried out within the area of the development hereby approved.