



Appeal Decision

Site visit made on 16 November 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Appeal Ref: APP/N5090/W/22/3299507

6 Uphill Drive, London, NW7 4RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Zareen Aslam against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 22/1394/S73, dated 28 February 2022, was refused by notice dated 13 May 2022.
 - The application sought planning permission for development described as: Erection of a two storey dwelling following the demolition of existing house. Associated refuse/recycling store and new front boundary wall, without complying with a condition attached to planning permission Ref: 21/5143/FUL, dated 13 January 2022.
 - The condition in dispute is No. 1 which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans: 6UD-FUL-01; 6UD-FUL-03A Rev A; 6UD-FUL-02A Rev A; 6UD-FUL-04D Rev D; 6UD-FUL-05D Rev D; -6UD-FUL-06D Rev D; and Site Location Plan.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).*
-

Decision

1. The appeal is allowed, and planning permission is granted for the erection of a two storey dwelling following the demolition of existing house. Associated refuse/recycling store and new front boundary wall, without complying with a condition attached to planning permission Ref: 21/5143/FUL, dated 13 January 2022 at 6 Uphill Drive, London, NW7 4RR in accordance with the terms of the application, Ref: 22/1394/S73, dated 28 February 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 13 January 2022, the Council granted planning permission (Referenced 21/5143/FUL) for development described as: 'Erection of a two storey dwelling following the demolition of existing house. Associated refuse/recycling store and new front boundary.' This permission was granted subject to a condition which set out the approved drawings. The appeal proposal seeks to substitute a new set of drawings for those previously approved.
3. The Decision Notice issued by the Council for the appeal proposal describes the proposal as 'Variation of Condition 1 (Approved Plans) of planning permission

reference 21/5143/FUL, dated 13/01/2022, for 'Erection of a two storey dwelling following the demolition of existing house. Associated refuse/recycling store and new front boundary wall. Variation to include ground floor increase to the rear by 600mm.' The appellant has also adopted this wording on the appeal form. Whilst the proposal does seek to change this condition, the practical effect of allowing the appeal would be to create a new, independent, permission to carry out development the same description as previously permitted, subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It would be open to the appellant to decide whether to implement the new permission or the one originally granted.

4. I have, therefore, determined the appeal on the basis that it is for the erection of a two storey dwelling following the demolition of the existing house with an associated refuse/recycling store and a new front boundary wall as this was the description of the development for which planning permission was originally granted.

Main Issue

5. The main issue in this appeal is the effect of varying the condition specifying the approved drawings on the character and appearance of the area.

Reasons

6. The appeal site comprises a two storey, detached, house and associated garden areas that is part of a small group of houses located on a short section of slip road off Watford Way (A1). Although varying in design, the houses are of similar proportions, heights, and frontage widths. They stand in large plots with forecourt parking accessed from Uphill Drive and generous rear gardens. I saw when I visited the site that most, if not all, of the buildings have been altered or extended, with the exception of number 16 which appears to be a purpose built block of flats.
7. The surrounding area is predominantly residential and relatively low density, comprised mainly of fairly substantial houses with large rear gardens. Well established trees and planting within garden areas, together with small areas of open space adjacent to Mill Hill Circus and wide verges to the A1, provide the area with a green and open appearance, although this is tempered by the presence of the busy, dual carriageway, trunk road.
8. A short distance to the south of the appeal site is a mixed use district centre focussed on The Broadway, which provides a connection to Mill Hill Broadway railway station. The appeal site is not within a conservation area, nor have I been made aware of the presence of any listed buildings nearby.
9. The proposed development involves the demolition of the existing house on the site and the construction of a new two storey house with accommodation within the roof space. The main part of the new house would be on a roughly trapezoidal plan form with two projecting, single storey, "wings" on the ground floor rear elevation, enclosing an open terrace area.
10. From the evidence that I have before me, the appeal proposal is essentially identical to the replacement dwelling that was granted planning permission in January 2022 with the exception of the ground floor rear wings which, as part

of the appeal proposal, would project 600mm further from the main rear wall of the dwelling than those in the approved scheme.

11. The Council does not have any objection in principle to the redevelopment of the site but has raised objections to the proposed amendment to the scheme on the grounds of the visual effect of the proposal and on the size and massing of the proposed house.
12. I saw when I visited the site that most of the houses in the street have been extended or altered in some way and I observed that the immediately neighbouring properties at numbers 4 and 8 Uphill Drive have both been extended to the side and to the rear at ground floor level. The houses on Uphill Drive are laid out in a crescent format resulting in wedge shaped plots which are wider at the rear than across the frontage. This, in combination with the long rear gardens gives the properties very generous space to the rear. Although the appeal building backs onto properties in Newcombe Park, these also have long rear gardens adding to the open and spacious nature of the area to the rear of the houses. I also saw that there are established trees on the rear boundary which provide an element of screening between the appeal site and the properties to the rear.
13. To one side of the rear elevation of the current house at the appeal site there is a large, single storey, rear addition with a hipped roof that presently projects past the single storey rear addition to the neighbouring property at number 8 by a short distance. The proposed rear wing on this side of the new dwelling would project further, by approximately 2.1 metres. The matching rear wing on the opposite side of the ground floor of the proposed house would also extend past the extension to the side and rear of number 4 by approximately 2.9 metres. However, due to the shape of the plots and the relative positions of the houses, which are set at an angle to each other, the rear elevations of the houses in the street are not perceived as a regular or uniform building line. I also saw that due to the curved nature of the street and the proximity of the houses to each side that the extent of the rear wings of the proposed dwelling would not be readily discernible from the public domain.
14. Whilst the footprint of the proposed new dwelling would reduce the amount of rear garden available to the property, I observed that at its shortest point, on the eastern side of the site, there would still be approximately 15 metres depth of garden remaining. On the western side of the site, the remaining depth would be greater. Due to the wedge shape of the plot, the rear garden area has a substantial width and, in combination with the depth that would remain post-development, the remaining garden area would still be broadly consistent with the size of other rear gardens in the locality.
15. I have noted the Council's point that the previously approved scheme was amended during the course of its consideration to reduce the projection of the rear wings by 1 metre. The appeal proposal does not seek to re-instate these to the earlier size sought. Although I have had regard to the Council's assessment of the currently proposed revision, in the context of the large plot and the overall footprint and massing of the proposed new dwelling, from what saw when I visited the site, I find that the proposed alteration to the approved scheme would not have a material effect on the overall size and massing new dwelling compared to what was previously approved.

16. In addition, I have noted that the Council do not consider that the degree of projection beyond the existing rear additions to the neighbouring houses would have an adverse effect on these properties in terms of daylight, sunlight, privacy, and outlook. As these properties are the only ones from which the proposal would be readily visible, this somewhat contradicts the Council's assessment that the proposal would result in the proposed house having a more pronounced and overly dominating appearance.
17. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Policy D3 of the London Plan 2021; Policies CS1 and CS5 of the LB Barnet Local Plan (Core Strategy) Development Plan Document 2012; Policy DM01 of the LB Barnet Local Plan (Development Management Policies) Development Plan Document 2012; and the Barnet Residential Design Guidance Supplementary Planning Document 2016 which, when read together, expect new development to be of a high standard of design that is the most appropriate form for the site; positively responds to local distinctiveness and the character of the place; and respects the appearance, scale, mass, height, and pattern of surrounding buildings, spaces, and streets.

Other Matters

18. Two representations have been made by interested parties, one of which is in support of the proposal. The second representation, from the occupier of the neighbouring property at 8 Uphill Drive, raises concerns that the proposal is to increase the height of rear wing which would restrict outlook from rear of their house.
19. There is nothing in the evidence which would indicate that the height of the rear wing of the proposed new dwelling would be increased above the height of that previously granted planning permission. The submitted drawings show that the additional 600mm projection proposed by the appeal scheme would not affect the ground floor windows of the neighbouring property and that level of the roof of the projecting rear wing would be below the level of the first floor of 8 Uphill Drive. This was confirmed by what I saw at the site visit.
20. Number 8 Uphill Drive is also set at a slightly higher level than the appeal site due to the topography of the area. From my observations at the site visit, I would concur with the Council's assessment that the appeal proposal would result in no adverse effect on outlook from the neighbouring properties.

Conditions

21. For the avoidance of doubt, I have attached a condition specifying the approved drawings. An application made under Section 73 of the Town and Country Planning Act 1990 cannot extend the time period for the implementation of the original planning permission and I have therefore attached a condition requiring that the development be commenced by 13 January 2025, this being the date on which the original planning permission would have expired.
22. The previous planning permission was granted subject to a number of conditions in addition to the condition specifying the approved drawings. There is nothing in the evidence which would indicate that these conditions are not still necessary or required. Consequently, I have re-imposed the remaining

conditions that were attached to Planning Permission Reference: 21/5143/FUL. I have, however, amended the wording of Condition 10 to update the drawing number referred to and in order to reflect the alteration to the proposed ground and first floor plans. I have no information in respect of whether any of these previous conditions have been discharged but, in the event that any have been, this would be a matter for the appellant to resolve with the Council.

Conclusion

23. I have found that the proposed development would not cause harm to the character and appearance of the area and would comply with the relevant requirements of the policies in the development plan that are most important for determining the appeal.
24. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

John Dowsett

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 13 January 2025.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 6UD-FUL-01; 6UD-FUL-02A Revision A; 6UD-FUL-03A Revision A; 6UD-FUL-04E Revision E; 6UD-FUL-05D Revision D (only in so far as it relates to the proposed front elevation); and 6UD-FUL-06E Revision E.
- 3)
 - a) 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.
 - b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.
- 4)
 - a) No development shall take place until details of the levels of the building, roads, 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.
 - b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.
- 5)
 - a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
 - 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 contractor's 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.
- b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.
- 6) Before the development hereby permitted is first occupied, or the use first commences, the parking spaces shown on Drawing No. 6UD-FUL-04E Revision E shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.
- 7)
 - a) 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.
 - b) The development shall thereafter be implemented in accordance with the details as approved under this condition and the spaces shall be permanently retained thereafter.
- 8)
 - a) 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.
 - b) 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.
- 9)
 - a) 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.
 - b) The treatment of boundaries should be permeable to species such as hedgehogs (*Erinaceus europaeus*) and common toad (*Bufo bufo*), with the introduction of a minimum of 1no. 13 x 13cm ground level access 'hedgehog hole' between the application site and each neighbouring piece of land to enable connections and prevent the fragmentation of habitat.
 - c) 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.
- 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 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.
- 11) 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 it by the mains water infrastructure provided through a water meter or water meters and the 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.
- 12) 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, it shall 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.
- 13) Before the building hereby permitted is first occupied the proposed windows in the flank elevations facing no.4 and no.8 Uphill Drive shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.
- 14) a) Notwithstanding the approved plans, before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority.
- b) The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
- 15) 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. The scheme shall include a minimum of 2no. replacement trees to compensate for the trees due to be lost.
- 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.
- 16) 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 Class of Part 1 of Schedule 2 of that Order shall be carried out within the area of 6 Uphill Drive, NW7 4RR, hereby approved.
- 17) The flat roofs of the dwelling hereby permitted unless otherwise shown on the approved drawings shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.