



Appeal Decision

Site visit made on 18 January 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/N5090/W/22/3306986

51 Bittacy Hill, Mill Hill, Barnet, London NW7 1BS

- 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 Eli Baron of SEB Homes Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/3465/FUL, dated 1 July 2022, was refused by notice dated 27 August 2022.
 - The development proposed is demolition of existing detached house and erection of a three-storey building to provide nine dwellings. Provision of amenity space and refuse and recycling and secure cycle storage.
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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) The character and appearance of the area and the setting of the locally listed Mill Hill East Underground Station building;
 - ii) The living conditions of neighbouring occupiers on the south side of Bittacy Road by way of any loss of light or outlook; and
 - iii) The living conditions of the future occupiers of Units 2 and 3 by way of outlook.

Reasons

Character and appearance

3. The appeal site lies adjacent to Mill Hill East Underground Station (the 'Station') and is currently occupied by a traditional 2-storey dwelling. It is bound on its various sides by the station car park, the station's pick-up/drop-off area and bus stop accessible from the B552 Bittacy Hill, and residential development on Bittacy Road. On the opposite side of the B552 is a large modern residential-led development known as Millbrook Park.
4. The Station building is locally listed, and accordingly is treated as a non-designated heritage asset for the purposes of decision-making. Though I have not been provided with a full copy of the Council's listing description, an excerpt has been provided as part of the appellant's evidence, which describes it as remaining largely in its original built form. The main entrance and ticket hall is a single storey building. The Station has a single platform which is raised

above the ticket hall, and contained partially within a taller 2-storey building which sits behind the ticket hall. All of the Station buildings are traditionally designed featuring pitched roofs.

5. I note the appeal site benefits from planning permission granted in January 2022 under application ref: 20/2061/FUL. The description, which I have taken from the appellant's statement and the Council's officer report, I understand to be: *"Demolition of existing detached house and erection of a three-storey building to provide seven dwellings. Provision of refuse and recycling and secure cycle storage"*. I have been provided with a copy of the previously approved plans as part of the appellant's evidence, and these are a material consideration in my decision. It seems probable to me that the previously approved scheme, or some future version of it, would be implemented in the event of this appeal failing, and it therefore represents a likely fallback position for the appellant.
6. The proposals subject to the current appeal comprise an amended scheme to that already approved and would deliver 2 additional units. Though I note the description used on both the appellant's planning application form and the Council's decision notice refer to a *"three-storey"* building, the submitted plans show a significant four-storey element.
7. Whilst the previously approved scheme would be marginally higher than the ridge line of the closest dwellings on Bittacy Road, the significant 4-storey element of the proposed development would rise significantly above this height and appear as a notably more dominant structure in the surroundings. Whilst I acknowledge the presence of significantly taller development on the opposite side of the B552, there is a notable difference in the character of development on the opposite sides of the road. The proposed development would appear isolated among the existing development of notably more modest scale on its side of the B552.
8. Furthermore, the immediate area derives a significant degree of its character from that of the locally listed Station and the prominence it retains. Despite its modest proportions, it is distinctly visible in the surroundings, and this reflects its importance as a key transport link. Despite the appellant's stated efforts to avoid the development competing with the architectural form of the locally listed building, the overall scale and massing of the proposed development, particularly its substantial height, would jar uncomfortably with the more modest station building. Whilst I find no specific harm to arise through the detailing or materials proposed, these are neutral factors that would not outweigh the harm arising through the scale and massing of the proposed development.
9. For the above reasons, I conclude that the proposed development would result in harm to the character and appearance of the area and the setting of the locally listed Mill Hill East Underground Station building, which would conflict with Policies D3 and HC1 of The London Plan (2021) (the 'LP2021'), Policies CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) (the 'CS'), Policies DM01 and DM06 of Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) (the 'DMP'). Together these policies seek, among other objectives, to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness, to seek the highest standards of

urban design, to respect local context and distinctive local character, and conserve the significance of heritage assets by being sympathetic to the assets' significance and appreciation within their surroundings.

Living conditions of neighbouring occupiers

10. The tallest elements of the proposed building would be 4 storeys in height. Whilst these parts of the development would be stepped back from the parts of the building closest to neighbouring dwellings, even these elements would sit closely to neighbouring dwellings. The resulting stark contrast with the height of neighbouring buildings would result in an uncomfortable relationship with the closest dwellings on Bittacy Road, and a harmful loss of outlook from the windows to the rear of the adjacent 2-storey block of flats.
11. Whilst I have been provided with no daylight or sunlight assessment, the site lies to the south of the dwellings in the adjacent flat block. Based on this, as well as the proximity to the dwellings and relative height of the proposed development, it would lead to an uncomfortable degree of overshadowing to neighbouring properties.
12. For the above reasons, I conclude that the proposed development would result in overall harm to the living conditions of neighbouring occupiers through loss of light and outlook, which would conflict with Policies D3 and D6 of the LP2021, Policy CS5 of the CS, and Policy DM01 of the DMP. Together these policies seek, among other objectives, to deliver appropriate outlook, privacy and amenity, to provide sufficient daylight and sunlight to new and surrounding housing and to contribute to people's sense of place, safety and security. It would also conflict with the aims of the Barnet Sustainable Design and Construction Supplementary Planning Document (October 2016) (the 'BSDSPD'), which has similar aims.

Living conditions of future occupiers

13. Whilst the appellant states that all units are dual aspect, Unit 2 is largely single aspect save for one window in the kitchen. This would provide views from the narrowest part of the kitchen, over the kitchen work surfaces, towards the area outside the main entrance to the building. Every other window serving the living, dining and bedroom areas would face on to the private amenity area, which would comprise a narrow strip of land bound by close-boarded fencing. Views out would be dominated by the close-boarded fencing at very close proximity, which would lead to an enclosed and claustrophobic experience for occupiers.
14. Whilst some windows in Unit 3 would have similar levels of outlook, the unit as a whole would be triple aspect, and the majority of rooms would be dual aspect. This would have a beneficial effect on the living conditions of occupiers, affording alternative views in rooms where some windows offer limited outlook. Accordingly, I do not find Unit 3 would deliver unacceptable outlook for future occupiers.
15. For the above reasons, whilst I have identified no harm with regard to Unit 3, I conclude that the proposed development would result in overall harm to the living conditions of future occupiers of Unit 2 through unacceptable outlook, which would conflict with Policy D3 of the LP2021, Policy CS5 of the CS, and Policy DM01 of the DMP. Together these policies seek, among other objectives,

to deliver appropriate outlook, privacy and amenity for potential occupiers, and create attractive, safe and secure environments. It would also conflict with the BSDSPD, which has similar aims.

Other Matters

16. The National Planning Policy Framework (the 'Framework') emphasises the Government's objective to significantly boost the supply of housing. The proposed development would contribute to this objective and deliver 9 additional dwellings in a sustainable and accessible location. However, the weight I attach to these benefits does not outweigh the harm I have identified.
17. I acknowledge that the Council referred to an additional point in their submitted evidence relating to biodiversity net gain, whereby the Council's Ecology Officer advised that the application should not be determined in the absence of evidence of biodiversity net gain. Notwithstanding that this issue had not been raised previously as part of the determination of the planning application, on the basis of the harm I have previously identified this would not be a determinative factor in my overall decision.

Conclusion

18. The proposed development would conflict with the development plan as a whole. There are no material considerations that would lead me to a decision other than in accordance with the development plan. For the above reasons, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR