



Appeal Decision

Site visit made on 8 September 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/N5090/W/22/3312714

1 Parson Street, Hendon, Barnet, London NW4 1QD

- 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 Philip Pell (Sentware Ltd) against the Council of the London Borough of Barnet.
 - The application Ref 22/3014/FUL, is dated 8 June 2022.
 - The development proposed is Demolition of existing building and construction of part three/part four storey mixed use building comprising 8 residential units and office floorspace at ground floor level. Associated amenity space, refuse storage, cycle parking and off-street parking.
-

Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing building and construction of part three/part four storey mixed use building comprising 8 residential units and office floorspace at ground floor level. Associated amenity space, refuse storage, cycle parking and off-street parking at 1 Parson Street, Hendon, Barnet, London NW4 1QD in accordance with the terms of the application, Ref 22/3014/FUL, dated 8 June 2022, subject to the conditions set out in the attached Schedule of Conditions.

Applications for costs

2. An application for costs was made by Mr Philip Pell (Sentware Ltd) against the Council of the London Borough of Barnet. This is the subject of a separate Decision.

Background and Main Issues

3. Following the submission of the appeal against non-determination, the Council has clarified the decision it would have taken on the application had it done so within the statutory time period. The Council would have refused the application. The specific reasons provided relate to the effects of the proposed development upon the living conditions of the occupants of certain neighbouring properties and, the living conditions which would be provided for certain occupants of the proposed development. I also particularly note the focus placed upon parking within the representations made by interested parties. Given this context, the main issues are:
 - The effect of the proposed development upon the living conditions of the occupiers of 5 Florence Street and 5-7 Parson Street;

- Whether appropriate living conditions would be provided for the future occupiers of proposed flat G.01 with particular reference to the proposed window provision within bedroom 4; and
- Whether parking provision would be acceptable having regard to highway safety.

Reasons

The living conditions of the occupiers of 5 Florence Street and 5-7 Parson Street

4. The appeal site is a roughly L-shaped parcel of land containing buildings which front onto both Parson Street and Florence Street. In so doing, the existing buildings on the site run adjacent to the side of neighbouring 5 Florence Street (No 5) and to the back of 5-7 Parson Street (Nos 5-7).
5. The existing site building adjacent to No 5, by reason of its height and length, already creates a strong sense of enclosure beyond the shared boundary. Although the proposed replacement building would be taller and, would contain 3 floors of accommodation, the uppermost floor would be within the roof space. This roof space would have a hipped roof profile which would slope away from No 5. In the proposal, a gap would be maintained to the side elevation of No 5 for the purposes of garden and parking. The design would therefore moderate its effects upon the neighbouring occupiers. The back garden of No 5 is located to the south of the house and, given this orientation, it will benefit from sunlight. The windows in the side elevation of No 5 which would flank the proposed development serve a hallway area and a bathroom rather than the main living spaces of the property.
6. For these reasons, the proposed development would not harm the outlook of, or be overbearing upon, the occupiers of No 5 to an unacceptable degree. Furthermore, any reduction in daylight entering windows within No 5, including those within the rear elevation of its extension, or sunlight entering the rear garden, would not result in any unacceptably harmful effects.
7. Windows and patio doors proposed at the ground floor level and, which would flank No 5, would be set back behind garden areas. These windows and doors would be sited opposite a boundary enclosure and the blank brickwork at the ground floor level of No 5. On the proposed first floor the windows which would directly flank the garden of No 5 would serve a bathroom and an en-suite rather than main living spaces. Through the imposition of a condition, it would be ensured that these windows would be obscurely glazed and have an opening restriction. At second floor the only window positioned opposite the garden of No 5 would again be to an en-suite and, furthermore, would be a roof window. The remaining upper floor windows proposed within the development to the side of No 5 would be sited closer towards Florence Street and would not overlook the garden to the rear of No 5.
8. The submitted plans identify windows to the rear of Nos 5-7 at first and second floors which serve a study and bedroom accommodation. The pitched roof and the rooftop projections of existing buildings within the site will already be affecting the outlook from these windows. The replacement building would be taller but, not vastly so. Owing to the position of a communal garden, the proposed building would be set away from the windows. Given the separation distances which would remain, together with the height and mass of the

proposed development, reasonable outlook would remain from the flanking study and bedroom spaces.

9. Therefore, the effect of the proposed development upon the living conditions of the occupiers of 5 Florence Street and 5-7 Parson Street would be acceptable. The proposed development would comply with Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document, 2012 (DMP document), Policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document, 2012 (CS) and Policy D3 of the London Plan, 2021 (LP). In particular, these policies set out that development should be of high quality and be designed to allow for adequate privacy, outlook, daylight and sunlight for adjoining occupiers as well as protect and enhance garden areas. The proposed development would also comply with the guidance of the Sustainable Design and Construction Supplementary Planning Document, 2016 and the Residential Design Guidance Supplementary Planning Document, 2016 (the SPDs) including that which states that the privacy, outlook, daylight and sunlight of existing development should be protected.

The living conditions of the future occupiers of flat G.01

10. Proposed flat G.01 would be a 4 bedrooomed property. Bedroom 4 would be located on the second floor. The plans show that this bedroom would have a total of 4 roof windows serving it. These roof windows would be spread quite evenly across the roofscape above it. By virtue of their number and size, a substantial proportion of the ceiling area into the room would be glazed. A significant amount of light would enter the room and there would be views of the sky.
11. Therefore, although the bedroom would not be served by side elevation windows or benefit from the type of outlook that these would afford, for the above reasons, bedroom 4 would nevertheless be a pleasant space with appropriate living conditions provided for the future occupiers.
12. Consequently, the proposed development would comply with Policies CS1 and CS5 of the CS, Policies DM01 and DM02 of the DMP document, Policy D6 of the LP and guidance within the SPDs. In summary, and amongst other matters, these policies and provisions require proposed buildings to be of a high quality of design and, provide comfortable and functional layouts.

Parking provision and highway safety

13. To one side of the appeal site is Parson Street which contains a range of commercial properties. This street provides a route for buses and, quite nearby to the appeal site, includes a traffic light-controlled junction. Parson Street is, therefore, quite heavily trafficked by vehicles and, likely by pedestrians and cyclists.
14. Vehicular access would be taken via Florence Street. Florence Street has a different character to Parson Street. It is a relatively short road mainly lined on either side by residential properties and acts as a side street. Marked parking spaces are on one side of the road which leaves a single lane for vehicular passage for much of its length. A controlled parking zone (CPZ) is in operation on the street together with other streets in the area.
15. Given the character of Florence Street, it is likely that it is quite lightly trafficked by all highway users. Given its short length and, given the narrow

section of carriageway available for vehicular passage, I also expect that vehicle speeds along it would be generally low. Undercroft parking spaces within the existing flatted development next door are adjacent to those proposed in the appeal scheme. Vehicles can access and egress the existing car garage within the appeal site via Florence Street at a location very similar to that which would be the case in the proposed development.

16. Therefore, the prevailing highway conditions on Florence Street are partly characterised by quite light highway user movements whilst the proposed access arrangements are very similar to those which exist on the street. Consequently, even though the submitted plans do not identify visibility splays, I nevertheless find that the access and egress arrangements for vehicles within the appeal site would be safe.
17. Policies T6, T6.1 and T6.2 of the LP and Policy DM17 of the DMP document each relate to vehicular parking. As the most recently adopted part of the development plan relevant to this issue, I give the greater weight to the policy wording and the parking standards set out within the LP. The parking standards which these LP policies provide are maximum standards and development is encouraged to provide the minimum necessary parking.
18. To serve the 8 flats proposed, the LP establishes that the development could provide up to a maximum of 7 parking spaces. The Council have submitted to me that no additional parking is necessary for the office accommodation proposed. I have no substantive reasons to disagree but, if I were to do so, the maximum additional parking provision permitted by Policy T6.2 would be limited. There is some variation between the office floorspace figures presented to me, but even if I take the higher figure of approximately 115m², the maximum additional parking spaces permitted for such occupation would be 2.
19. Of the 3 parking spaces identified on the submitted plans, 1 space would be partially obstructed by a structural column. In my section on conditions below, I set out that it is necessary for final precise details of the parking space design to be resolved via condition. In doing so, it may be that the design demonstrates that all 3 spaces would function. However, it may also be the case that only 2 fully functioning parking spaces would be provided.
20. For the above reasons, the maximum parking standard provision for the residential and office accommodation proposed would be 9 spaces. It may be that only 2 parking spaces would be deliverable on site and, therefore, a shortfall of 7 spaces would remain.
21. The results of a parking survey accompanied the planning application. It is submitted to me that this does not accurately represent local car ownership levels and that the parking survey took place during selective periods only. Despite this, I have no substantive evidence before me which indicates to me that the survey methodology was flawed.
22. The results of the parking survey undertaken indicate that some local roads, including Florence Street, do not have the capacity to cater for a parking space shortfall. However, the results show that, overall, there would remain sufficient capacity within the local area even in a scenario whereby the demand for off-site parking was as high as 7 spaces and even if some additional parking demand emerged from visitors. Moreover, it may also be the case that car

ownership amongst the occupiers of the proposed development would be such that demands would be lower than this.

23. Since some of the streets shown to have parking capacity are a short distance from the appeal site and from Florence Street, I accept that residents may need to park away from their properties. Given the results of the parking survey, this may already take place. I have no compelling evidence that the modest increase in such instances arising as a result of the development would result in indiscriminate parking to the detriment of other highway users or highway safety.
24. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (Equality Act), which sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Equality Act sets out the relevant protected characteristics which includes age. In allowing the appeal, any increase in competition for on-street parking spaces could impact upon elderly residents and children by reason of them travelling further distances to the parking spaces available to them. However, it does not follow from the PSED that the appeal should fail. The magnitude of any adverse effects of the proposed development upon those with protected characteristics would be low and would not be sufficient to dismiss the appeal.
25. Reference is made to the potential for cumulative effects with Middlesex University development and flatted accommodation close-by to the site. However, I have limited evidence before me in relation to the specifics of these developments. Furthermore, and even if the flatted accommodation has reduced the amount of available on-street parking in the area, given my findings above, I have no firm basis to conclude that the cumulative effect of these developments would be that insufficient parking capacity in the local area would result.
26. For the above reasons, the parking provision proposed would be acceptable having regard to highway safety. The proposed development would comply with Policies T6, T6.1 and T6.2 of the LP and Policy DM17 of the DMP document. In summary, and amongst other matters, these policies set out that developments should be designed to provide the minimum necessary parking. The policies provide maximum parking standards and further set out that where development is proposed within a CPZ with insufficient parking capacity, future occupiers will be restricted from obtaining street parking permits.

Other Matters

27. 8 Florence Street (No 8) is separated from the appeal site by a road and pavements. The property is also set at an angle to the site rather than directly facing it. The elevation of the proposed development which would front onto Florence Street would have a relatively low eaves with the roof slope sloping away from No 8. The submitted plans show that the maximum height of the proposed elevation would be quite similar to the 2 storey terraced properties which are adjacent and, which are also opposite No 8. Given these factors, no harmful reductions in sunlight or daylight would occur for the occupiers of No 8.

28. The Council refer to relevant daylight and sunlight testing criteria and state that there would be many instances of non-compliance. However, the results of the submitted Daylight, Sunlight and Overshadowing Report quite overwhelmingly indicates that, in most instances, any effects in this regard would be negligible. I have no substantive evidence which demonstrates to me that the appellant's report is erroneous. Furthermore, in the main issues I have addressed the particular living condition implications of the development which the Council have stated would have been its grounds for refusal and I have found no unacceptable harm.
29. The Council also state that the proposed development would provide single aspect flats. However, each flat proposed would contain windows on more than one side. In the main issues, I have found that appropriate living conditions would be provided for the future occupiers of flat G.01 with particular regard to bedroom 4. I have no substantive evidence before me which demonstrates that the living conditions of the occupiers of any of the flats proposed would be unacceptable.
30. Demolition and construction may cause some disruption, but it would be short-term in nature and not significant enough to withhold permission. Rights of access across land including for maintenance, and the effects of development upon property including the potential for damage, are principally private matters to be resolved between the affected parties.

Conditions

31. The Council have supplied to me a specific list of 16 suggested conditions which I have had regard to. I have imposed the standard condition in respect of time limitation and a plans condition in the interests of certainty. I have restricted the list of approved plans to those which it is necessary for the development to comply with and, in so doing, I have omitted certain documents which it has not been shown to me it is necessary for the development to comply with in order to remain acceptable in planning terms.
32. Although an outline construction logistics plan has been submitted, this document confirms that a more detailed version will be required once a contractor has been appointed. Therefore, I have imposed a condition requiring the formulation of a detailed construction and demolition method statement together with a condition in order to control the hours of this phase of the development. These conditions would ensure that the effects of demolition and construction on the living conditions of neighbouring occupiers would be acceptable. The former is a pre-commencement condition. This is necessary as the measures to control construction and demolition must be determined before those activities commence.
33. A noise exposure assessment is before me. This outlines the forms of measures necessary to mitigate the effects of existing noise levels in the area. I have imposed a condition so that the final, precise mitigation measures are devised and implemented.
34. An ecological assessment report has been submitted which, in summary and, amongst other matters, states that the proposed development would be very unlikely to affect any protected species and that there are no ecological constraints to the development proposed. I have no reason to disagree. Therefore, a condition requiring the submission of a further ecological survey,

as suggested by the Council, is unnecessary. Furthermore, given the findings of the ecological assessment report, it has not been shown to me that there is a requirement for any proposed boundary treatments to be specifically designed with any particular species in mind. Therefore, in my conditions, I have omitted the reference to such a requirement.

35. Conditions relating to the use of external materials, landscaping and final site levels are all necessary in the interests of the character and appearance of the area and to protect the living conditions of neighbouring occupiers. A condition to agree the precise design of the access and, of the adjacent parking spaces proposed, is necessary in the interests of highway safety. To ensure certain windows maintain privacy, I have imposed a condition requiring them to be obscure glazed and incorporate a restriction in the manner in which they open.
36. The Council have suggested conditions which relate to carbon dioxide emission reduction and a highway condition survey. The evidence before me, including the development plan policies, that there is an identified need and clear justification for these measures and requirements is not compelling. Therefore, I have not imposed the suggested conditions.
37. In the interests of precision or clarity I have, in some instances, made some general amendments to the wording of the suggested conditions, some amalgamation of conditions and, some re-ordering but, in so doing, I am satisfied that the interests of parties would not be prejudiced.

Conclusion

38. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal is allowed subject to the conditions in the below schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 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 carried out in accordance with the following approved plans:
PARST-L201
PARST-E201
PARST-E202
PARST-E203
PARST-E204
PARST-P201
PARST-P202
PARST-P203
PARST-P204
PARST-P205

PARST-S201

- 3) No development shall take place until a Construction and Demolition Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide details of:
- a) the access and egress arrangements of the development site and any associated directional signage;
 - b) the parking of vehicles for site operatives and visitors;
 - c) the loading and unloading of plant and materials;
 - d) the storage of plant and materials used in demolition and construction;
 - e) site cabins;
 - f) vehicle washing facilities;
 - g) measures to control the emission of dust and dirt during demolition and construction;
 - h) measures to control the emission of noise and vibration during demolition and construction
 - i) a scheme for recycling/disposing of waste resulting from demolition and construction works;

The approved Construction and Demolition Method Statement shall be adhered to throughout the construction period of the development.

- 4) No development other than demolition shall take place until the detailed design of the vehicular access and, of the vehicular parking spaces, including details of hard surface materials to form the parking spaces, have been submitted to and approved in writing by the local planning authority. The vehicular access and parking spaces shall be implemented in accordance with the approved details prior to the occupation of the development and thereafter retained as such.
- 5) No development other than demolition shall take place until full details of the finished levels, above ordnance datum, of the proposed building and, of the access and vehicular parking serving the development hereby permitted in relation to the existing ground level and, existing adjacent building levels, have been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved levels.

- 6) No development other than demolition shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include:
- a) details of proposed planting including the species, plant supply sizes, planting locations and plant numbers/densities
 - b) details of proposed hard surfacing materials
 - c) details of means of enclosure, boundary treatments and retaining structures

Development shall be carried out in accordance with the approved details.

- 7) All planting, seeding, turfing and other landscaping works comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building 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.
- 8) No development other than demolition shall take place until a scheme of noise mitigation measures to protect the occupiers of the proposed development from external sources of noise has been submitted to and approved in writing by the local planning authority. The mitigation measures shall be implemented in accordance with the approved details prior to the occupation of the development and thereafter retained as such.
- 9) No development involving the erection of any sections of the external walls or roof of the development hereby permitted shall take place until details of the materials to be used in the construction of the external walls and roof 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) Units G.01 and G.02 shall not be occupied until the windows identified below have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. The glazing shall be obscured to at least level 3 of the Pilkington glass privacy scale (or equivalent).
Unit G.01 – the first floor window to bathroom/utility
Unit G.02 – the first floor windows to bathroom and en-suite

Once installed as such the windows shall thereafter be retained.
- 11) Construction and demolition works, the related operation of plant and machinery and related site deliveries or site despatches shall only take place between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.