



Appeal Decision

Site visit made on 14 November 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/N5090/W/23/3320720

1 The Ridgeway, Golders Green, Barnet, London NW11 8TD

- 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 Opulent Properties Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/3977/FUL, dated 28 July 2022, was refused by notice dated 16 December 2022.
 - The development proposed is the demolition of existing building on site and erection of a two storey (and roof and basement) development consisting of nine self-contained residential units.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: the living conditions of occupiers of No. 3 The Ridgeway with regard to privacy; ecology and biodiversity; the character and appearance of the area; and trees.

Reasons

Living Conditions

3. The appeal site comprises a two-storey, detached dwelling on The Ridgeway, close to a roundabout junction. The immediate surrounds are largely residential, with The Ridgeway being made up primarily of sizeable, semi-detached dwellings. The proposal seeks to replace the appeal property with a two-storey building of nine self-contained flats. Planning permission has previously been granted at the site for the erection of a two storey block to create nine self-contained flats¹.
4. The proposal would be located to the south-east of the residential dwelling at No. 3 The Ridgeway, with windows along the side elevation facing towards this neighbouring property. Many of these windows above ground floor level of the proposal would be obscured glazed. However, bedrooms at proposed Units 4 and 9 would have windows looking towards No.3 that would not be obscured.
5. While these windows would look towards hardstanding to the side of No. 3, this appears to primarily be in use as a driveway such that it would not result in the overlooking of useable outdoor amenity space at the neighbouring property. However, although not directly opposite, these windows would still

¹ 16/4084/FUL

provide clear views towards the upper bay window at No. 3, which appears to serve a habitable room. This would result in both actual and perceived overlooking for the residents of No. 3 beyond the level to be expected even in a residential area, unduly impacting their enjoyment of the associated habitable room.

6. My findings are supported by the Sustainable Design and Construction SPD 2016 (the SDCSPD) which states that new residential development should maintain a distance of 21 metres between properties with facing windows to avoid overlooking. The windows of Units 4 and 9 in question would be some 15 metres from the side elevation of No. 3. While not directly opposite the bay window at the neighbouring property they nevertheless provide clear views towards it, which the intervening distance would be inadequate to offset. While the SDCSPD is guidance rather than policy, it remains a material consideration.
7. Although reference has been made to the potential for these windows at Units 4 and 9 to be of obscured glazing, given that they are the only windows serving these habitable rooms at the proposal, such glazing would unduly impede the outlook for future occupiers. Accordingly, this would not be an acceptable solution to the identified overlooking.
8. For the reasons given, the proposal would result in significant adverse harm to the living conditions of residents of No. 3 The Ridgeway, with regard to privacy. As such, there would be conflict with Policies DM01 and DM02 of the Barnet's Local Plan Development Management Policies Development Plan Document 2012 (the DMP); Policy CS5 of the Barnet's Local Plan Core Strategy Development Plan Document 2012 (the CS); the Barnet Local Plan Supplementary Planning Document Residential Design Guidance 2016 (the RDGSPD); and the SDCSPD insofar as they seek to provide an attractive environment for people to live and to ensure development will allow for adequate privacy for adjacent occupiers.

Ecology and Biodiversity

9. Policy DM16 of the DMP states that the Council will seek the retention and enhancement or creation of biodiversity. However, no ecological assessments or appraisals relative to the proposal have been submitted, with the Council making specific reference to a lack of preliminary roost appraisal in connection with bats.
10. It may be that protected species are not present. However, it remains that survey information relevant to the scheme would be required to determine if this specific proposal would be acceptable or whether mitigation or compensation is required. In the absence of this information, it is not possible to determine with certainty whether the proposal can be carried out without harmful effects on protected species.
11. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Consequently, the need to ensure ecological surveys are carried out

should only be left to planning conditions in exceptional circumstances. It has not been demonstrated that exceptional circumstances exist in this case.

12. I acknowledge the existence of the extant permission, which was deemed suitable from an ecological perspective due to the retention of a similar area of rear garden and a landscaping scheme, that could result in the appeal property being demolished without such surveys at this stage. I further note the submission of an ecological assessment and bat emergence report in connection with another proposal at the site. Nevertheless, it remains that I must assess the scheme before me and no surveys specific to the proposed development that is the subject of this appeal have been submitted.
13. For the reasons given, in the absence of detailed information, I cannot be certain that the proposal would not have a detrimental impact on ecology and biodiversity, contrary to with Policies DM01 and DM16 of the DMP; Policy CSNPPF of the CS and the SDCSPD insofar as they seek to ensure development has a high level of environmental awareness and retains, enhances or creates biodiversity.

Character and Appearance

14. The proposal would be constructed from materials that would assimilate within the immediate surrounds. While concerns have been raised that it would be sizeable and close to the highway with a loss of green space, due to the plot dimensions and scale of surrounding development it would not appear cramped or contrived within the plot. However, reference has been made to the extant permission at the site, with the Council stating that the increased roof pitch and front dormers of the proposal when compared with the approved scheme would cause visual harm and fail to successfully integrate in the immediate area.
15. I do not have substantive details on the precise design of the approved scheme. However, it remains that there is a range of dwelling styles both along The Ridgeway and the surrounding streets. In particular, properties along nearby Rodborough Road and Hodford Road comprise roof forms similar to that proposed and multiple dormer projections of varying dimensions. While not immediately adjacent to the site they nevertheless form part of the surrounding context, in which the roof form and pitch and front dormers proposed would not appear unduly out of place. In any event, even acknowledging The Ridgeway as being primarily comprised of semi-detached properties, it remains that a range of roof forms, pitches and upper level dormers also exist on this street. Combined with the wider variety in property styles this would ensure that the proposal would reflect elements present in the surrounding, mixed character of dwellings.
16. Concerns have also been raised that the first floor of the proposal would be disproportionately large and at odds with the roof form. However, the submitted plans show the property to be of visually suitable proportions. Even acknowledging the roof form, the proposal would not, either when experienced alone or in the context of surrounding development, read as top-heavy or having disproportionately large upper floors.
17. Furthermore, I do not share the concerns of the Council that the proposal would fail to reflect a single family dwelling. I note that bin and cycle storage areas commensurate with the likely occupation level would be provided, in

addition to multiple car parking spaces and ample fenestration due to the amount of residential units to be provided. However, it remains that the property would retain an overall symmetrical front façade and central front entrance door that, from The Ridgeway, would reflect the predominantly single dwelling style appearance of the immediately surrounding properties.

18. For the reasons given above, the proposal would not result in significant harm to the character and appearance of the area. As such there would be no conflict with Policies CS1 and CS5 of the CS; Policy DM01 of the DMP; and the RDGSPD insofar as they seek to encourage high standards of design that respects and complements the existing character.

Trees

19. Policy DM01 of the DMP states that trees should be retained, with supporting text stating that appropriate protection of trees identified for retention will be expected during construction.
20. The Council's concerns relate to the street tree to the front of the site, which has been subject to historic management. It would be located close to the proposed crossover works, with the Council stating that the extent of the incursion of these works on the root protection area (RPA) of the tree has not been accurately captured.
21. The proposal was accompanied with an Arboricultural Impact Assessment (AIA). This included a Tree Protection Plan that demonstrates the location of this tree relative to these proposed works. It identifies the RPA of the tree and shows the resulting incursion, which can be seen to be minimal. Furthermore, the AIA outlines protection measures that would be put in place relative to this tree, to include protective fencing, ground protection and parking areas and front paths being constructed on a shallow sub base with permeable surfaces. Based on my observations on site and in the absence of substantive technical evidence to the contrary, I have no reason to disagree with the findings of the AIA in this regard. As such, subject to the mitigation proposed, the proposal would be unlikely to result in a significant adverse effect on trees.
22. While I note that the street tree in question has not been demonstrated on the proposed block plan, had the proposal been acceptable in all other aspects, compliance with the AIA could have been the subject of an appropriately worded planning condition, ensuring that the tree would be retained and protected as outlined.
23. For the reasons given, the proposal would not have an adverse effect on trees. As such, it would comply with Policies DM01 and DM16 of the DMP; Policy CSNPPF of the CS and the SDCSPD insofar as they seek to ensure development retains and protects trees.

Other Matters

24. The proposal would contribute to the housing mix and availability of the area, providing nine residential units of varying sizes in a sustainable and established residential area. This represents a moderate benefit of the scheme.
25. Various references have been made to Barnet's Draft Local Plan. However, I am not aware of the exact stage it has reached, the extent of unresolved

objections or whether its policies will be considered as consistent with the National Planning Policy Framework. Consequently, I give it limited weight.

Planning Balance and Conclusion

26. The proposal would not harm the character and appearance of the area or trees. This lack of harm is neutral in the planning balance. However, I have found that the proposal would result in significant adverse harm to the living conditions of occupiers of No. 3 The Ridgeway with regard to privacy and that in the absence of detailed information, I cannot be certain that the proposal would not have a detrimental impact on ecology and biodiversity. Even when taken together, the above other matters do not outweigh this harm.
27. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR