



Appeal Decision

Site visit made on 14 November 2023

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/N5090/W/23/3321796

Pallester Court, Wayside, Golders Green, Barnet, London NW11 8QY

- 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 UPP Architects and Town Planners against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/3542/FUL, dated 5 July 2022, was refused by notice dated 6 February 2023.
 - The development proposed is the erection of a four storey building to provide 4no.self-contained flats. Associated cycle parking, amenity space and refuse and cycling storage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a four storey building to provide 4no.self-contained flats. Associated cycle parking, amenity space and refuse and cycling storage at Pallester Court, London NW11 8QY in accordance with the terms of the application, Ref 22/3542/FUL, dated 5 July 2022, and subject to the conditions set out in the following schedule.

Preliminary Matters

2. The description of the development proposed was amended while the planning application was being considered by the Council. I have used the amended description for the banner heading above. The appellant has relied on this description in the appeal form, confirming planning permission is sought for that development.
3. The proposed plans originally indicated the position of a movable shelving unit to define the sleeping area to proposed Unit 3. Amended plans, submitted as part of the appeal, remove the shelving unit from the proposed floor plan in Unit 3. The Council has confirmed that this minor amendment would address its third reason for refusal. As the removal of a movable piece of furniture is not a fundamental change to the proposed development, and because the amendment would not cause any unlawful procedural unfairness to any parties, I accept the amended plan for consideration as part of the appeal proposal.

Main Issues

4. Taking the above into account, the main issues are:
 - the effect of the proposed development on the character and appearance of the area; and

- the effect of the proposal on the living conditions of the occupants of neighbouring properties, with particular regard to privacy and daylight /sunlight and the occupants of Pallester Court and Nassbaum House.

Reasons

Character and appearance

5. The appeal site is located in a primarily residential area, the character of the area is varied and includes a mix of both two storey semi-detached properties and larger scale purpose built flats. The appeal site is a triangular plot of land, that currently forms part of the garden grounds of Pallester Court. Pallester Court is a four storey block of flats. The site is on the corner of the junction between Wayside and Hendon Way, a six lane highway, and the ground level slopes upwards from the junction along Wayside.
6. The proposed development is for the erection of a four storey block of flats. The proposed development would be set back from the boundary of the application site on all sides. The main parties agree that the appeal proposal broadly reflects the footprint and siting of a three storey block of flats recently approved at the appeal site¹ (the Approved Development). It is acknowledged that there are design differences between the Approved Development and appeal proposal including a higher solid to void ratio in comparison to the approved scheme.
7. However, the solid to void ratio of the proposed building would be comparable to that of Pallester Court and the inset sections and undulating facade would add visual interest. The fourth storey would be set back, behind a parapet wall, and would be clad in metal. These factors contribute to ensure the fourth floor would appear recessive when viewed in long and short views from along Wayside and Hendon Way.
8. An appeal was recently allowed for the erection of a fifth storey at Pallester Court² (the Neighbouring Appeal), In that case, the Inspector recognised that Pallester Court and the neighbouring building at Aylan Court 'make a significant contribution to the wider area' and establish a pattern of larger scale development adjacent to Hendon Way. The Council states that the outcome of the Neighbouring Appeal does not set a precedent for similar development, noting among other things the constrained plot and visual prominence of the application site. However, the Neighbouring Appeal establishes an acceptable scale of development in this area.
9. While it is acknowledged that the appeal site is more constrained and has a greater visual prominence than the rest of Pallester Court, and the upward extension permitted at Pallester Court is yet to be implemented, that planning permission is a relevant consideration in the assessment of this appeal. The permitted increase of the height of Pallester Court would impact on the relationship between the proposed development and the immediate area; and based on the submitted information the proposed building would be lower than the height of Pallester Court as extended. Notwithstanding this, the appeal proposal would be only marginally taller than Pallester Court as existing and the visual impact of its height would be mitigated by the slope of the site.

¹ The Council's ref: 20/5205/FUL

² APP/N5090/W/22/3295295

10. The proposal would reflect existing neighbouring development and would make a positive contribution to views of the wider streetscene especially when viewed from Hendon Way. The proposal would be in a location with a variety of building heights, alongside a major highway where the proposal would harmonise with the local pattern of development. Accordingly, it would complement the prevailing height and form of neighbouring properties and the overall street scene. The size, scale, bulk, siting, design and appearance of the proposal would be acceptable, and the overall development would be of a high quality design and not an incongruous form of development.
11. Having regard to all the above, I conclude that the proposed development would not have a harmful effect on the character and appearance of the area. It would therefore comply with Policy D3 of the London Plan 2012, Policies CS NPPF, CS1 and CS5 of Barnet's Core Strategy 2012 (CS), Policy DM01 of Barnet's Development Plan Document 2012 (DPD) and the supporting information in the Supplementary Planning Document: Residential Design Guidance 2016 (RDG SPD). The policies are consistent with the National Planning Policy Framework (the framework) which seek to secure development that is sympathetic to the local character and the surrounding built environment.

Living conditions of neighbours

12. As detailed above there is extant planning permission for the erection of a three storey block of flats, at the appeal site, largely on a very similar footprint as the appeal proposal. As such my assessment in terms of the impact of the proposal on living conditions on neighbouring properties is focused on the impact of the amended design and the addition of a fourth floor. As detailed above, Pallester Court is a four storey block of flats. The other closest neighbouring property is Nassbaum House, a bungalow to the north east of the site that fronts on to Wayside, with a high front boundary comprising of brick walling with close boarded timber fencing above.
13. Several of the windows that would front on to Wayside would be furnished with obscure glazing and would serve the kitchen areas of the living spaces. The height and set-back position of the fourth storey would mitigate the impact of the proposal in terms of privacy and overlooking towards Nassbaum House. The south east elevation of the proposal would have a single window on the fourth floor, which would not directly overlook Pallester Court due to the staggered siting of the two buildings.
14. The main parties have referred to a Daylight/Sunlight Report, however, this is not before me. The evidence suggests that the Daylight/Sunlight Report was prepared in relation to a different proposal and would be of limited relevance to the appeal proposal. The set-back position of the proposed fourth storey would be such that, in comparison to the Approved Development, it would have a negligible impact on the daylight/sunlight experienced by the occupiers of Nassbaum House.
15. Due consideration should also be given in the context of neighbouring development and the Neighbouring Appeal. The existing fencing and separation distance between the appeal site and Nassbaum House is such that the proposal would not have a harmful impact on the living conditions of the occupants with regard to daylight or sunlight.

16. Taking in to account the siting of the proposed building to the north of Pallester Court and the path of the sun, the proposed building would not result in a harmful degree of overshadowing to the external amenity area of Pallester Court. In the absence of any substantive evidence to convince me otherwise, the proposal would not have a noticeable impact on neighbouring properties in terms of daylight and sunlight.
17. Having regard to all the above, I conclude that the proposed development would not have a harmful effect on the living conditions of the occupants of neighbouring properties at Pallester Court and Nassbaum House in regard to daylight and sunlight and privacy. It would therefore comply with Policy CS5 of the CS, Policy DM01 of the DPD and the supporting guidance within the RDG SPD. The proposal would not be contrary these policies and the Framework, the aim of which requires development to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers.

Other Matters

18. I have been referred to concerns regarding parking at Pallester Court and the proposed development. The Council has raised no concerns in this regard or with regard to highway safety. Based on everything I have read and seen I am satisfied that the proposed development would be located within an accessible location with sufficient capacity within the area to accommodate any additional parking requirements.

Conditions

19. I have considered the suggested conditions against the tests set out in the Planning Practice Guidance and paragraph 56 of the Framework. Where appropriate, I have adjusted the wording to improve precision and enforceability.
20. I have attached conditions relating to the time limitations for the commencement of the development, compliance with the approved plans, proposed external materials and site levels in the interests of clarity and certainty and to protect the character and appearance of the area.
21. I have attached conditions requiring the details of a Demolition and Construction Management and Logistics Plan and or all Non-Road Mobile Machinery to comply with specific emission standards. These conditions are in the interests of highway safety and the residential amenity of the occupants of neighbouring properties in relation to noise and air quality.
22. In order to ensure the proposed development would meet the needs of future occupants I have attached conditions relating to the provision of cycle parking facilities, waste and recycling storage facilities, the subdivision of external amenity areas, and noise mitigation measures.
23. In the interests of visual amenity, I have included a condition relating to the provision, implementation and maintenance of a hard and soft landscaping plan.
24. I have included conditions in relation to the connection of the development to mains water infrastructure, the implementation of water saving measures and the requirement of a piling method statement in order to protect and preserve the local water supply. However, I have omitted the suggested condition that

relates to the proximity of the development in relation to water infrastructure which is controlled under separate legislation and would not be reasonable or meet the other tests set out in the Framework.

Conclusion

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

C Livingstone

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:
PC-A-01-002 rev 2, PC-A-02-101 rev 2, PC-A-02-102 rev 2, PC-A-02-103 rev 2, PC-A-03-102 rev 2, PC-A-03-103 rev 2, PC-A-03-104 rev 2, PC-A-03-105 rev 2, PC-A-03-106 rev 2, PC-A-05-101 rev 2, PC-A-05-102 rev 2, PC-A-06-101 rev 2, PC-A-06-102 rev 2, PC-A-06-103 rev 2 and PC-A-06-104 rev 2.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the building and hard surfaced areas 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.
- 4) No development other than demolitions works shall take place until details of the levels of the building hereby permitted in relation to the adjoining land and highway(s) 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 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 contractors 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 Demolition and Construction Management and Logistics Plan shall be adhered to throughout the construction of the development hereby permitted.
- 6) a) No development shall take place until a scheme of proposed noise mitigation measures against externally generated traffic/mixed use noise has been submitted to and approved in writing by the Local Planning Authority.
- b) The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or the first occupation of the development and retained as such thereafter.
- 7) Prior to the first occupation of any dwelling hereby permitted, details of cycle parking spaces including the type of stands, gaps between stands, location and type of cycle store proposed shall be submitted to and approved in writing by the Local Planning Authority. Those details shall be in accordance with the London Plan, Cycle Parking Standards and London Cycle Design Standards. Thereafter, before the development hereby permitted is first occupied, the approved cycle parking spaces shall be provided, retained, and shall not be used for any purpose other than parking of cycles in connection with the approved development.
- 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) Before the development hereby permitted is first occupied, details of the sub-division of the amenity area(s) shall be submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be implemented in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
- 10) 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 proposed trees at the junction of Wayside and the A41 should be evergreen conifers to replicate the trees removed.
- 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.
- 11) Prior to their first occupation, all of the dwellings hereby permitted shall be constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each 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. A fittings based approach should be used to determine the water consumption of the development. The development shall be maintained as such in perpetuity thereafter.
- 12) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10% in carbon dioxide emissions 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.
- 13) All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the Mayor of London's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site,

at any time, whether in use or not, without the prior written consent of the local planning authority.

The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>

- 14) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

***** end of conditions *****