



Appeal Decision

Site visit made on 22 February 2024

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 22 April 2024

Appeal Ref: APP/N5090/W/23/3320785

Onslow Parade, Hampden Square, Southgate, Barnet, London N14 5JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Safeland PLC against the Council of the London Borough of Barnet.
 - The application Ref is 22/5314/FUL.
 - The development proposed is construction of new two storey building to create 3no flats and office space with ancillary parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (Framework) on 19 December 2023. Whilst I have had regard to the revised Framework, the issues most relevant to this appeal remain unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and this would disadvantage no party.
3. Barnet's Draft Local Plan has been submitted for examination under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. However, I am not aware of the stage it has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the Framework. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

Background and Main Issues

4. Onslow Parade is located adjacent to the roundabout junction of Osidge Lane, Brookside Street and Hampden Way. It consists of a three-storey terrace which has commercial units at ground level and two-storey maisonettes above. The terrace is arranged in a horseshoe shape facing the roundabout. The appeal site is to the rear of the terrace on the land which is largely grassed and identified as a non-defined parking area. Access to the rear is via Osidge Lane. The maisonettes are accessed from an external staircase and along a walkway facing the grassed area.
5. The proposal would be a new two-storey mixed-use building with ground floor office space and three self-contained flats. It would retain existing green space

and include such things as a refuse area, outdoor space, a green roof, residential car parking, electrical hookup points and secure cycle parking.

6. Following submission of the appeal against non-determination, the Council has provided a statement of case and relevant development plan policies. In it the Council cites concerns with the proposal's effect on the character and appearance of the area; the lack of a vitality and viability assessment of the proposed office element; the adverse effect that the living conditions of the future occupants of the proposed residential use would have on the use of the existing commercial units; the adverse effect that the proposal would have on the living conditions of the existing occupants of the maisonettes; the lack of office servicing and deliveries space, and the adverse effect of removing the existing non-defined parking and its impact on street parking. The Council confirms that it would recommend the proposal be refused.
7. Taking the above background into account, the main issues are the effect of the proposal on:
 - character and appearance of the area;
 - town centre and the existing local commercial units' vitality and viability;
 - whether or not the proposal's residential use would impose living condition restrictions on the use of the existing commercial units;
 - the living conditions of the existing occupants of the maisonette; and
 - highway safety with particular regard to the servicing and delivery arrangement and whether or not the development would lead to an unacceptable increase in demand for on-street car parking in the area.

Reasons

Character and appearance

8. Arranged around the roundabout, including Onslow Parade, are three similar appearing three-storey terraces with commercial units at ground level and a two-storey public house. The frontage to these is a mix of pavement and landscaping and to their rears are largely a mix of rear extensions, paved areas (some of which are being used for vehicle parking) and some landscaping. The wider surrounding area is largely traditional two-storey residential housing, typically with driveways/small gardens to the front and rear gardens.
9. The proposal would, with such things as its curved walling, fenestration design and set-back roof elements, appear incongruous when seen adjacent to the Onslow Parade terrace and surrounding properties. Even with its two-storey height, separation and landscaping, it would be a substantial and prominent addition which would dominate the rear area. Notwithstanding the use of brick cladding, shown on the visualisation, with its strong relationship and visual association with the rear of the terrace, and to a degree with the nearby housing, the proposal would not be a sympathetic or respectful addition and it would jar with the existing setting.
10. While the proposal would not be visible from the public areas to the front of the terrace, it would be highly visible from the side lane, the maisonettes and from some of the surrounding houses and gardens. Its rear location therefore would not diminish its adverse effects.

11. In comparison, the rears of the other terraces and the public house are not overly visible from public viewpoints and, due to the variation in development pattern, size and proximity of buildings, do not significantly add or harm the area's character and appearance. Nevertheless, they also do not justify the proposal's adverse effects.
12. The proposal would incorporate a green roof and provide landscaping and shrub and tree planting to the surrounding boundaries. These areas would also be maintained thereafter. However, while these would provide some improvements, they would be limited in scale and extent and would not sufficiently reduce the proposed building's dominating appearance.
13. Consequently, the proposal would harm the character and appearance of the area. It would be contrary to Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) and Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) and Policies D3 and D4 of the London Plan 2021 (London Plan). Amongst other things, these policies seek new developments to be to a high-quality design that protects and enhances the area's character and creates high-quality places.

Vitality and Viability

14. The proposal includes ground floor office space. The Council advises that the appeal site does not fall within a town centre but is designated within the DMP as falling within Hampden Square 'Local Shopping Frontages'. The appellant does not dispute these facts.
15. Policy DM14 of the DMP advises that proposals for new office space should follow a sequential approach that considers town centre sites before edge of centre sites.
16. The appellant has not provided either a sequential test or any form of assessment of the vitality and viability effects of the proposal. As it has not been shown that the proposal would not harm town centre vitality and viability, it is contrary to Policy DM14 of the DMP.

Living conditions of the future occupants proposed residential use on the use of the existing commercial units

17. A concern was raised that the proposal's residential use could impose restrictions on the use of the existing commercial units for such things as flues, odour and noise. However, there is already a significant residential element in proximity to the rear of the commercial units, in the form of the maisonettes and surrounding housing. In all likelihood, this will already restrict the use of the existing commercial units.
18. Little substantive evidence is presented to show the proposal's residential use would unacceptably increase these existing restrictions. Accordingly, the proposal would not harm the use of the existing commercial units and would be in accordance with Policy DM01 of the DMP which seeks, amongst other matters, for new development to preserve or enhance local character.

Living conditions of the existing occupants of the maisonettes

19. While it is advised that the proposal's first floor would have a separation of some 17 metres (m) or more from the maisonettes' windows, this would be significantly reduced when measured from the maisonettes' walkway and their outdoor areas. The proposed single-storey office separation and less visually intrusive proposed green roof would not sufficiently reduce the proposal's prominent and dominating effect and it would be an unacceptably overbearing feature on the occupiers of the maisonettes.
20. In relation to overlooking, the appellant has advised that all bathrooms and secondary windows within the open-plan living/kitchen spaces of the proposed first-floor would have obscure glazing. It is also advised that there would be no second storey and the proposed roof outdoor areas would be recessed to prevent overlooking. The Council's Sustainable Design and Construction Supplementary Planning Document 2016 (SDC) recommends a minimum of 21m should be provided between new and existing facing habitable windows. However, the SDC also refers to the Council's Residential Design Guidance Supplementary Planning Document 2016 (RDG) which acknowledges that in high-density schemes where less distance is provided innovative design solutions such as obscure glazing can be used to avoid overlooking. As such, even with the reduced recommended separation, the proposal's use of obscure glazing would sufficiently prevent unacceptable overlooking or the perception of overlooking on the occupiers of the maisonettes.
21. Little evidence has been provided to demonstrate that the proposed office use would adversely affect the occupiers of the maisonettes. As there are already existing commercial units which affect the front, and to a lesser degree the rear of the terrace, there is little justification that the proposal would unacceptably increase the existing effects or harm the living conditions of the occupiers of the maisonettes.
22. In conclusion, while the living conditions of the occupiers of the maisonettes would not be harmed by the proposal in terms of overlooking or the proposed office use, it would be significantly harmed by the overbearing effect. Consequently, it would be contrary to Policies CS1, CS5 and CS NPPF of the CS, Policy DM01 of the DMP and the guidance in the SDC and the RDG. It would also be contrary to Policy D3 of the London Plan. When taken together these policies and guidance seek, amongst other things, to ensure new development provides a sustainable, high-quality design which meets the highest standards and provides appropriate living conditions.

Highway safety

23. Policy DM14 of the DMP requires, amongst other matters, for new employment space to provide on site servicing for the intended use and include space for waiting goods vehicles. No details have been provided regarding these arrangements for the proposed office use. Moreover, the proposed drawings only show vehicle parking and bin storage provisions for residential use. It has therefore not been demonstrated that adequate on site servicing and space for waiting goods vehicles would be provided.
24. Furthermore, the proposal would remove the existing rear non-defined parking area. Policy DM17 of the DMP sets out, amongst other matters, that new developments may be refused if they would result in inappropriate road use, or

adversely affect the operation of roads in an area. The appellant contends that neither the existing maisonettes nor the commercial businesses have rights to park vehicles in the rear area. However, as identified by Barnet's Highway Department, and as I observed during my visit, the area is well-used for vehicle parking. Little evidence has been provided that vehicles parking in the area are not permitted, or that once the existing parking is removed the vehicles using the area would be safely accommodated on the surrounding public roads. Notwithstanding the appeal site is in an area with a PTAL rating of 2 and the proposal would provide vehicle and cycling parking for the residential use, it is not possible to determine whether the removal of the existing parking would be acceptable.

25. Overall, there is insufficient evidence to determine that the proposal would have an acceptable effect on highway safety. Consequently, it would not accord with Policies DM14 and DM17 of the DMP.

Other Matters

26. While I note the proposal was modified in response to pre-application advice from the Council, pre-application discussions are informal and not binding on any future decision the Council may make within the formal planning process. I have determined the appeal on the planning merits of the case.
27. The Council refers to the proposal being contrary to Policy CS4 of the CS and Policy D6 of the London Plan. However, no evidence relating to such things as the proposal's housing quality; housing choice; room sizes; aspect of the dwellings; size of the outside space or the level of sunlight and daylight were noted in the Council's statement of case. As such I have omitted reference to these policies.

Conclusion

28. The proposal would harm the character and appearance, vitality and viability, living conditions and highway safety. These are important matters and the proposal would be contrary to the provisions of the development plan as a whole.
29. No evidence is provided that the Council cannot demonstrate a sufficient supply of housing or that there is a need for flats of the size proposed. Even though the proposal would make a modest contribution to increasing the housing stock in the area, and would not harm the use of the existing commercial units, these would not, either singly or collectively, outweigh the other harm that has been identified. No other material considerations have been identified that would warrant making a decision other than in accordance with the policies in the development plan and, consequently, the appeal must fail.
30. For the reasons given above the appeal should be dismissed.

J Symmons

INSPECTOR