



Appeal Decision

Site visit made on 25 March 2024

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

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

Appeal Ref: APP/N5090/W/23/3328066

Peaberry Court, 87 Greyhound Hill, Hendon, Barnet, London NW4 4JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr N Khiroya, Blue Box Developments Ltd, against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/2750/OUT.
 - The development proposed is internal alterations to ten existing flats. Front, side and rear extensions to create fifty one additional self-contained flats. Ground to roof front extension to main entrance for the provision of a lift. Provision of plant equipment on the roof. Replacement of existing brick and render facade with new brick and render facade. Provision of balconies, private and communal amenity areas and associated cycle storage and refuse. Reallocation of existing car parking spaces in the basement.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with access, appearance, layout, and scale included for consideration at this stage. The matter of landscaping only is reserved for future consideration. I have determined the appeal on this basis.
3. The second reason for refusal is in relation to the effect on local infrastructure in the absence of a completed s106 Planning Obligation. In its Statement of Case, the Council has confirmed that the three relevant elements of local infrastructure are affordable housing, a carbon offset payment, and ongoing energy performance monitoring. A signed Unilateral Deed of Planning Obligation (UU), dated 13 March 2024, has been submitted as part of this appeal. I return to matters of weight and detail of the UU throughout my Decision as appropriate.
4. Barnet's Draft Local Plan is currently at Regulation 18 stage. The policies in emerging plans do not have the same statutory force as that accorded to policies in adopted development plans under s38(6) of the 2004 Act. They are nevertheless material considerations and I return to the emerging Plan as appropriate throughout my Decision.

Main Issues

5. The main issue is whether the appeal site is a suitable location for the development proposed having particular regard to the development plan's policies relating to tall buildings, including considering the effect of the proposal upon the character and appearance of the area.

Reasons

Tall building policies

6. The appeal site is within a predominantly residential area, comprising of mainly two storey properties, although there is a parade of shops and commercial properties across the road from the appeal site. Peabody Court is a 'V' shaped multi-storey building at the junction of Greyhound Hill and Watford Way (A41) which is a main route in and out of London. The body of the building is five storeys, and its height gradually descends to three storeys on the flank elevation facing Greyhound Hill and four storeys on the flank elevation facing Watford Way. The ground floor of the building is in retail use as a furniture shop and the remainder of the building comprises flatted dwellings with ancillary parking at basement level.
7. The proposed development includes the erection of extensions and alterations to the building to increase its height to eight storeys, descending to five storeys on the flank elevation facing Greyhound Hill. The proposal would allow for the reconfiguration and extension of 10 existing flats as well as 51 additional flats. The existing ground floor commercial use would be retained and the commercial frontage as well as the exterior of the building would be replaced as part of the development.
8. Policy D9 of the London Plan 2021 (LonP) states that development plans should define what is considered a tall building for specific localities and should determine if there are locations where tall buildings may be an appropriate form of development. The policy sets out that tall buildings should only be developed in locations that are identified as suitable for them.
9. Policy CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) defines a tall building as those comprising eight storeys (or 26 metres) or more in height. A total of eight strategic locations are identified within the policy, which also stipulates that any tall buildings outside of these specific locations will not be supported. The appeal site is not within an identified location.
10. The proposed development would therefore result in a building that is defined as tall within the local development plan, outwith an area that has been identified as a location that may be suitable for tall buildings.

Character and appearance

11. Peabody Court is a prominent building at a busy intersection, its height in relation to neighbouring buildings sets it apart from surrounding development as there are no neighbouring properties of a similar scale. This is even taking into consideration the proposed stepped progression in height and a design aimed at minimising the mass of the built form. The proposal also includes the replacement of the external facade of the building and the proposed design and external materials would give the building a contemporary appearance. This would be an improvement on the existing façade, which would benefit from being updated. Nevertheless, the proposed building would be significantly taller and unduly large in comparison to the surrounding built environment.
12. The unique 45 degree façade of the building relates positively to the busy intersection. Its design coupled with its height sets it apart from surrounding development as a landmark building, particularly for those travelling along

Watford Way (A41) which is a main route in and out of London. In some views, large buildings such as buildings within Colindale or the campus of Middlesex University form a backdrop to views of the appeal site and, in comparison, to some of the buildings in these areas, Peaberry Court is relatively modest. However, the distance and also the intervening M1 and A41 form a distinct separation between the buildings in Colindale and the appeal site. The landmark status of the building or the appearance of the building within some long-range views would not ameliorate the harmful effect of the development, which would result in an overly prominent and incongruous addition to the street scene.

13. The building would retain an active frontage, would not impact on identified Local Viewing Corridors, not impact on heritage assets and their setting, or result in the creation of a microclimatic effect harmful to the public realm. As such the proposed development is in accordance with the requirements of most of the criteria listed in Policy DM05 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP). However, as the appeal site is outwith an identified strategic location for tall buildings it would not be in accordance with the overarching principle of this policy. Also given the resultant buildings overall height and scale it would be a distinct departure from the existing urban fabric and would therefore conflict with criterion ii of this policy.
14. My attention has been drawn to an emerging Local Plan and specifically Policy CDH04 which relates to tall buildings. As this policy may be subject to modification during the adoption process it is of limited weight. Notwithstanding this, it appears that, the policy does not explicitly prevent tall buildings outside of strategic locations. In addition, the other criteria within this policy are not a distinct departure from the current local plan. I therefore attach limited weight to Policy CDH04 in my determination of this appeal.
15. A previous scheme for an upward extension to create an eight storey building at the site was recently dismissed¹. This was on the basis that the appeal site does not provide a suitable location for the development proposal, having particular regard to the development plan's policies relating to tall buildings and the effects of the development on the character and appearance of the area. The proposed scheme would still result in an eight storey building, albeit with different articulation and massing. I have assessed this appeal on its own merits but the Inspector's decision on the previous scheme is a material consideration of significant weight.

Overall

16. For the reasons given above, the appeal site is not a suitable location for the development proposed, having particular regard to the development plan's policies relating to tall buildings and that the proposed development would have a harmful effect on the character and appearance of the area. As such the proposal would be contrary to Policies D3 and D9 of the LonP, CS5 of the CS and DM01 and DM05 of the DMP. In summary, and amongst other things, these policies state that tall buildings should be developed in locations that are identified as suitable for them and identify specific criteria that tall buildings are required to meet including that they successfully integrate into the existing urban fabric and make a positive contribution to the local townscape. These

¹ APP/N5090/W/23/3317453

policies also set out that development proposals should enhance local context by delivering buildings that respond to local distinctiveness and character.

17. The Council also refers to Policy D1 of the LonP within its first reason for refusal which is focused on the requirement that Council's carry out area assessments as part of their preparation of development plans. They also refer to Policy CS NPPF of the CS which is an overarching policy relating to the consideration of development against the requirements of the National Planning Policy Framework (the Framework). Both of these policies are not relevant to my assessment of this appeal and the harm I have identified.

Other Matters

18. I note the recent planning history of the site for the upward extension of the building to seven storeys² and a subsequent approval to vary condition 1 of this approval to allow for amendments to the development³. There would appear to be a reasonable prospect of the implementation of a previously approved scheme. Be that as it may, none of the developments that have been previously approved would result in a building that is eight storeys and meets the definition of a tall building in the borough. Being larger and taller, the appeal proposal would also have a greater effect on the character and appearance of the area.
19. As the appeal proposal is taller it would allow for an increased number of additional flats when compared to previous schemes for the extension of the building. As such the appellant asserts that previously approved schemes for the upward extension of the building to six or seven storeys would be less viable than the appeal proposal. While there is evidence to support that this may be the case, this does not present sufficient justification, given the identified harm and conflict with the development plan.
20. The benefits associated with the renovation of the building does not outweigh the harm I have identified in relation to other aspects of the design, and I am not satisfied that the appeal proposal is the only viable mechanism for the refurbishment of the exterior of the building.
21. The submitted representations in support do not raise any additional matters that overcome the harm I have identified in the main issues. The relevant concerns raised within the submitted objections are addressed within my decision.

Planning Balance

22. The appeal proposal would result in the provision of 51 new energy efficient homes that would comprise of a mix of tenures and make a valuable contribution to the housing supply within the Borough. The proposed development would also redevelop a brownfield site. In so doing, the proposal would comply with some policies within the development plan. This would include Policy H1 of the LonP which, amongst other things, encourages the development of windfall sites in order to increase housing supply. For the same reasons the proposed development would also be compliant with some advice within the Framework. I attach significant positive weight to these factors.

² 22/1437/OUT

³ 23/4833/S73

23. There are ten flats within Peaberry Court as existing that do not meet the minimum internal space standards defined within Policy D6 of the LonP. The proposal includes the reconfiguration and extension of these flats which would increase their internal floor area to be in accordance with minimum space standards. This, and alterations to their windows would improve the living conditions of the occupants of these properties, as would the provision of community amenity areas. I therefore attach moderate positive weight to these improvements to the living conditions of existing occupants of the building.
24. The UU secures a review mechanism for affordable housing that may conclude that a contribution for affordable housing would be required, for which there is an identified need, resulting in a benefit arising from the development. However, as this benefit is subject to a review mechanism, such a provision is not guaranteed. I therefore, attach only very limited weight to the potential provision of affordable housing.
25. The submission of a payment to offset carbon emissions has been agreed in accordance with the requirements of SI 2 of the LonP as it was clearly demonstrated that the zero-carbon target, required for major developments, cannot be achieved in this instance. As payments received to the Council's carbon offset fund would contribute to carbon reduction elsewhere, it would be beneficial. However, an efficient energy performance rating of the building is a development plan requirement and a neutral factor in my determination of the appeal.
26. The proposal would lead to a Community Infrastructure Levy (CIL) contribution. It is not clear from the evidence before me what this CIL contribution would be, or on what it would be spent for. As such, I cannot be certain what benefit would derive from a CIL payment. I do not, therefore, attach any weight to the CIL contribution.
27. The appellant submits that the proposed development would not result in any harm by reason of, amongst other matters, its mixture of units, its effects upon the living conditions of neighbouring occupiers, highway safety implications, its effects upon flood risk, drainage, and air quality. The new flats which would be formed would comply with, and even exceed, some building standards, including in relation to internal and external space. It is also put to me that the site is within an accessible location and the existing ground floor commercial units would be retained within the development. However, the absence of harm in relation to such matters is a neutral factor and weighs neither for nor against the proposal.
28. The proposal also includes the erection of an extension on the front elevation which would accommodate a lift which would improve the buildings accessibility for occupants and visitors to the building. I attach limited weight on improvements to the accessibility to the building.
29. The benefits of the proposed development are significant. However, in my assessment of the appeal I have identified that the proposal would result in a tall building in a location that is not suitable for such a development. The proposal would fail to integrate with the existing urban fabric and would harm the character and appearance of the area. Therefore, the benefits of the proposal do not outweigh the harm I have identified, and the proposed development would conflict with the development plan as a whole. There are

no material considerations to indicate a decision otherwise that in accordance with the development plan.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed.

C Livingstone

INSPECTOR