



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: 10 May 2024

Appeal Ref: APP/N5090/W/23/3327897

Land adjacent to 25 Manor Road, Barnet, London, EN5 2LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Noah's Ark Children's Hospice against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/1702/FUL.
 - The development proposed is described as 'clearance of existing structures on site and the erection of a two storey building, plus accommodation at roof level, to provide 5no. residential units with associated parking, landscaping, refuse and cycle storage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended proposed landscaping plan was submitted as part of this appeal¹. The amended plan includes the subdivision of the rear garden to include a communal area, which represents a fundamental change to the proposal. Accepting the plan would result in procedural unfairness as it would deprive the occupants of neighbouring properties an opportunity to comment on how the rear garden area would be used. The appeal process should not be used to evolve a scheme and therefore I do not accept the amended plan.

Main Issues

3. The main issues are:
 - whether future occupiers would be likely to experience acceptable living conditions in terms of internal floor areas, floor to ceiling heights, built in storage areas, outdoor amenity space, internal layout and aspect;
 - whether the proposal would provide a variety of sizes of new homes to meet housing need;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties with particular regard to noise and disturbance and privacy.

¹Drawing Code 21245-LSI-AAA-XX-DR-A-1172 S2 P04

Reasons

Living conditions of future occupants

4. Policy D6 of the London Plan 2021 (LonP) seeks to ensure that new housing development provides adequate internal and external space to meet the needs of future occupants. Table 3.1 incorporated within this policy details the minimum gross internal floor area (GIA) depending on property type and proposed occupancy.
5. As detailed above, based on the submitted plans, flat 5 is a two bedroom three person property and the minimum GIA for a property of this type is 61 square metres. With a proposed GIA of 64sqm flat 5 would meet the minimum requirement. All of the other flats would also meet the minimum gross internal floor area requirements set out in Policy D6 of the LonP.
6. The Council note that four of the proposed flats would not meet their respective built-in internal storage requirements as set out in table 3.1 within Policy D6 of the LonP. However, the information supporting this policy notes that built in storage areas are included within the overall calculation of a GIA. As each flat would meet minimum internal space standards there is no reason that would prevent the required built in storage space from being provided in each flat.
7. The proposal would also result in a degree of overlap of the living and sleeping areas between flats. Policy DM04 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) relates to the relationship between new noise generating uses and existing sensitive uses and would not apply to living conditions in this situation. The Council's Supplementary Planning Document: Sustainable Design and Construction 2016 (SDC) states that 'in order to meet the standards for internal noise, appropriate levels of noise insulation will be required'. I acknowledge that structural details of the development, including acoustic insulation between properties, would be assessed under separate building regulations. The details of acoustic insulation could be requested via condition.
8. The flats on the ground floor and first floor would have an internal ceiling height of 2.4m. Therefore, flats 1,2,3 and 4 would fall below the minimum ceiling height requirement of 2.5m for at least 75% of the GIA as required within Policy D6 of the LonP. It is acknowledged that a ceiling height of 2.4m is in accordance with the Nationally Described Space Standard 2015. However, this is superseded by the requirement of the LonP which takes into account not only the heat island effect but also that the fact that majority of housing developments in London are made up of flats. The supporting text for this policy goes on to describe how ceiling heights can affect the quality of living accommodation for future occupants in terms of 'daylight penetration, ventilation and cooling and sense of space'. Even a relatively small shortfall in terms of the minimum ceiling height would have a harmful impact on the living condition of future occupants in these respects.
9. The provision of private external amenity space as part of a housing development is also a requirement of Policy D6 of the LonP that states 'where there are no higher local standards in the borough Development Plan Documents, a minimum of 5 sq.m of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m should be provided for each additional occupant'. The SDC stipulates that 5 sqm of outdoor amenity space

would be required per habitable room, but also allows for no private external amenity space to be provided. As the SDC is guidance rather than policy and it allows for a lower local standard in one respect, I consider that it is superseded by Policy D6 of the LonP.

10. Three of the proposed flats would have no access to external amenity space where occupants could sit, relax, socialise, and dry clothes in privacy. In my judgement the proposal would fail to provide adequate living conditions for future occupants of flats 2,3 and 4 in terms of private external amenity space. The requirements of private outside amenity space within the LonP are adjusted to reflect the number of occupants in a dwelling and, as detailed above, flats with a lower occupancy capacity are not exempt. While access to nearby public open space could be beneficial to future occupants of the development it would not ameliorate the harm to the living conditions of the occupants that would have no private outdoor space.
11. Policy D6 of the LonP requires that 'housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings' The SDC states that 'where single aspect flats are considered acceptable, they should demonstrate that all habitable rooms and the kitchen are capable of providing adequate ventilation, privacy and daylight'. Three of the proposed flats would be single aspect and the Council raised concerns in respect of light penetration to flat 2 in particular. The projecting bay windows on the front elevation do not include side windows. The kitchen/living/dining room in flat 2 is a long narrow room and would be illuminated by a single window on the front elevation. The east-west orientation of the proposal would ensure that none of the proposed flats would be primarily north facing. However, there is no substantive evidence before me to demonstrate that the habitable rooms in flats 2, 3 and 4 would be provided with adequate passive ventilation, daylight and privacy and avoid overheating.
12. It has not been demonstrated that flats 2,3 and 4 would provide acceptable living conditions for future occupants while being single aspect. As such I am not satisfied that the proposed development would provide acceptable living conditions for future occupants in terms of aspect and daylight.
13. For the reasons detailed above future occupiers would be unlikely to experience acceptable living conditions in terms of floor to ceiling heights, outdoor amenity space and aspect. Therefore, the proposal is contrary to Policy D6 of the LonP, Policies DM01 and DM02. These policies require that housing development should be high quality design and complies with current development standards.
14. CS5 of the CS relates to protecting and enhancing local character and does not relate specifically to the living conditions of future occupants.

Housing need

15. The proposed development is for the erection of a small block of flats on part of the garden ground at 25 Manor Road (No.25). The block would comprise of two one bedroom one-person flats, two one bedroom two-person flats and one two bedroom three-person flat.
16. Within the National Planning Policy Framework (the Framework) the Government supports the delivery of more homes, to ensure sustainable

development that sustains the creation of mixed and inclusive communities. The provision of a range of housing types to meet housing need is encouraged by the Council who support this aim under the terms of DM08 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012 (DMP) which states that 'development should provide where appropriate a mix of dwelling types and sizes to provide choice for a growing and diverse population', this policy goes on to note their dwelling size priorities are for family homes of three or four bedrooms.

17. The surrounding area is characterised by a mix of housing types, but a large majority are single family homes. The proposal would introduce a number of smaller flats that would contribute to a greater mix of housing types in the area. While Policy DM08 stipulates that the Council's priority is for family homes of three bedrooms or more, it does not stipulate that provision of accommodation of this type is an essential requirement. Given the scale of the development and noting existing housing types in the area, the proposed mix of housing types is acceptable.
18. Therefore, I conclude that the proposal would provide a variety of new homes to meet housing need. The proposed development is therefore in accordance with the overall aim of Policy DM08 of the DMP. This policy is consistent with the framework in encouraging the provision of a variety of additional homes of varying types to meet the needs of the community.
19. Policy CS NPPF and Policy CS1 of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS) relate to general compliance with the National Planning Policy Framework and Barnet's overarching place shaping strategy and are not determinative in my assessment of the mix of housing types proposed.
20. Policy CS5 of the CS and Policy DM01 of the DMP are also not determinative in my assessment of the mix of housing types. However, they relate to character and appearance, and I will address these policies in my assessment of character and appearance below.

Character and appearance

21. The application site is located within a primarily residential area. Manor Road is a residential street with properties on either side forming a linear pattern of development fronting the highway on both sides. There are a variety of housing types in the area including two storey, semi-detached and detached family homes and small blocks of flats that are varied in terms of age, architectural style and scale.
22. 25 Manor Road is a two storey semi-detached property with a hipped roof and a double height bay on the front elevation. The neighbouring property 26 Manor Road (No.26) is an attractive Arts and Crafts style property that is locally listed. The proposal includes removal of ancillary buildings between Nos. 25 and 26 to allow for the erection of the proposed block of flats. The proposed building would be two storeys with accommodation in the attic that would be served by dormer windows on the front elevation. Two double height bay windows are proposed on either side of the front elevation. An inset dormer balcony is proposed on the rear elevation within the roof plane. Parking for two cars and a covered bin store are proposed within the front garden.

23. While it is noted that the appeal site is in a part of the street where the properties in the immediate area are single family homes, there are blocks of flats a relatively short distance to the north of the appeal site. The building is designed to appear as a single family dwellinghouse within the street scene, with an entry point for a single flat on the front elevation. There is also sufficient space within the front garden to accommodate refuse storage and bicycle storage would be accommodated to the rear of the building. As such, the resultant building would not be unduly prominent or harm the residential character of the area.
24. The building would form a continuation of the building line of 25 Manor Road, and the set-back of No.26 would be retained. This proposed layout is considered acceptable noting that No.26 is locally listed, the reasons for which are detailed further below. The proposed rear dormer balcony is a design that is uncharacteristic in the area, however there are a variety of architectural styles in the vicinity and as it would be on the rear roof slope it would not have a materially harmful impact on the character and appearance of the area. The dormer windows on the front elevation would be inset on all sides from the edge of the roof and balanced by the two storey bay windows on the front elevation. Given the height of the proposed building, the proportions are balanced, and, in my judgement, the dormers would not appear overly large.
25. The proposed building would not accord with some elements of the Supplementary Planning Document: Residential Design Guidance. While it is a material consideration in my assessment of the appeal, it applies to alterations and extensions of existing dwellings. As the proposal is for a new block of flats, I afford only limited weight to the guidance provided.
26. The resultant building would not be unduly prominent and responds positively to local distinctiveness in terms of overall scale and massing. The area of garden ground to the side of No.25 is unusual in the area as the layout of the properties on Manor Road has resulted in dense frontage development with only a small degree of separation between properties. The proposed development would reflect the established building density and layout in the area.
27. For the reasons detailed above I conclude that the proposal would not have a harmful effect on the character and appearance of the area and is in accordance with Policy D3 of the London Plan 2021 (LonP), Policy CS5 of the CS and Policy DM01 of the DMP. These policies require new development to include high quality design that is based on an understanding of local characteristics and respects local context.
28. Policy CS1 of the CS relates to Barnet's overarching place shaping strategy and is not determinative in the assessment of the effect of development on the character and appearance of an area.

Living conditions of neighbours

29. The Council state that in their assessment of flat 5 the internal floor area of the smaller bedroom would be in excess of 11.5sqm and as this measurement is over 11sqm this bedroom should be counted as being sufficient to accommodate two people rather than one. The submitted plans are annotated and the smaller bedroom within flat 5 is noted as having an internal floor area of 11sqm. The Council have provided no additional information to substantiate

their claim. Therefore, my assessment of the appeal is based on the submitted plans, which would make flat 5 a two bedroom three person property.

30. Based on the submitted plans the proposed building would have the capacity to accommodate a maximum number of nine people. A family home, typical of other properties on the street, would have the capacity to accommodate a similar number of people. Notwithstanding this, five separate flats are not directly comparable to a single family household and the level of activity is likely to be slightly greater. However, Manor Road is a busy residential street and the mix of accommodation types results in a high housing density. The character of the area is such that increased levels of noise and disturbance would be expected.
31. The proposed dormer roof terrace would be set into the rear roof plane. The Council state that the terrace would not allow for direct sight lines to neighbouring properties. Based on the height and inset of the terrace and the position of the proposed dormer walls, I agree with the Council's assessment of this matter. Like other properties in the area the proposed building would have windows on the rear elevation. The proposed dormer roof terrace would not result in a material increase in perceived overlooking over and above the proposed rear windows. The impact of the proposal would be further mitigated by the layout of properties in the area, the long rear gardens are back to back which would allow for a large separation distance between the rear of the proposed building and the properties on Cedar Lawn Avenue.
32. For the reasons detailed above the proposed development would not have a harmful effect on the living conditions of the occupants of neighbouring properties with regard to noise and disturbance and privacy. Therefore, the proposal is in accordance with Policy CS5 of the CS and Policy DM01 of the DMP where these policies require that development contributes to people's sense of place and security and are designed to allow for adequate privacy for adjoining occupiers.

Other Matters

33. The significance of No.26 and the adjoining property, as a Locally Listed Building is derived in part by the quality of the architecture and unique design details that set them apart from other properties in the street. The properties are built at a higher ground level than No.25 and have a greater set back from the highway which allows for a larger front garden, this adds to the visual prominence of the building within the streetscape. The proposed development does not directly affect this non-designated heritage asset. However, there are currently only a number of minor ancillary buildings within the garden to the side of No.25 which allows for a degree of visual separation between the two properties. The proposed building would reduce this visual separation; however, the proposed building would form a continuation of the building line of No.25 and retain the set back of No.26. As such, in my judgement, it would preserve the setting of this locally listed building and the contribution it makes to its significance.
34. The appellant submits that the proposed development would not result in any harm by reason of, amongst other matters, highway safety implications, cycle and parking and waste storage provision. The proposed block of flats would not harm the character and appearance of the area or have a harmful effect on the living conditions of the occupants of neighbouring properties. The new flats

would comply with the GIA requirements of the LonP, which would also allow for sufficient built in storage. Also, suitable acoustic insulation could mitigate noise levels between flats. However, the absence of harm in relation to such matters is a neutral factor and weighs neither for nor against the proposal.

35. My attention has been drawn to a previous grant of planning permission for the development of a building to form 5 flats at a site that is close to the appeal site². However, this application was determined prior to the adoption of the LonP in 2021, which sets out a minimum requirement for private outdoor space. Accordingly, the policy that applied to the assessment of this application is not directly comparable to the case before me.
36. I note that the appellant is aggrieved with the Council's handling of their application. However, this is a matter between the parties that does not fall within the remit of this appeal. I have therefore given it no weight in my determination.

Conclusion

37. In providing five new dwellings the proposal would make a modest contribution to the housing supply in the area and the development of windfall sites is encouraged within both the Framework and the LonP as a means to increase housing supply. There would also be an economic benefit during construction.
38. However, the development would fail to provide the minimum required ceiling height and sufficient private external amenity space for all of the proposed flats. There is also a lack of substantive evidence that the single aspect flats would provide adequate passive ventilation, daylight and privacy and avoid overheating. Therefore, the proposed development would fail to provide acceptable living conditions for all future occupants. The adverse effects in these respects are considerable and outweigh the benefits detailed above.
39. The development would conflict with the development plan. This conflict is not outweighed by other considerations. Therefore, the appeal is dismissed.

C Livingstone

INSPECTOR

² Application 16/3156/OUT