



Appeal Decision

Site visit made on 21 May 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2024

Appeal Ref: APP/N5090/W/23/3330646

73 Bulwer Road, New Barnet, Barnet EN5 5EU

- 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 Mr L Lawrence against the decision of the Council of the London Borough of Barnet.
- The application Ref is 23/0729/FUL.
- The development proposed is erection of a replacement dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has referred to Barnet's New Local Plan, which is now at Regulation 24 stage. However, the Council has also advised that the new local plan is subject to a further period of consultation on modifications. As such I cannot be certain when the new local plan is to be adopted and whether any additional modifications will be made before that time. I have, therefore, considered the appeal against the adopted development plan policies as detailed in the Council's reasons for refusal.

Main Issues

3. The main issues are:
 - the effect of the proposal on biodiversity, with particular regard to bats; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Biodiversity

4. The appeal was submitted with a Preliminary Ecological Appraisal Report¹. The report advises that the existing dwelling is of 1930's construction and that potential bat roosting features were identified. As such I consider that there is a likelihood of protected species being present in the locality.
5. Circular 06/2005² states that "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 the planning permission is granted, otherwise all relevant material considerations may not have been addressed in

¹ ROAVR Group project 23_PEA_05_32

² ODPM Circular 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

making the decision". Ecological mitigation should only be employed where it is not possible to avoid the impact. Furthermore, mitigation measures should be specific to an identified harm.

6. Notwithstanding the appellant's statement of case no specific bat emergence survey has been submitted, even with the appeal submission. Consequently, I am not able to fully understand the baseline ecological potential of the site. It is, therefore, not possible to know whether there would be an adverse impact on bats, whether there is an opportunity to avoid the impact, or what mitigation could be used.
7. The finer details of the mitigation strategy could be secured by condition, once the baseline and presence, or otherwise, of bats has been established. It is not appropriate to condition the requirements for a survey to establish the baseline. Given the advice in Circular 06/2005, without a bat emergence survey I cannot be certain that any harmful effects arising from the proposal could be adequately avoided or mitigated.
8. In the absence of this detailed information, I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on biodiversity, with particular regard to bats. The proposal would, therefore, be contrary to the requirement of Policy DM16 of Barnet's Local Plan (Development Management Policies) Development Plan Document, adopted September 2012 (DMP), which seeks to ensure the retention and enhancement of biodiversity. It would also be contrary to Policy CS NPPF of Barnet's Local Plan (Core Strategy) Development Plan Document, adopted September 2012 (CS), which supports development which accords with the policies in the local plan.
9. The proposal would also be contrary to the advice in Barnet's Local Plan Supplementary Planning Document: Residential Design Guidance, adopted 2016 (the Design SPD), which seeks to ensure that development is not detrimental to the biodiversity of an area.
10. The Council has also referred to Policy DM01 of the DMP in their reason for refusal. However, this policy relates to character and amenity. The only reference in DM01 to biodiversity relates to proposals for lighting schemes. I, therefore, do not find any conflict with Policy DM01.

Character and appearance

11. The appeal site comprises the host dwelling, 73 Bulwer Road (No.73), which is a two-storey detached dwelling situated close to the junction of Bulwer Road and Hadley Road. The existing dwelling is hipped roofed, painted white on the front, and has an asymmetrical design. The house is set back off the road by a small front area which is currently gravel surfaced and provides one off-street parking space. The rear garden is long and enclosed in fences.
12. Bulwer Road is residential with a wide variety of house designs and sizes, including flats. The road slopes up from its junction with Potters Road to Warwick Road and the houses step up the road, following the slope. There are detached and semi-detached houses, two and three storey heights, pitched roofs running parallel to the road and also with gable ends facing the road, hipped roofs, bay windows and brick corbelling and banding. Materials are a mix of brick, render, painted brick and cladding with clay and concrete tiles to

roofs. Overall, there is no defined character, design, or scale to the houses on Bulwer Road and this mix itself provides the character to the street.

13. The dwellings either side of the host dwelling are No.71, a detached dwelling with a pitched roof and a similar width and height to the host dwelling, and No.75, which is one of a pair of semi-detached houses with a pitched roof but with the gable facing the road. No.71 has been extended to the rear with two-storey and single-storey additions. No.75 extends further back from the road than either No.71 or No.73 and also has a wider frontage and a higher ridge height. Currently the host dwelling appears smaller and lower in height than the properties either side of it.
14. The proposal is to replace the existing dwelling with a five-bedroom detached house with a larger footprint, height, and massing and of a different design. The appellant has submitted both the original plans and the revised plans. I have dealt with the differences in my decision below.
15. The position of the proposed replacement dwelling on the appeal site, albeit set slightly further back than either neighbouring property, would respect the relatively uniform building line and the spaces to the fronts of buildings along Bulwer Road. The width of the proposal is only slightly different to the existing building and would maintain the gaps between the appeal proposal and the neighbouring properties. The proposal would, therefore, respect the pattern of surrounding buildings and spaces as required by Policy DM01 of the DMP.
16. Furthermore, although the proposal includes hard standing to the front of the property this is the situation as existing and on several other properties in Bulwer Road. The existing low wall would be removed, and the space opened up. The lack of greenery or boundary treatment to the frontage is unfortunate but would not be overly harmful to the character of the area. Neither would the proposal appear any harsher than the existing hard surfaced area to the front, even when considered alongside the same treatment at No.75. The proposal would comply with the vehicle crossover advice contained the Design SPD.
17. The height of the proposed replacement dwelling would be similar to the height of No.75 and would, therefore, be higher than No.71. However, although the houses on Bulwer Road step up in height to follow the slope of the road, there are small groups of two and three properties where there is no change in the roof height. Moreover, the roof height would be no higher than No.75 and would not project above the roof levels forming the existing street-scene. For this reason, I find that the proposal would not dwarf its counterparts and would be of an appropriate height on the street scene.
18. Albeit proposing a different roof form and front elevation to the existing building the scheme reflects other properties on the street. The proposal includes a pitched roof at the front, the same as at No.71 and on several other properties on Bulwer Road. I also saw evidence of other two-storey bay windows at number 63 and from number 57 and on lower house numbers. There are also other two-storey bay windows on Woodville Road, off Bulwer Road. The brick banding proposed picks up this detail from other properties on the street. Overall, the appearance and height of the front elevation would be in-keeping with the wider area and the street scene and reflects local characteristics and design details. The proposal would not be incongruous or uncharacteristic in the street scene, albeit proposing a different scale and design to the existing dwelling.

19. The originally submitted scheme proposed a flat roofed section in the middle of the roof so as to provide larger rooms in the roof space. In my judgement the originally submitted scheme would have resulted in a large section of brickwork and the flat roof section being visible from Bulwer Road, albeit between the existing houses. The overall massing and design of the original proposal would have been harmful to the street scene for this reason.
20. However, the appellant amended the scheme during the Council's consideration of the proposal, and it was the amended scheme which the Council determined the application on. The amended scheme reduces the available space in the roof by proposing a hipped roof behind the front elevation pitched roof. The resultant design would be less dominant on the street scene and would appear as a subservient part to the front of the property. The amended proposal, which would provide pitched and hipped roofs, would not appear top-heavy or overly burdensome and bulky, as the Council asserts, and would relate to roof forms on other properties in the immediate area.
21. I acknowledge that the footprint of the proposed dwelling would be almost doubling the footprint of the existing dwelling. Moreover, it would extend further back than the dwelling at No.71. Notwithstanding this, neither the ground floor, nor the two-storey part of the development, would extend any further back into the plot than No.75. I also saw at my visit, and from the evidence before me, that other properties along the same side of Bulwer Road extend a similar distance back to the appeal proposal.
22. Consequently, although the appeal proposal would be deeper and larger than No.71 it would not be out of keeping with the overall massing and scale of other properties on Bulwer Road and would not be disproportionate or starkly contrasting with surrounding dwellings. The appeal proposal demonstrates high quality design and consideration of the local characteristics. It would respect the character and appearance of the street and the local area by adding to the existing mix of house designs and sizes. Moreover, it would not introduce a form or scale of development that would be out of keeping with the context of the existing street scene or the other houses on Bulwer Road.
23. For the above reasons, I find that the proposed replacement dwelling would not adversely affect the character and appearance of the area, including the host dwelling and street scene. The proposal would constitute an appropriate form of development that is high quality and relates appropriately to the context of the site and respects local characteristics.
24. In this regard the appeal proposal would comply with Policies CS1 and CS5 of the CS which, taken together, requires development to be the highest standard of urban design, respect local context and character, and seeks to create a quality environment and protect and enhance high quality suburbs. Furthermore, I find no conflict with Policy CS NPPF of the CS which reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework).
25. For the same reasons, the proposal would comply with Policy DM01 of the DMP which requires development to be of a high-quality design, based on an understanding of local characteristics, preserve, or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces, and streets.

26. The proposal would also comply with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, 2021 (LonP) which seeks to ensure the best use of land through consideration of design options to respond to a site's context, distinctiveness, layout, orientation, scale, appearance, and shape, requires development to respond to the existing character of a place, and be of high quality.
27. It would also reflect the advice in the Design SPD which, amongst other matters, also seeks to ensure high quality design to add to and complement the existing suburban character. The Design SPD also seeks to ensure that new development relates to its setting and local context and responds positively to reinforcing or improving local character through its appearance, architectural detailing, siting, use of materials, layout, boundaries, building lines, setbacks, fronts, and through respecting the scale, massing, and height of surrounding buildings.

Other Matters

28. A local interested party has raised concerns about the limited amount of parking available on Bulwer Road and the risk of additional pollution and risk to pedestrian safety. I saw at the time of my visit that on-street parking is not restricted by any local orders, other than the double yellow lines around the junctions. There was limited availability of parking at the time of my visit, however, I do not have substantive evidence that parking is not available. Moreover, the existing dwelling has one off-street parking space to the front of the property, and this could be retained for the new dwelling. Although the proposed replacement dwelling would provide two additional bedrooms it would not result in any additional dwellings. The increase in parking demand would not be significant or sufficient to warrant dismissal of the appeal on this matter.
29. Moreover, the appeal site is within an area that has very good public transport links which would provide a genuine choice of alternatives to the private car. The Council raised no objections on this matter and given the evidence and my own observations, I have no reason to disagree with them.
30. Both main parties have referred me to pre-application advice that the appellant sought before submitting the planning application. The Council are not bound by any pre-application advice, and, in this instance, the pre-application proposals were for a materially different scheme. Consequently, that the appellant sought pre-application advice is not determinative in the appeal before me.

Conclusion

31. Notwithstanding my conclusions on the character and appearance of the area, I have insufficient evidence before me to clearly show that the proposed development would not adversely affect protected species, with particular regard to bats. This results in harm that is in conflict with the development plan and the Framework as a whole. Moreover, there are no material considerations that indicate that the decision should be made other than in accordance with the development plan.
32. For the reasons given above I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR