



Appeal Decision

Site visit made on 9 July 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/N5090/W/24/3336242

217-219 Golders Green Road, Golders Green, Barnet, London NW11 9BY

- 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 Zion Levy against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/4470/FUL.
 - The development proposed is demolition of garage and erection of a four-storey building, with lower ground floor to provide 9no. residential units (Class C3). Associated car and cycle parking, communal roof terrace, private amenity space, refuse/recycling storage, ancillary landscaping and access points on Golders Green Road and Limes Avenue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the address on the application form refers to it as 'development site north-west of 215 at former 217 and 219', the appeal site is located at No 217-219 Golders Green Road as shown in the banner heading above.
3. Planning permission¹ has previously been granted on the site for nine self-contained flats and a commercial space within a three-storey building, plus rooms in the roof and a basement. A lawful development certificate² has established that this permission has been implemented, although no commercial use has been created.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of No 1 Limes Avenue with particular reference to outlook and privacy;
 - whether the proposal would provide acceptable living conditions for future occupiers of the development with regard to outlook and the provision of private outdoor space; and
 - whether the proposal would provide satisfactory parking arrangements.

¹ Ref 19/2887/FUL

² Ref 23/2905/91

Reasons

Character and appearance

5. The appeal site is a rectilinear site on the corner of Golders Green Road with Limes Avenue. Golders Green Road, the A502, is a wide and busy road with a mixture of two-storey, detached and semi-detached housing, as well as commercial properties and shops. Next to the appeal site is No 213-215 Golders Green Road, (No 213-215) a synagogue with residential flats. Opposite the site on the corner of Limes Avenue is a four-storey complex, the Maurice and Vivienne Wohl Campus³ (the Campus). The rear of the site backs onto residential properties, including No 1 Limes Avenue (No 1).
6. The site previously had two semi-detached houses located on it which have been demolished. At the front of the site, two trees, T2, a holly, and T3, a London Plane, are growing in the pavement along Golders Green Road. A Himalayan birch, T1, is growing next to the site on Limes Avenue.
7. The proposed development would provide nine residential units over four floors. This includes two duplex apartments which extend from the lower ground floor to the ground floor. There would be one two-bedroom unit on the 3rd floor, with the other eight units having three bedrooms.
8. The development would be separated from No 213-215. Whilst I saw that this building has upward extensions, it retains double height gable projections on the front, a design feature found in the housing along this stretch of road, including opposite the site. In contrast, the proposed development, whilst built of brick with stone features and surrounds, would have a pattern of large, full height, squarish-shaped windows on the front, rear and side elevations. This results in a design that is not reflective of the local characteristics of the area, particularly as two elevations would be highly visible from Golders Green Road.
9. The proposed building would be lower than the Campus opposite the site. However, I saw that this covers the entire area fronting Golders Green Road between Limes Avenue and Beverley Gardens. Therefore, the height of the Campus reflects the massing and form of the building on its large site. Instead, the appeal site has a relatively narrow frontage onto Golders Green Road. The proposal would be higher than No 213-215 and the size and form of the building when viewed from the front would appear overly large for the site. This, combined with its design, would result in it appearing disengaged from the other buildings along this stretch of Golders Green Road. Additionally, whilst the building would have a stepped profile along Limes Avenue, it would appear out of scale with the two storey, traditional residential properties along this road.
10. The proposal seeks to provide a more modern and attractive development than the previously approved⁴ scheme, using materials such as bronze coloured fenestration and cladding. However, the flat roof form, with a bronze finished lift shaft protruding above the roof and the wall around the roof terrace, would add to the massing of the building which would make it unduly prominent and incongruous in this location. Despite other examples of four storey buildings along Golders Green Road, the area is generally one of two storey buildings, with pitched roofs. The proposal on this highly visible corner location would

³ Referred to by the appellant as Jewish Care.

⁴ Ref 19/2887/FUL

make it visually dominant and would be unsympathetic to those buildings around it.

11. The large lightwells along the front and side of the building add to the bulk and footprint of the building. However, whilst they are not a characteristic feature of housing in this area, they would be screened by landscaping and boundary walls. Therefore, in the context of the scale of the building and its design, they would not appear overly dominant.
12. However, I conclude, for the reasons given above, that the proposed development would, as a result of the design and scale of the building, harm the character and appearance of the area.
13. Therefore, it would conflict with Policy D3 of the London Plan, 2021, (LP) which requires design to respond to local distinctiveness and have regard to existing street building types, forms and proportions. In addition, it would conflict with Policies CS1 and CS5 of Barnet's Local Plan Core Strategy, 2012, (CS), as well as Policy DM01 of Barnet's Local Plan Development Management Policies, 2012, (DMP). Collectively, these policies seek to create high quality design that respects the appearance of surrounding buildings. Furthermore, it would conflict with the Sustainable Design and Construction Supplementary Planning Document, 2016, (SDCSPD), and the Residential Design Guidance Supplementary Planning Document, 2016, (RDGSPD). Both provide guidance that seek to protect and enhance the character of the borough.

Living conditions of No 1

14. No 1 is located to the rear of the proposed development. It is a detached house with a small front garden and a moderately sized rear garden. The front elevation has ground floor and 1st floor bay windows, closest to the site. The development proposal would, despite the distance from it, project forward of the front elevation of No 1. Additionally, the access road to the car park would run along the boundary with No 1. Whilst the rear of the proposed residential block would be stepped back, it would be relatively close to No 1, clearly visible from the front windows of the house. The position and height of the development, even if only seen from some angles, would be overly dominant from this property and would harm the outlook of the occupiers.
15. The side elevation of No 1 closest to the development does not have any windows which would be overlooked. However, the rear of the proposed development would have extensive glazing on each level. This would result in overlooking by the occupiers of the flats into the rear garden of No 1. Moreover, flats No 05 and 07 on the 1st and 2nd floors have balconies which, despite the oblique angle, would enable overlooking from the balcony into the garden.
16. Whilst the RDGSPD recommends a distance of 10.5 metres between a development and a neighbouring garden, the proposal would have four flats whose living space, as well as some bedrooms, are sited at the rear of the building. The cumulative effect of the windows and balconies of these units would, therefore, result in a greater degree of potential for overlooking. Whilst I acknowledge that the distance and angle would be oblique, this would harm the privacy of the occupiers of No 1.

17. I therefore conclude that the proposed development would harm the living conditions of the occupiers of No 1 with regards to their outlook from the front of the property. It would also result in overlooking from rear windows and balconies of the development into the garden space at the rear, thereby affecting the privacy of occupiers.
18. It would conflict with CS Policy CS5, DMP Policies DM01 and DM02, as well as the SDSPD and the SDCSPD. Cumulatively, these policies and guidance seek to create high quality places which protect privacy and outlook for adjoining occupiers.

Living conditions of future occupiers

19. All the flats would have some form of private, external outdoor space, either terraced areas adjacent to the building, or balconies. In addition, a shared amenity space would be located on the roof of the building.
20. Policy D6 of the LP requires a minimum of 5m² of private amenity space for every 1-2 occupiers of flats, with an additional 1m² for each additional occupier. Five of the units are for 6 people which would require a minimum of 9m², with none of the units being for less than for 4 people, which equals 7m² of amenity space. The main parties disagree as to whether adequate amenity space would be provided, with the appellant providing an overall figure for the building. However, the amount of private outdoor space varies from 6m² for units No 04, 06 and 08, which are for 4-5 occupiers, to 32m² for unit 09. The provision of 6m² would be less than set out in the LP and would provide a very small, private external space.
21. Some of the outdoor space for units 01 and 03 would be located next to the pavement along Limes Avenue. Whilst landscaping and planting along the boundary wall would provide some privacy for these units, it would be close to the junction with a busy road, which I saw at the time I visited, had constant movement from cars and pedestrians. Additionally, two areas of the outdoor space for unit 03 would be next to the access and ramp for the car park. Unit 02, a duplex, for 6 occupiers, would have only outdoor space within a light well. Whilst this would be 4 metres in depth it would be constrained, particularly if a family is living there. Therefore, although some occupiers could be content with smaller areas of private outdoor space, for some of the units, it would be very limited.
22. Duplex flats 01 and 02 would have bedrooms located on the lower ground floor only. Each of these units would have three bedrooms where natural light would be provided by lightwells. Whilst the two lightwells at the front of the building would have a depth of 4 metres, the one next to Limes Avenue for unit 01 would be 2 metres deep. Despite full height windows being used for the bedrooms, and only bedroom 1 of flat 01 being dual aspect, because of glazing from two lightwells, no substantive evidence has been provided as to whether the amount of daylight and sunlight that would be provided to the bedrooms would be adequate. Therefore, I cannot be certain that this this would provide good quality living conditions and result in artificial light being needed during the daytime.
23. Moreover, the bedrooms would look into the lightwells, which would provide a relatively enclosed space. This, despite the lightwells being stepped with planters, would provide a poor outlook for the occupiers of family sized units.

24. Therefore, I conclude that the proposal would harm the living conditions of some of the future occupiers of the proposed development with regards to outlook and the provision of private outdoor space.
25. The proposal would conflict with DMP Policies DM01 and DM02, LP Policy D6, and CS Policy CS5, as well as the RDSPD and SDCSPD. These policies and guidance combined, seek to provide private outdoor amenity space and adequate outlook for future occupiers.

Parking

26. The site has a Public Transport Accessibility Level (PTAL) of 3 and is within a Controlled Parking Zone where resident permit holders only can park Monday to Friday, 11am to midday. There is no dispute between the parties that numerous bus routes can be accessed from bus stops within walking distance of the site. The site is also in walking distance of a London underground station.
27. The proposal would provide parking at the front of the site, including one disabled bay, accessed off Golders Green Road. The remaining parking would be on the lower ground floor accessed via a ramp from Limes Avenue. This would provide 11 parking spaces in total. This is considered acceptable by the Council, subject to a planning obligation being secured to prevent future occupiers purchasing parking permits. Whilst the appellant contends that a planning obligation is not required, they would accept a planning condition. However, a condition would apply to the whole development and would not be enforceable in terms of individual occupiers seeking to purchase a permit.
28. I noted the parking restrictions in the surrounding streets although I have not been provided with evidence which indicates that there are parking issues within the CPZ to the extent that the issuing of permits for the prospective occupiers of the development would result in unacceptable impacts on parking and congestion. Conversely, as the site is in a CPZ, I have no evidence in the form of a parking survey which would suggest that there would be adequate parking within the surrounding area, including for visitors to the units. Moreover, a planning obligation would discourage further car ownership and promote the use of alternative, more sustainable modes of transport. Consequently, on the basis of the evidence before me, I am satisfied that a planning obligation is necessary, and accords with the requirements for obligations set out in paragraph 57 of the Framework.
29. Therefore, without a planning obligation, the proposal would not provide satisfactory parking arrangements. It would conflict with CS Policies CS9 and CS15 and DM Policy DM17, as well as the Planning Obligations Supplementary Planning Document, 2013. Collectively, these seek to provide, safe, effective and efficient travel including promoting cycling and walking, using planning obligations to restrict parking permits for future occupiers within a CPZ.

Other Matters

30. The impact on trees was cited as one of the reasons for the refusal of a previous application⁵ on this site. The footprint of the proposed basement has therefore been reduced, and an arboricultural statement⁶ has been submitted.

⁵ Ref 22/6026/FUL

⁶ Marcus Foster Arboricultural Design and Consultancy, September 2023

Whilst the proposed development would have some minor incursions into the Root Protection Area of trees, T2 and T3, there is no dispute that subject to appropriate mitigation, the trees would not be harmed.

31. There is also no dispute that the units would satisfy internal minimum floor space standards and all units would be dual aspect, with appropriate sound insulation. Unit 04 would be accessible to M4(3) standards⁷. The development would have a green roof and PV panels, with landscaping proposed on the rooftop amenity space. Whilst some of these are normal requirements expected from new development, these would provide some moderate weight to the proposal.
32. The appellant refers to smaller lightwells approved within the borough at 66 Woodside Park Road and 33-34 Woodside Grange Road. However, limited substantive evidence has been provided as to whether these proposals are comparable to the appeal before me. Therefore, I give this little weight.
33. Whilst the appellants refer to two, four-storey synagogues approved⁸, one of which has been completed, and a recent planning permission for a four-storey mixed use office/residential building⁹, as well as other four-storey buildings in the vicinity, no substantive evidence has been submitted. I saw Sage Court, a large nursing home, also on a corner plot. However, I have no substantive information of the circumstances that led to this building, although I noted that it included hipped roofs, as found on neighbouring residential properties. Nevertheless, none of the cases cited are for purely residential use, and with limited information they provide little weight to the appeal which must be determined based on the evidence before me.

Planning Balance and Conclusion

34. The proposal would provide nine residential units, three of which would have three bedrooms, which is the highest priority for housing within the borough. Whilst this would contribute to the aims set out in the National Planning Policy Framework to boost the supply of homes, the site already has an extant planning permission for the same number of units. Moreover, the Housing Delivery Test in 2022 showed that the Council had delivered 107% of its housing requirement. Therefore, the proposal would not result in an increase in the supply of homes, over and above what has already been approved. Moreover, I have already found that the proposed development would harm the character and appearance of the area, the living conditions of No 1 and the living conditions of future occupiers. Additionally, a planning obligation to ensure satisfactory parking arrangements has not been secured.
35. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict.
36. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

⁷ The Building Regulations, 2010

⁸ 169-171 and 185-187 Golders Green Road

⁹ 177-179 Golders Green Road