



Appeal Decision

Site visit made on 4 December 2024

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/N5090/W/24/3346451

116 Victoria Road, New Barnet, Barnet EN4 9PA

- 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 Klara Victoria Limited against the decision of the Council of the London Borough of Barnet.
- The application Ref is 22/3005/FUL.
- The development proposed is demolition of existing buildings and erection of four storey building comprising 11 residential dwellings (Use Class C3) and commercial unit (Use Class E) with associated car parking, cycle parking, refuse stores, servicing areas, hard and soft landscaping and associated works.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's officer report indicates that Barnet's Draft Local Plan is at examination. I have not been notified that this has been adopted and I have had regard to current development plan policy in reaching my decision.
3. Two completed and signed unilateral undertakings under Section 106 of the Town and Country Planning Act 1990 were submitted. The first unilateral undertaking is dated 6 August 2024, while the second is dated 24 October 2024. The Council confirmed on 26 November 2024 that the second unilateral undertaking has superseded the first. I have therefore taken the second unilateral undertaking only into account in reaching my decision.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on a) the character and appearance of the area, and b) whether the proposed development would make adequate provision for community and infrastructure needs.

Reasons

a) Character and appearance

5. Located on Victoria Road's western side, the roughly triangular site presently contains hardstanding, a single-storey workshop and flat-roofed garages. The site was formerly used by a car repair and MOT business. At the time of my site visit, the site was being used for the parking of cars.
6. Surrounded by residential and commercial uses, the site is tightly constrained by neighbouring buildings and Victoria Road itself. The site's garages back

onto the short rear gardens of two-storey terraced houses on Victoria Avenue. The site's southern boundary adjoins the rear of retail units with flats above, fronting East Barnet Road. These are of two storeys or two and half storeys in height and form part of a town centre. At the corner of East Barnet Road and Victoria Road, 133 East Barnet Road is a modern flatted block of three storeys at the corner and two and half storeys with rooms in the roof adjacent to neighbouring buildings. No 133's parking area adjoins the site.

7. On Victoria Road's other side lie a four-storey building with a set back top floor at 181A Victoria Road and a two-storey building at 181 Victoria Road. No 181 has consent (21/4937/OUT) for a four-storey building, similar to No 181A. There is also a consented and not yet built scheme (19/3313/FUL) for a four-storey building at 183 Victoria Road. This would be set back behind frontage development at Nos 181 and 183. Two-storey detached, semi-detached and terraced houses of a suburban nature line Victoria Road to the north.
8. The proposed development would involve the demolition of the existing garages and workshop building and the erection of a four-storey building to provide 11 flats of varying sizes. There would also be a commercial unit at ground floor level (Use Class E) and associated car and cycle parking and landscaping. The proposed development would be set back slightly from the Victoria Road frontage, but would extend to the rear of the site.
9. The site has a recent planning history, including an approved scheme (18/4287/FUL) for a three-storey mixed use building on a smaller site at Victoria Road's frontage. A more substantial scheme (21/1451/FUL) for a four-storey building across the entire site was refused.
10. Barnet's Residential Design Guidance Supplementary Planning Document (2016) describes that an area's character may be derived from a range of attributes, and that the design and layout of new development should respect the character of the area in which it is situated and respond to the positive features of that character. It also confirms that respecting local character does not necessarily mean replicating it. However, great care should be taken when incorporating contemporary design into the existing urban fabric.
11. Both parties have referred to the Characterisation Study of London Borough of Barnet (2010). This highlights Barnet's generally suburban character and predominance of detached, semi-detached and terraced housing. It outlines that many Victorian, Edwardian and interwar streets have a cohesive character with consistent architectural scale and rhythm. It refers to a clear and positive hierarchy of scale between lower residential areas and town centre areas and key routes, where three and sometimes four-storey development is present.
12. The site is in the New Barnet character area at the confluence of the town centre/core and urban and suburban terrace typologies. While the main parties' views differ as to which typology the site would fall within, I have considered the site based on all the evidence before me and my site visit.
13. Though there are taller buildings at No 133 and No 181A, most surrounding buildings on Victoria Avenue and Victoria Road are low two to two and half-storey buildings. Even the existing taller buildings at No 133 and No 181A do not have considerable depth within their respective sites. In contrast, the proposed development would not only be taller than its immediate neighbours along Victoria Avenue, but it would be considerably deeper than any nearby

buildings within its highly constrained plot. This height and the depth of its exposed flank walls would give rise to an overly bulky building with a footprint extending over much of the site. This would appear cramped, dominant and overbearing. It would fail to respect its context.

14. There would be landscaped areas and car parking adjacent to the Victoria Avenue properties and a stepped massing approach, recessed top storey, and stepping away of the proposed development from Victoria Avenue. However, its bulk and massing would be visible from Victoria Road and would not provide an appropriate transition between the slightly taller buildings fronting East Barnet Road and the lower residential buildings along Victoria Avenue and Victoria Road. Furthermore, its tapering, stepped design would not be consistent with the existing buildings locally and would not provide a gentle transition. While the brownfield site is not in good condition and does not enhance the area's character, such a dominant and discordant scheme would not be justified.
15. While the proposed development's setback from the street represents a positive feature, the proposed development's northern elevation would include obscure glazed windows and 1.7m high opaque balustrades. The extent of obscure and opaque glazing appears to stem from the limited separation between the proposed development and adjoining buildings at Victoria Avenue. Notwithstanding the absence of concerns from the Council in respect of living conditions, this provides another indication that the proposed development would be cramped and would not sit comfortably within its context.
16. The appellant undertook pre-application advice and the officer recommendation for the application was overturned at committee. However, it is not unreasonable for the committee to do so, providing that their concerns are substantiated. I concur with the committee's concerns in this instance.
17. In conclusion, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, it would conflict with Policies D1, D4, D5 and D8 of the London Plan 2021 (LP), Policy CS5 of Barnet's Local Plan Core Strategy (2012)(CS), and Policy DM01 of Barnet's Local Plan Development Management Policies (2012)(DMP). Together, these policies aim to ensure high quality design which respects local characteristics.

b) Infrastructure

18. The Council's second reason for refusal concerns the lack of a formal undertaking to secure obligations towards affordable housing, carbon off-setting, highway mitigation, skills, employment, enterprise, and training.
19. The appellant has entered into two signed and dated unilateral undertakings under Section 106 of the Town and Country Planning Act 1990. I have had regard only to the second unilateral undertaking dated 24 October 2024, which includes obligations which would come into effect if planning permission were to be granted. I have considered the obligations in light of the three statutory tests at Regulation 122(2) of The Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 57 of the National Planning Policy Framework (NPPF). These are that the obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind.

20. The undertaking includes £28,785 for offsite carbon savings, £5,340 towards employment and training, £1,500 for monitoring, and £40,000 towards offsite affordable housing. The undertaking also requires submission of Local Employment Agreements for construction and end use phases, use of reasonable endeavours to deliver a minimum local labour target, and delivery of skills, enterprise, training and employment targets during construction and end use. In terms of highway works, the undertaking addresses works to provide a new crossover on Victoria Road, tactile paving at the site access, and reinstatement of the footway along the site frontage. The undertaking also sets out review mechanisms for further contributions towards affordable housing provision offsite if viability improves.
21. The Council considers that the undertaking would satisfactorily address their second reason for refusal. Monitoring of the planning obligations is necessary to ensure that they are spent appropriately and delivered. All the aforementioned financial contributions and non-financial obligations meet the three tests and provide necessary mitigation to address the impact of development.
22. I conclude that the proposed development would make adequate provision for community and infrastructure needs. It would comply with LP Policies H4, H6, SI 1, SI 2, E11, T4 and DF1, CS Policies CS3, CS4 and CS9, DMP Policies DM04, DM10 and DM17, and the Planning Obligations Supplementary Planning Document (2013), which seek to deliver affordable housing, reduce carbon emissions, support skills and opportunities, mitigate transport impacts, and deliver planning obligations. DMP Policy DM01 is mentioned in the reason for refusal, but does not appear relevant. An unnumbered policy is included in the reason for refusal but it is not clear which policy is being referred to.

Other Matters

23. The Council's most recently published position on housing land supply at March 2023 was 5.4 years for the period 2022/23 to 2027/28. The appellant has not argued that this figure is incorrect. The proposed development would deliver 11 purpose built flats and provide a mix of unit sizes built to adaptable (M4(2)) and accessible (M4(3)) standards. Some units would be suitable for families and would meet local housing need. I afford this benefit moderate weight.
24. The proposed development would remove existing poor-quality buildings and a yard and a potentially unneighbourly employment use. This would regenerate and densify the site in an area with reasonable transport connections. This would be consistent with NPPF Section 11 in making effective use of land. However, the proposed development would have a harmful effect on character and appearance. I have no reason to believe that another scheme which did not harm character and appearance could not deliver similar regeneration benefits. This has limited weight.
25. The ground floor commercial unit would provide modern employment floorspace with an active frontage along Victoria Road. Natural surveillance of the streetscene would be positive. Additionally, the provision of employment floorspace would address the loss of employment on the existing site and would provide higher density employment floorspace, resulting in an uplift in employment generation. I afford this moderate weight.
26. Community Infrastructure Levy receipts and planning obligations address the effects of the proposed development. These are neutral in my decision.

27. The appellant has highlighted on-site car parking, with active and passive electric vehicle charging. This has limited weight. Reference has also been made to proposed external amenity spaces as benefits. Three units would have insufficient amenity space to reach local policy requirements, while eight units would exceed the minimum policy requirements. Given this imbalance, the external amenity space would be adequate, but neutral in my decision.

Conclusion

28. Notwithstanding the absence of harm in relation to the provision for community and infrastructure needs secured through the submitted undertaking, I have found harm to the character and appearance of the area. I afford this significant weight. The benefits indicated would have no more than moderate weight and would not be sufficient to justify the proposal in light of the harm. A decision other than in accordance with the development plan would not therefore be justified.

29. For the reasons given above, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR