



Appeal Decision

Site visit made on 18 February 2025

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/N5090/W/24/3353346

Land Rear of 1 Woodcroft Avenue, London NW7 2AH

- 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 E McWeeney of MCM Construction Services Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 24/0857/FUL.
 - The development proposed is construction of a detached, single storey dwelling, erection of replacement timber fencing and entrance gates, installation of vehicle turntable, and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans have been submitted with the appeal. These show the relocation of all the main windows from the north west elevation to the north east elevation of the proposed dwelling and an amended internal floor to ceiling height. As such they are a fundamental change to the appeal proposal. What is considered at appeal should be essentially the same scheme that was considered by the local planning authority. In this case the amended plans would result in a different application. For that reason, I will not accept them.
3. The Council has confirmed that the policies from Barnet's Local Plan (Core Strategy) Development Plan Document (September 2012) and Barnet's Local Plan (Development Management Policies) Development Plan Document (September 2012) referred to in the Decision Notice have been superseded by policies from the Barnet Local Plan 2021-2036 (adopted 4 March 2025) (BLP). Accordingly, I have determined the appeal in accordance with the BLP. The appellant is aware of the BLP and have had the opportunity to comment upon its relevance to the appeal.

Background and Main Issues

4. While the Council's Officer Report indicates that the proposal would not harm the character and appearance of the site and surrounding area, its Decision Notice and Appeal Statement clearly indicate that the Council considers that the proposal would harm the character and appearance of the site and surrounding area.
5. On this basis, the main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the site and the surrounding area;

- whether or not the proposed development would provide acceptable living conditions for the future occupiers of the proposed dwelling with regard to privacy and internal ceiling height; and
- the effect of the proposed development on a publicly owned tree adjacent to the appeal site.

Reasons

Character and Appearance

6. The appeal site is a piece of open and undeveloped land severed from the garden of 1 Woodcroft Avenue (No 1). No 1 is a two-storey detached dwelling that has been subdivided into flats and sits at the corner of Woodcroft Avenue and Bunns Lane. The site is visible from Bunns Lane and adjoins a row of long, green gardens associated with the dwellings in Woodcroft Avenue. The rear gardens are generally uniform in size and their rear boundaries form a straight edge with a tree lined public footpath running immediately behind the gardens in Woodcroft Park.
7. The appeal site is situated in a prominent location at the north east entrance of Woodcroft Park which is a large green open space containing a significant number of trees. The site is also close to a roundabout surrounded by grassed verges and trees. Opposite the site, on the east side of Bunns Lane are modern three storey offices largely screened by mature trees and set back from the road. There is little development fronting the west side of Bunns Lane as the residential roads run perpendicular to it.
8. The long uniform gardens to the properties on Woodcroft Avenue help to separate housing from Woodcroft Park and enhance the surroundings of the park. The site's prominent position in the street and proximity to the park and roundabout emphasises the important contribution the site makes to the verdant and open character of the area.
9. Within the above context, the proposed scheme would introduce a dwelling in an atypical location, not respecting the established layout of the houses in the area and disrupting the marked balance and rhythm of the surrounding pattern of development.
10. The proposed dwelling would generate an increase in activity associated with the comings and goings of its residents, including everyday movements such as entering and exiting the property, parking and manoeuvring vehicles and general household activity. In addition to the movement of residents, the dwelling would also draw service-related activity, such as deliveries and waste collections, and attract potential visitors, further increasing the level of movements. This would notably alter the character of the site and the way that is perceived, creating a sense of backland intensification that is uncharacteristic of the traditional arrangement of houses in the surrounding area.
11. The ground level changes in the site and the proposed timber fencing and gates mean that the proposed dwelling would not be clearly visible from Bunns Lane or Woodcroft Park. The sedum roof would also assist in minimising the visual effect of the proposed dwelling. This would, however, be insufficient to alleviate the adverse effects of the proposal on the character of the site and the surrounding area that I have identified above.

12. The appellant has drawn my attention to an extant planning permission¹ (the approved scheme) for the construction of a detached commercial double garage and store at the appeal site which would have similar dimensions to the proposed dwelling. However, the appeal proposal is materially different to that of the approved scheme as it would support a different pattern of use. Furthermore, I have no substantive evidence before me to indicate that the fallback would be constructed should this appeal be dismissed. The existence of fallback therefore attracts limited weight and does not alter my findings above.
13. For the reasons given, the proposal would significantly harm the character and appearance of the site and the surrounding area. There is conflict with Policy D3 of the London Plan (March 2021) (LP) and Policy CDH01 of the BLP which amongst other matters, promotes high quality design and require development to respond sensitively to local character and patterns of development.

Living Conditions

14. The Residential Design Guidance Supplementary Planning Document (October 2016) (RD SPD) and Sustainable Design and Construction Supplementary Planning Document (October 2016) (SDC SPD) advise a minimum distance of about 21 metres between properties with facing windows to habitable rooms to avoid overlooking, and 10.5 metres to a neighbouring garden.
15. No 1 has windows to habitable rooms on its rear elevation, facing towards the proposed dwelling. There is a conservatory which spans part of the width of the projecting section of the rear elevation. There are also outbuildings in the rear amenity areas of No 1 positioned along the shared boundary with the appeal site.
16. The proposed dwelling would have windows serving habitable rooms facing the rear elevation of No 1. The distance between the facing windows (excluding the conservatory) would be approximately 19 metres measured from the recessed section of the rear elevation of No 1 and 20 metres measured from the projecting section of the rear elevation of No 1. The distance between the main rear elevation of No 1 and the shared garden boundary is 9 metres from the recessed section of the elevation and 8 metres from the projecting section of the rear elevation. As a result, the proposed scheme would fall short of the SPDs' separation distances by approximately 1 and 2 metres.
17. However, given that the shortfall against the advised separation distance is relatively minor, and due to the presence of an intervening conservatory, existing outbuildings and existing boundary fencing, I am satisfied that adequate levels of privacy for the future occupiers would be provided.
18. Policy D6 of the LP requires a minimum floor to ceiling height of 2.5 metres for at least 75% of the gross internal area floorspace. The submitted plans show that the proposed dwelling would only achieve an internal floor to ceiling height of 2.3 metres and as such would fail to meet the minimum standard set in Policy D6 of the LP. The appellant indicates that the minor shortfall could be remedied by a small reduction in the floor slab height and would accept a planning condition relating to this matter. The Council has raised no objections to the appellant's suggested approach in dealing with this matter. If the appeal were allowed, a planning condition requiring the submission and approval of detailed site levels

¹ Ref. 23/0049/FUL.

including proposed finished floor and roof levels could be imposed to ensure an appropriate ceiling height would be achieved in the proposed dwelling.

19. For the reasons given, the proposed development would provide acceptable living conditions for the future occupiers of the proposed dwelling with regard to privacy and internal ceiling height. As such, the proposal would comply with Policies D3 and D6 of the LP and Policy CDH01 of the BLP. Amongst other matters, these policies require development to deliver minimum floor to ceiling heights, acceptable levels of privacy and high quality design.
20. The Council has referred to Policies CDH02, CDH04, CDH07 and HOU03 of the BLP. However, these policies respectively relate to sustainable and inclusive design, tall buildings, amenity space and landscaping and residential conversions and redevelopment of larger homes so are not determinative on this main issue.

Tree

21. Although the Decision Notice refers to publicly owned trees (plural), the concern of the Council relates only to one tree identified as T2 in the submitted a Pre-development Arboricultural Survey and Report² (ASR).
22. Tree T2 (T2) is a self-set twin stemmed sycamore located in Woodcroft Park, close to the south east corner of the appeal site. The proposed vehicle turntable would be located within the root protection area (RPA) of T2. The Council's Officer Report indicates that the installation of the turntable would likely cause significant harm to the tree and would incur damage to its roots. However, there is an existing concrete ramp within the appeal site where the proposed vehicle turntable would be located. The proposed turntable would be flat and at the same level of the footway on Bunns Lane. The ASR indicates that the turntable would have a maximum construction depth of around 300 millimetres. The majority of this depth of construction would therefore take place above the existing ramp height. The ASR confirms that the proposed turntable would not impact the tree root system at the depth of 300 millimetres, and if any large surface roots are encountered, they could be severed professionally and removed. Given the existing topography the appeal site and the presence of the existing concrete access ramp, it would seem unlikely that any significant interference with the root system of T2 would be required. A planning condition could be imposed requiring a site-specific Arboricultural Method Statement and Tree Protection Plan to minimise impact on T2 if the appeal were allowed.
23. The Council's Officer Report states that 'post-development pressure is likely to be considerable given the mechanical nature of this system, which may be vulnerable to leaf litter, bird lime and other debris.' However, the Council's concerns have not been supported by the submission of any substantial evidence. In the absence of clear and robust evidence, it is unclear how the mechanical nature of the turntable or leaf litter, bird lime and other debris would affect T2.
24. The Officer Report indicates that 'There is likely to be considerable post-development pressure associated with the erection of the proposed studio, given the intended use of the dwelling.' Again, it is unclear and unsubstantiated as to how the proposed use of the site would affect T2. Leaf fall onto the sedum roof of

² Pre-development Arboricultural Survey and Report, Land at rear of 1 Woodcroft Avenue, NW7 2AH, 29 February 2024, Report No WAS 206/2023 REV B-2024.

the proposed dwelling or onto the vehicle turntable could be readily addressed through normal cleaning and maintenance.

25. The Council refers to the approved scheme which incorporated an 'eco-grid solution at the entranceway and appropriate build methodologies'. However, the specific details regarding these measures are not before me. In any event, I have considered the appeal proposal on its own merits.
26. For the reasons given, the proposed development would not unduly harm the publicly owned tree (T2) adjacent to the appeal site. The proposal would comply with Policy G7 of the LP and Policy CDH01 of the BLP insofar as they promote high quality design and require development to protect and maintain London's urban forest and woodlands and safeguard existing trees.

Other Matters

27. The appellant has drawn my attention to Policy GSS01 and GSS06 of the BLP which directs new homes to the identified Growth Areas and locations listed in the policies. The appeal site falls within the Colindale Growth Area where Policy GSS06 of the BLP 'supports proposals which optimise the use of land and site capacity through a design-led approach (London Plan Policy D3), while improving the amenity of the area and actively demonstrating a Healthy Streets Approach where cycling, walking and public transport are the preferred mode of travel.'
28. It is clear that Policy GSS06 of the BLP is predicated on Policy D3 of the LP which requires, amongst other matters, that development proposals respond to the existing character of a place, and I have found that the proposal does not. Furthermore, there is no evidence before me that that a Healthy Streets Approach to the proposal has been demonstrated.
29. Policy GSS06 supports the redevelopment of other previously developed land (PDL) in the Colindale Growth Area that has the potential to optimise the delivery of new homes. However, this is also on the proviso that proposals accord with the design-led approach set out in Policy D3 of the LP. Even if the appeal site were to constitute PDL, the proposal would not comply with Policy GSS06 due to the harm that would be caused to the character of the site and the surrounding area.

Planning Balance and Conclusion

30. The appeal scheme would deliver one additional dwelling, contributing to Barnet's housing choice and supply. This would support the Government's objective of significantly boosting the supply of homes and making effective use of small sites which could be delivered relatively quickly. The site is located close to local services and facilities including shops and public transport links. However, given the small scale of the development, these benefits would be modest and carry moderate weight in favour of the proposal.
31. Compliance with development plan in relation to highway safety, biodiversity, sustainable design and construction, landscaping of the site are expectations for all development that weigh neither for nor against the proposal and is considered neutral in the planning balance.
32. The proposal would harm the character of the site and the surrounding area, and I attribute this matter significant weight. The appeal scheme would conflict with the development plan, when considered as a whole.

33. The moderate benefits of the proposal do not outweigh the significant harm that I have identified. Material considerations, including the stated benefits, do not indicate that the appeal should be decided other than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR