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# Appeal Decision

Site visit made on 21 February 2012

**by D G Hollis BA DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 6 March 2012**

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**Appeal Ref: APP/N5090/A/11/2165087**  
**258 Nether Street, London N3 1HT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Wilkins against the decision of the Council of the London Borough of Barnet.
  - The application Ref F/02735/11, dated 27 June 2011, was refused by notice dated 27 September 2011.
  - The development proposed is "*demolition of existing semi-detached dwellings and erection of new semi-detached dwellings for the Missionary and HMO occupation*".
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## Decision

1. For the reasons given below, the appeal is dismissed.

## Main Issues

2. Having visited the site and locality, as well as having read the written representations, I have concluded there are three main issues in this appeal. Firstly, whether the proposed development would appear out-of-place and obtrusive due to its design, bulk and mass causing significant harm to the visual amenities of the area and living environment for adjoining residents. Secondly, whether the proposed car parking provision would be adequate bearing in mind the likely occupancy of the development and the locality of the site. Lastly, whether the lack of a signed legal agreement accompanying the appeal documents would prevent the granting of planning permission in accordance with the advice in Circular 5/2005 and the Council's adopted planning policies.

## Reasons

3. The appeal site is located in Nether Street, a short distance from Finchley Central; the locality is characterised by a mixture of flats and housing, the former being mainly along the Nether Street frontage and the houses to the rear of the appeal site. The Council record in their Officer's Report that the appeal premises are used by a religious missionary organisation known as Xaverian Missionaries and serves as a place for students from abroad to learn English and complete their education locally or in central London; the existing buildings have 17 shared bedrooms accommodating 34 people.
4. At my site visit, I noted the design and form of existing development in the locality; a number of nearby blocks of flats have flat roofs and are three and four storey in height. To the rear of the appeal site, the end dwelling of the

row of pairs of semi-detached houses has a high end gable that contains three floors of accommodation; there are no windows in the end elevation. To the north of the appeal site, Nos.254 and 256 is a pair of properties that has three floors of accommodation at the front, extending to four floors at the rear; these properties are a similar height to the appeal buildings. On the other side of the appeal properties, Nos.262 and 264 are a pair of dwellings at a slightly lower ridge height, but still of three stories at the front; there is a rear extension projecting into the garden area.

5. The current scheme is to demolish the existing buildings and re-build to provide a replacement development accommodating 9 bedrooms with communal facilities and study/conference room for missionaries. A second element would be the provision of bedrooms with shared kitchen and communal facilities for 15 students in a house for multiple occupation (HMO). Four parking spaces, including one for disabled persons would be retained at the front of the new building as well as the provision of 24 cycle spaces at the front and rear of the property. On the Nether Street frontage, the new building would be of a similar height as the buildings at Nos.254 and 256, but to take advantage of the drop in ground level, the rear elevation indicates some 5 storeys of accommodation.
6. In the Officer's Report, it is said that there is little coherence between the existing building and its immediate neighbours; as that building has no particular architectural merit the Council do not oppose its demolition. The Council consider the proposed uses would be acceptable in principle and the proposed amenity space for both activities would also be acceptable; the Council accept that the development would be built to a Code Level 3 for Sustainable Homes. It is also acknowledged that the appeal site is close to the town centre and local amenities with high accessibility in terms of public transport.
7. In terms of design and height, the new development would be similar in style with a form of bay windows on three floors and a row of windows at the top level; the ridge height would be similar to that of Nos.254 and 256. However, as the internal room heights would be lower than the adjacent development, it has been possible to include an additional floor level. That approach has been adopted for the rear elevation and where the significant drop in ground level has permitted the design to include a fifth floor of accommodation. Both the existing building and the proposed development would be higher than the ridge level of No. 262, but I do not consider the juxtaposition of those elements would cause significant harm in visual terms. I also accept that due to the slight extension of the new building into the rear garden area, there would be some effect upon the residential use of the adjoining rear extension at No.262. However, to my mind, due to the location of the new development, that situation would not cause significant loss of light or harm to visual amenity as to warrant a refusal of planning permission.
8. Although I acknowledge the concerns of the Council, it is my assessment that the new development would not appear incongruous nor out of keeping in relation to the locality and adjacent buildings; neither would it cause significant harm to the amenities of adjoining residents. Indeed, in my opinion, the design of both the front and rear of the new development would be quite compatible with the development on both sides, an improvement upon the

- designs of many existing forms of housing in the immediate locality and comply with adopted planning policies.
9. I do not assess the incidence of overlooking into the rear gardens of adjoining properties to be significantly different from that experienced from the existing buildings. I noted the lack of windows in the side elevation of No.262, with the exception of those in the side of the rear extension of that property; at No.256 there are some side windows adjoining the appeal property. However, the side windows in the proposed development consist of those serving stairwells and some high level windows to bedrooms that could be restricted to being in obscure glass and non-opening. In my assessment, all of these circumstances would ensure there would be no significant harm in terms of overlooking or loss of amenity to adjoining residents.
  10. Turning to the second issue, the Council have agreed that the appeal site is close to the town centre and in a location of high accessibility. In terms of residential occupation, there would be a significant reduction in the numbers of persons living in the building; it is also likely that students in the HMO would use bicycles for which there is parking provision, or public transport. I did note that there is parking permitted on the opposite side of Nether Street and at the time of my visit there were spaces available. Whilst that situation may not always exist, it seems to me that in all of these circumstances, the Council's car parking requirements could be relaxed on this occasion and the proposed spaces accepted as being reasonable for the uses intended.
  11. In respect of the last of the main issues, I note that the appellant has confirmed that there is an intention of accepting the Council's requirements for financial contributions; a legal agreement is progressing between the Council and the appellant's solicitors. However, if a legal agreement is to be offered by the appellant, a signed document should be submitted with the appeal documentation. Under the advice in Circular 5/2005, I am required to assess legal agreements to determine whether the financial arrangements are necessary and reasonable. That documentation has not been provided and therefore I cannot make such an assessment. Accordingly, I must dismiss the appeal due to the lack of such information.
  12. Among other matters raised by the Council, it was said that the scheme would amount to overdevelopment of the site. Given the fact that there would be fewer persons accommodated within the new building than currently exist and that within urban areas one should make the best possible use of land commensurate with the compatibility of a scheme, I do not agree with the Council's assessment. I also note that it is considered that the standard of accommodation for the HMO use would not be acceptable. I have concluded that the scheme could be amended to provide an acceptable standard. Furthermore, given the standard of building construction likely and the rules under which the occupants would have to abide, I satisfied there is unlikely to be a significant noise problem either within the building or to adjoining residents. I have taken into account all other matters raised in the written representations, but none was sufficient to outweigh the conclusions I have reached.

*D G Hollis*

**Inspector**