
Appeal Decision

Site visit made on 24 August 2015

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 16/09/2015

Appeal Ref: APP/N5090/W/15/3029375

Land to the back of 18 Maxwelton Close, London NW7 3NA

- 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 Dr Neil Hathi against the decision of the Council of the London Borough of Barnet.
 - The application, Ref. H/05419/14, dated 22 September 2014, was refused by notice dated 3 December 2014.
 - The development proposed is two new detached houses on a brownfield site.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effect of the proposal on the character and appearance of the area and (ii) the effect on the living conditions for residents: firstly as regards privacy and outlook for occupiers of Nos. 18 & 20 Maxwelton Close and secondly in terms of outlook, light, privacy and air pollution for the future occupiers of the proposed dwellings.

Reasons

Character and Appearance

3. The Council is concerned that the proposal would run counter to the local established character of an absence of secondary rear garden and backland developments. However in my view the site is a 'one off', being positioned at the head of a cul-de-sac and visually contained by a large block of flats and tall conifer trees, the M1 and the railway, and the existing houses in Maxwelton Close.
4. As such, the fact that the development would be different to the street scene of the Close is of no consequence, as at the most there would only be glimpses of the new houses through the gap between Nos. 20 and 22, with the nearest corner of the south western house about 30m from the road. Moreover, the difference is a reasonable response to the particular characteristics and constraints of the site. Taking the overall size of the site to be used for development into account, there would be no perception of the proposed

buildings being 'shoehorned' into an area too small to properly accommodate them.

5. That said, I have reservations on this issue relating to the design and appearance of the buildings. Even though the dwellings will not be prominent in views from the public realm, the Council's policies and the National Planning Policy Framework 2012 ('the Framework') require development to be of good design. I do not consider this objective has been achieved given the somewhat bland appearance of the front elevations, including the use of only brickwork on this face of each building.
6. The design concept is one of a pair of buildings of the same design but handed. However this does not work successfully without some element of contrast in the facing materials and detailing to properly convey the handed arrangement. I also consider that the front door is somewhat odd, both in its appearance and double opening form. There also appears to be a weather protection facility above these doors but the form of this cannot be properly identified, as it is not shown in profile on the side elevations.
7. The front and rear gables also both appear to be slightly asymmetric, with one roof slope longer than the other. Whilst the difference is only marginal it is noticeable on the plan and would be noticeable and appear odd if built. If this is a drafting error it would preclude the imposition of the standard 'compliance with plans' condition. The submitted drawing also does not include a first floor plan whilst the plan of the 'Typical Ground Floor Layout' is different from the handed ground floor layouts of each building.
8. The Council has raised a further point in relation to the alterations as regards the size and shape of the rear garden of No. 18. This part of the scheme has already been carried out so I have been unable to compare the area provided with that that previously existed. However even though the garden is narrow and somewhat unorthodox in shape it is over 30m long, which I consider to be adequate for a semi-detached house. It would not be visible from the public realm and I do not agree with the Council's view that it fundamentally undermines the character of Maxwellton Close and its surroundings.
9. In principle on this issue I see no objection to the principle of two detached dwellings on the site as they can be accommodated without harm to the character and appearance of the area. However to comply with the Council's Core Strategy Policy CS5, the Development Management Policies DPD Policy DM01 and Section 7: 'Requiring good design' of the Framework, revisions are required to the buildings' design, especially the front elevations. Amendments to the drawing are also required on the lines that I have indicated.

Living Conditions

10. Turning firstly to the relationship between the proposed dwellings and Nos. 18 and 20, the Council considers that the proximity would be such as to result in harmful mutual overlooking. The minimum distance in the Council's Residential Design Guidance SPD for this type of relationship is 21m and in this case it would be 15m. However at ground floor level the close-boarded fence along the mutual boundary is adequate to safeguard privacy and the main relationship to be addressed is between the first floor windows.

11. In my judgement the deficiency of 6m or thereabouts between the proposed and existing pairs of dwellings is more than compensated for by the relationship not being 'direct'. There is a considerable offset in their respective positions, with Nos. 18 and 20 being to the south west of the new dwellings. This would effectively limit direct views and reduce the amount to which privacy would be affected. For the same reason I consider that the proposed dwellings would not be overbearing and oppressive in the outlook from the rooms and gardens of Nos. 18 and 20.
12. Turning to light and outlook for the proposed dwellings, I accept the Council's judgement that the combination of the northerly aspect, the limited depth of rear gardens and the presence of the tall conifer trees would be such as to significantly constrain these aspects of residential amenity. One solution would be to open up the ground floor layout of the dwellings to allow more light and outlook to the whole living area through the south facing front windows.
13. However I also note that the appellant prepared an alternative siting plan, which according to the grounds of appeal was summarily rejected at pre-application stage. On the face of it, this alternative scheme would be more acceptable as it would allow more daylight and sunlight to the gardens and in turn to the rear rooms of the house. There may be some negative implications but the revision at least appears to be worth consideration as part of a revised submission.
14. In the event that the existing layout is retained, I consider that bearing in mind future occupiers would be able to decide whether the light and outlook would be adequate for their own needs, the advantage of the addition of two family dwellings to the Borough's housing stock outweighs the drawbacks of the lower than normal levels of light and outlook.
15. The final objection to the scheme on the issue of living conditions is that of air pollution from the nearby railway and in particular the M1 motorway. However the appellant has commissioned a report from an authoritative source and in its appeal statement the Council now appears to accept the report's findings that the air quality conditions for new residents would be acceptable.
16. In summary on the issue of living conditions, I conclude that although the harmful effects would be substantially less than alleged by the Council, more consideration is needed on certain aspects of the appeal scheme to mitigate potential problems and inadequacies. In the absence of this there would be conflict with Policies DM01 & DM02, the Council's residential Design Guidance SPD and the core planning principles in paragraph 17 of the Framework.

Other Matters

17. Several local residents have objected, citing issues including adverse effects in respect of parking and congestion, access, sewage and flooding. I have taken these matters into account but do not consider that they would be sufficient on their own to warrant a rejection of the development of the site for two houses. The issue of a breach of covenant has also been mentioned, but such matters are not within my remit and I am unable to include them in my consideration of the appeal scheme.

Conclusion

18. Overall, whilst I consider that the principle of two new dwellings of the type and size proposed on the site is acceptable, further modifications are required before permission is granted. The appeal is therefore dismissed.

Martin Andrews

INSPECTOR