



Appeal Decision

Hearing Held on 12 June 2018

Site visit made on 12 June 2018

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 19th July 2018

Appeal Ref: APP/N5090/W/17/3188586 217-223 High Road, East Finchley, London N2 8AN

- 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 Leopold Properties Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/1360/FUL, dated 3 March 2017, was refused by notice dated 14 August 2017.
 - The development proposed is erection of three dwelling houses. Erection of four storey building to accommodate six family sized dwelling units. Provision of sixteen parking spaces. Provision of thirty two secure cycle parking spaces.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of three dwelling houses. Erection of four storey building to accommodate six family sized dwelling units. Provision of sixteen parking spaces. Provision of thirty two secure cycle parking spaces at 217-223 High Road, East Finchley, London N2 8AN in accordance with the terms of the application, Ref 17/1360/FUL, dated 3 March 2017, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - The effect of the development on the character and appearance of the area; and
 - Whether the proposal would achieve appropriate living conditions for the potential future occupiers of the three dwelling houses.

Reasons

Character and appearance

3. The appeal site faces onto High Road and slopes gently downwards between Leopold Road and Church Lane. The properties along Leopold Road are predominantly terraced, two storey houses, whilst the design and styles along the length of High Road varies considerably and provides an array of larger buildings which are more visually prominent within the street scene. The area supports a mixture of commercial and residential uses and the built form reflects this.

4. The proposed dwelling houses would continue the physical form of housing along Leopold Road, with house number 3 wrapping around the front of the appeal site, to face the High Road. The style of the terrace, its building line and roof form would reflect the dwellings along Leopold Road. As a result the terrace would sit comfortably within the street scene, responding positively to the existing pattern of development.
5. The proposed apartment block would be located to face the High Road, with Church Lane along the side boundary. On the opposite side of Church Lane, directly opposite the proposed apartment block, is a large residential block of flats. Similar developments are present further along the High Road in either direction. The apartment block would have a total of four storeys with parking at ground floor level with the top floor set back from all elevations. The elevation facing the High Road would be stepped back at either end and would be some 12 metres from the highway. The building has clearly been designed to reduce the overall bulk whilst providing spacious apartments, and it would reflect similar buildings in both the immediate vicinity of the site and the wider area. The use of a flat roof is not out of keeping with other developments along the High Road. This combination of factors would result in a high quality design which would not appear overly dominant or out of place in its relationship with the street scene.
6. The proposal in its entirety would inevitably change the character of the site and would introduce a significant level of built form. However, the location of the access road between the apartment block and the dwelling houses would create space within the site which would allow the two forms of development to sit comfortably alongside each other. The soft landscaping that would be provided around the perimeter of the site would introduce a green buffer for the development which would significantly enhance the frontage. Overall I consider that the proposal would maintain a degree of openness that would reflect the scale and design of built form in the area and would create an agreeable and pleasant development.
7. Accordingly, I find that the character and appearance of the area would not be harmed by the proposal. It would therefore comply with Policy CS NPPF, CS1 and CS5 of the Local Plan Core Strategy (adopted September 2012) (the CS) and Policy DM01 of the Development Management Policies Development Plan Document (adopted September 2012) (the DMP) which seek to protect and enhance the character of the borough and to create high quality developments. The proposal would comply with the principles of good design as set out in the Residential Design Guidance SPD (2016).
8. No 1 Church Lane is a locally listed building which has been subject to a number of significant alterations. It's significance lies in the historical use of the building as a public house and it is generally experienced from Church Lane. The proposal would be set back from Church Lane and would retain a good level of space between the apartment block and the locally listed building. As such I do not consider that the proposal would be harmful to the setting or significance of the locally listed building.

Living conditions

9. The 3 proposed dwelling houses would all have bedroom sizes and kitchen and living areas which would meet or exceed the minimum requirements as set out in the London Plan (2016). In addition the floor to ceiling heights would be a minimum of 2.6 metres which would contribute to the creation of a comfortable living environment. The accommodation would be spread over the three floors, and I am satisfied that the internal layout would not be cramped or restricted for future occupiers.
10. There would be a distance of some 11 metres between the ground floor rear elevation of house nos. 1 and 2 and the flank elevation of the apartment block. Both of these houses would have rear gardens some 5 metres in length at ground level, and rear balconies at first floor level. The top floor of the apartment block would be some 2 metres from the side elevation and would therefore not contribute to the mass of the block when experienced from the ground floor of house nos. 1 and 2. Whilst the apartment block would be an obvious and fixed element of the outlook for future occupiers, I consider that through the inclusion of the first floor amenity space and the use of large windows on all floors of the dwelling houses, in combination with the setting back of the top floor on the block, future occupiers would have a satisfactory outlook.
11. Concerns have been raised with particular regard to house no. 2, due to the wall of house no.3 spanning the length of the rear garden of house no. 2. The occupiers of house no 2 would have sky views towards Church Lane and Leopold Road over the rear fencing of the properties. In addition, there is some respite between the built forms due to the access way on the site. Furthermore, the creation of a green wall would soften the impact of the enclosure and would enhance the personal experience of using the outdoor space. I therefore do not consider that this aspect of the proposal would have a detrimental impact on future occupiers.
12. With regard to the amenity space for house no.3, although it would have a reduced outdoor space compared to house nos. 1 and 2, provided by way of a courtyard, it would have a good level of internal amenity space. I am mindful that individual requirements for outdoor amenity space vary. Whilst relatively limited, given the quality of internal space, I am satisfied in this particular case that the provision would provide for acceptable living conditions for the future occupiers of the dwelling.
13. Amended plans were submitted as part of the appeal process which would amend the internal layout of house nos. 1 and 2 to provide dual outlook on the ground floor. I have taken these plans into account, and they were discussed at the hearing. However I do not consider that these amendments would be necessary in order to provide an adequate outlook for future occupiers.
14. Concerns were raised with regard to noise and odour in respect of the occupation of the property. I am satisfied on the basis of the evidence that these matters could be adequately addressed by suitably worded conditions.
15. For these reasons I find that the proposal would provide satisfactory living conditions for future occupiers. It would therefore comply with Policies CS1 and CS5 of the CS in respect of providing high quality development. It would

accord with Policies DM01 and DM02 of the DMP with regards to meeting minimum standards and protecting the amenity of residents. The proposal would comply with the principles of good design to protect residential amenity as set out in the Residential Design Guidance and Construction SPDs.

Other Matters

16. I have considered the representations made raising concerns in respect of overlooking of neighbouring properties, the inclusion of roof terraces, impact on school places, provision of parking spaces, and increased traffic and congestion.
17. The rear elevation of the apartment block and the rear elevations of the proposed houses would be an adequate distance from the properties along Leopold Road and Church Lane to ensure that the neighbouring occupiers were not overlooked from windows or terraces. In addition privacy screens would be included for the balconies of the apartment block and the existing wall would be retained between No 2 Leopold Road and House No.1 of the proposal. Accordingly I consider that the proposal would not have a detrimental impact on the living conditions of neighbouring occupiers.
18. The proposal would be CIL liable which would secure a financial contribution towards infrastructure which would include education. The proposal would meet the council's minimum standard for parking, and would provide an additional two spaces. There are some restrictions on surrounding roads with regards to parking, however on the basis of the evidence provided I am satisfied that the proposal would provide an acceptable level of parking and that any possible overspill would not result in harm to highway safety. The appeal site is close to public transport and cycle spaces would be provided, meaning that a range of modes of transport would be available to encourage a reduction in car usage. Accordingly I do not consider that the proposal would result in a significant increase in traffic or congestion that would warrant refusal of the scheme.

Conclusion and Conditions

19. For the reasons above I conclude that the proposal would comply with the relevant Local Plan policies. Accordingly, I will allow the appeal.
20. I have considered the Council's suggested conditions, which were discussed at the hearing, in light of the Planning Practice Guidance. For clarity and to ensure compliance with the Guidance I have amended some of the suggested wordings. I have required the development to be carried out in accordance with the approved plans for certainty. I have imposed conditions relating to materials, landscaping and boundary treatment and finished levels to ensure the satisfactory appearance of the proposal. As part of the landscaping I have required the provision of a green wall, this matter was discussed and agreed at the hearing.
21. Conditions requiring a construction management plan, hours of work, privacy screens, refuse collection, parking arrangements, acoustic and odour management are necessary to protect living conditions of neighbouring and future residents, and in the interest of highway safety.
22. Conditions relating to sustainable construction are necessary to ensure that the proposal is environmentally sustainable. Due to the previous use of the land I

have included conditions relating to the identification, and if necessary remediation related to, contamination of the site.

23. Conditions restricting permitted development rights should only be imposed in exceptional circumstances. In this case, taking into account the relationship of the buildings and the use of the amenity space, I consider that such a restriction would be necessary and have included a condition to that effect.
24. Conditions 3, 5, and 14 are pre-commencement conditions which are justified in this case as they cover matters that are essential to be agreed before the development starts.

J Ayres

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - X0101
 - P0111A
 - P0112A
 - P0113A
 - P0114A
 - P0115A
 - P0116A
 - P0150A
 - P0160A
 - P0161A
 - P0163A
 - Tree Constraint Plan 13957_01
 - Tree Protection Plan 13957_01
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels of the adjoining land and highway have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No above ground construction required in connection with the development of any building hereby permitted shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the materials as approved under this condition.
- 5) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
 - i) details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
 - ii) site preparation and construction stages of the development;
 - iii) details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials

- iv) details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
- v) the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
- vi) a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
- vii) noise mitigation measures for all plant and processors;
- viii) details of contractors compound and car parking arrangements;
- ix) details of interim car parking management arrangements for the duration of construction;
- x) details of a community liaison contact for the duration of all works associated with the development

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6)
 - a) Notwithstanding the details submitted with the application and otherwise hereby approved, no development other than demolition works shall take place until details of (i) A Refuse and Recycling Collection Strategy, which includes details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider, (ii) Details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and (iii) Plans showing satisfactory points of collection for refuse and recycling, have been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.
- 7)
 - a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is occupied.
 - b) The above scheme shall include the provision of a green wall for house no. 3.
 - c) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

- d) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.
- 8) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. P0111 A for cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 10) Demolition or construction works shall take place only between 08:00 and 18:00 on Monday to Friday (inclusive), between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 11) Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach to be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.
- 12) Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.
- 13) Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 23.1% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.
- 14) Before development commences other than for investigative work:
- a) A desktop study (Preliminary Risk Assessment) shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical

representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study (Preliminary Risk Assessment) and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.

- b) If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:
- a risk assessment to be undertaken,
 - refinement of the Conceptual Model, and
 - the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

- c) If the risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

- 15) Where remediation of contamination on the site is required completion of the remediation detailed in the method statement shall be carried out and a report that provides verification that the required works have been carried out, shall be submitted to, and approved in writing by the Local Planning Authority before the development is occupied.
- 16) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.
- 17) The development shall be fully implemented in accordance with the acoustic and odour mitigation as approved within the submitted Acoustic and Odour Survey (June 2017).
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, B, D, E of Part 1 of Schedule 2 of that Order shall be carried out within the area of 3no dwelling houses along Leopold Road hereby approved.
- 19) a) No development other than demolition works shall commence on site in connection with the development hereby approved until a report has been carried out by a competent acoustic consultant that assesses

the likely noise impacts from the development of any ventilation/extraction plant to be installed within the proposal, and mitigation measures for the development to reduce these noise impacts to acceptable levels, and has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

- b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.
- 20) The level of noise emitted from any plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property. If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Joe Henry Henry Planning Consultancy and Development

Chris Waite Lifschutz Davidson Sandilands

FOR THE LOCAL PLANNING AUTHORITY:

Josh McLean Principal Planning Officer, London Borough of Barnet

DOCUMENTS SUBMITTED AT THE HEARING

1. Mayor of London Housing Supplementary Planning Guidance (March 2016)
2. Section 7 of London Borough of Barnet **Authorities** Monitoring Report 2013/14 to 2015/16
3. Rebuttal to Barnet's Housing Trajectory on Housing Delivery