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## Appeal Decisions

Site visit made on 2 April 2019

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 8 April 2019

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### **Appeal A Ref: APP/N5090/W/18/3205948**

#### **48 Chestnut Grove, East Barnet, Barnet EN4 8PU**

- 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 D McCarthy, Portdevon (Barnet) LLP against the decision of the Council of the London Borough of Barnet.
  - The application Ref 17/3949/FUL, dated 20 June 2017, was refused by notice dated 20 April 2018.
  - The development proposed is the demolition of existing dwelling and erection of 6 no two-storey dwellings, comprising 2 no detached dwelling houses and 4 no semi-detached dwelling houses. Associated access road, car parking and landscaping.
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### **Appeal B Ref: APP/N5090/W/18/3205957**

#### **48 Chestnut Grove, East Barnet, Barnet EN4 8PU**

- 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 D McCarthy, Portdevon (Barnet) LLP against the decision of the Council of the London Borough of Barnet.
  - The application Ref 17/4364/FUL, dated 7 July 2017, was refused by notice dated 20 April 2018.
  - The development proposed is the demolition of existing dwelling and erection of 8 no two-storey dwellings, comprising of 2 no detached dwelling houses and 6 semi-detached dwelling houses. Associated access road, garaging, car parking and landscaping.
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### **Appeal C Ref: APP/N5090/W/18/3205958**

#### **48 Chestnut Grove, East Barnet, Barnet EN4 8PU**

- 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 D McCarthy, Portdevon (Barnet) LLP against the decision of the Council of the London Borough of Barnet.
  - The application Ref 18/0867/FUL, dated 8 February 2018, was refused by notice dated 6 April 2018.
  - The development proposed is the demolition of existing dwelling and erection of two pairs of semi-detached dwellings (4 x 3 bedroom dwellings). Associated access road, garaging, car parking and landscaping.
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## **Decisions**

1. Appeals A, B and C are dismissed.

## **Preliminary Matters**

2. The appeals relate to three different schemes but all on the same site. I have dealt with each appeal on its own individual merits although to avoid

duplication I have dealt with some aspects together in my reasoning where appropriate.

3. The schemes to which Appeals A and B relate were amended whilst under consideration by the Council. I have therefore used the revised descriptions of development used by the Council in their decision notices and by the appellant in the Appeal Forms in the headings above. The Council determined the applications on the basis of the revised drawings and I have considered the appeals on the same basis.

### **Main Issues**

4. The main issues raised by all three appeals are the effect that the developments would have on the character and appearance of the area and on biodiversity.

### **Reasons**

#### *Character and appearance*

5. The appeal site includes a detached dwelling with an extensive rear garden, a significant area of which is taken up by a pond. Although much larger than those of surrounding properties, the rear garden forms part of the generous and spacious area of rear gardens to the rear of the block formed by Chestnut Grove, Ridgeway Avenue, Cat Hill and Daneland. The predominantly closely spaced dwellings with modest frontages create a built-up character along the streets which is relieved by the generous green spaces to rear of the buildings. This results in a distinctive suburban character which the block shares with others in the wider vicinity.
6. The appeal site's large garden consequently makes an important contribution to this character. However, No 48 itself differs from most of its neighbours by being set down and farther back from the street along with more substantial gaps between it and the dwellings on either side. Fences, shrubs and trees along the side boundary limit its visibility from some aspects.
7. As well as the pond there are the substantial remains of a walled garden on the eastern extent of the site, part of which extends beyond the site. These are noted as being the last surviving remnants of the designed landscape of the former Little Grove estate, much of which was lost with the construction of pre-second world war housing estates. There remains some debate as to whether that landscape and remaining features can be attributed to renowned C18 landscape designer 'Capability' Brown as well as the extent of the historic significance of those features. The shape of the pond has evolved through the C19 and early C20, although the street pattern surrounding it appears to respond to its presence and it remains as an interesting survivor of the earlier landscape, possibly dating back as far as the late C17 in some form.
8. Historic England consider the remaining features still convey something of the character of the former Little Grove garden and that the pond and kitchen garden walls have sufficient historic interest to be recognised as an undesignated heritage asset of at least local significance. In any event, notwithstanding its provenance, these surviving elements of a historic designed landscape encapsulated behind later suburban housing adds a further positive dimension to the distinctive character of the site and the area.

9. The schemes in Appeals A and B would replace No 48 with a house in a similar situation which would largely maintain the existing disposition of buildings alongside Chestnut Grove. However, a row of five houses, with an additional pair of houses in Appeal scheme B, served by a cul-de-sac access road would extend into the site behind it. The siting, scale and mass of both schemes would significantly erode the spacious character that presently exists within the site even though they would both present layouts providing gardens between new and existing dwellings.
10. Whilst the houses would be set down from the level of the access point on Chestnut Grove they would be clearly discernible in harmful contrast to the existing arrangement of spacious garden areas behind a perimeter of dwellings. The less extensive layout of Appeal scheme A would retain an undeveloped area to the north of the site but this would have only a limited effect given the otherwise intrusive and incongruous effects of the rest of the scheme.
11. The Appeal C scheme would present a row of four houses more or less in line with other dwellings along Chestnut Grove, would have large rear gardens and an expansive open area to the front. Whilst this would retain a greater sense of openness within the site than the other schemes it would nevertheless be an arrangement at odds with the perimeter development pattern which presently exists, would effectively divide the site and would be considerably more built up than the current arrangement. Although the simple design and closely spaced houses proposed in all schemes would not be harmfully at odds with the established appearance of closely spaced link terraces on Chestnut Grove, these aspects would not alter the other harmful effects.
12. In any event all three schemes would intrude into the spacious rear garden, eroding the character of the area. Given the layouts proposed there would be the potential in all three schemes for the walled garden remains to be retained. However, all three proposals would result in the loss, and build on the site of, the pond feature which forms an important component of the site's, and the area's, character. This aspect of the site's character could not be protected by way of a planning condition.
13. I am conscious that the Council did not explicitly identify any harm in respect of the undesignated heritage asset in their reason for refusal. However, from the evidence before me the historic features and their continuity form an integral part of the site's character and Historic England's and the Garden Trust's comments carry considerable weight. The significance of the undesignated heritage asset would be considerably diminished without the pond feature. The appellant's willingness to record features is noted, however the National Planning Policy Framework (the Framework) notes that the ability to record evidence of our past should not be a factor in deciding whether the loss of any heritage assets should be permitted.
14. All three developments would fail to respect, preserve or enhance their local context and distinctive local character including the pattern of surrounding buildings, spaces and streets, and they would not protect or enhance the gardens of residential properties or Barnet's heritage. As such none of the proposals would comply with Core Strategy<sup>1</sup> (CS) Policy CS5 or Development

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<sup>1</sup> Barnet's Local Plan (Core Strategy) Development Plan Document, 2012.

Management Policies<sup>2</sup> (DMP) Policy DM01. These Policies are supported by Residential Design Guidance<sup>3</sup> (RDG) which recognises that gardens make a significant contribution to local character, tranquillity and sense of space, advising that permission will normally be refused where development would be detrimental to it.

15. Although the density of proposed development and their footprint to plot ratios may be lower than many surrounding plots, such a purely quantitative assessment does not take account of the qualitative factors examined above.

### *Biodiversity*

16. The appellant has provided reports detailing surveys for Great Crested Newts (GCN) and bats (with a follow up emergence survey) on the site in response to the Council's refusal reason that inadequate information had been provided in terms of biodiversity impact in respect of species such as those. The reports concluded that GCN were not present and that the existing house is of low conservation significance and a transitional or occasional bat roost feature. The Council do not appear to have maintained their objections in these respects in their appeal statement and infer that mitigation could be addressed by way of planning conditions.
17. Nevertheless, even if protected species might not be adversely affected with mitigation, from the evidence available the site would still have some value as a habitat for other species, in particular given the locally unusual presence and size of the pond, contributing to the biodiversity of the area. As the appellant's GCN survey acknowledges, ponds are one of the habitats which are of principal importance for the conservation of biodiversity in England and the Barnet Group of the London Wildlife Trust point out that ponds are priority habitats in the London Biodiversity Action Plan.
18. The appellant's proposal is to provide a much smaller pond, albeit one specifically designed as a habitat, and indicates how this may be incorporated in the Appeal C scheme. There is no illustration of how a similar pond habitat might be incorporated into the other developments. Although the configuration of the Appeal A scheme may provide sufficient space for a similar feature there is no indication that this would be achievable in the Appeal B scheme.
19. Although the GCN Survey considers that the proposed pond feature would be of "a suitable size and design to fulfil a natural function" it also acknowledges that the specification for a pond was based on the land available as a result of development proposals. Given the current extent of the pond there is insufficient detail in the proposed Mitigation Strategy to be certain that the proposed replacement feature would be an adequate substitute in Appeal schemes A and C, nor at all in Appeal scheme B.
20. Bearing in mind that the RDG recognises the specific significant contribution gardens make to biodiversity, these circumstances mean that none of the developments would accord with DMP Policy DM16's approach of seeking the retention and enhancement of biodiversity, nor DMP Policy DM01's requirement that landscaping contributes to biodiversity including the retention of existing wildlife habitat.

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<sup>2</sup> Barnet's Local Plan (Development Management Policies) Development Plan Document, 2012.

<sup>3</sup> Local Plan Supplementary Planning Document: Residential Design Guidance, 2016.

## **Other Matters**

21. As the site clearly makes a positive contribution to the area's character and biodiversity it cannot be reasonably concluded that the existing arrangement is necessarily an inefficient use of land, as the appellant contends, on the basis that it only accommodates a single dwelling at present.
22. I can appreciate that the appellant has continued to discuss the proposals with the Council and that this has influenced the scale of all of the schemes. Nonetheless I have determined the appeals on their merits and this does not lead me to a different conclusion. The absence of harm in other respects weighs neutrally and do not amount to positive considerations in support of the appeals.
23. Whilst I have noted interested parties' comments relating to potentially restrictive legal issues affecting the site's development, this matter has not had any bearing on my assessment of the planning issues in the appeals. Nor have any comments about the business arrangements and background of the appellant's company.

## **Planning Balance**

24. Although the appellant considers that the open space proposed between Chestnut Grove and the proposed dwellings would be a benefit in Appeal scheme C, there is no suggestion that this would be publicly accessible and the visual effects would not necessarily reflect the existing character and appearance of the streetscape. Any benefits would therefore be very limited.
25. All schemes would deliver new homes, as well as the economic and social benefits that would bring in the short and longer term. However, the harmful effects on the spaciousness of the site would increase with the number of houses in each scheme and, in any event, all would be harmful by way of the loss of the pond feature.
26. Although the site's significance as part of an undesignated heritage asset is local and that loss would only be partial, the scale of harm would be considerable taking into account that the significance of the pond and walled garden remains are mutually dependent on one another in conveying the remaining extant evidence of the Little Grove estate. In carrying out the balanced judgement required by the Framework in such circumstances, this harm would not be outweighed by the benefits of any of the schemes.
27. As the proposals would conflict with the development plan these are not circumstances where the Framework or CS Policy CSNPPF indicate that a different decision should be taken.

## **Conclusion**

28. For the above reasons all three developments would harm the character and appearance of the area and its biodiversity, contrary to the development plan, supplementary guidance and the Framework. The appeals are therefore dismissed.

*Geoff Underwood*

INSPECTOR