

APCAR SMITH PLANNING

Chartered Town Planning Consultants

Our Ref: CA/grc/3248

Your Ref: APP/Y5420/W/21/3279945

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The Planning Inspectorate
Room 3D
Temple Quay House
2 The Square
Bristol BS1 6PN

24 January 2022

Dear Sirs

Land to rear of 10 and 12 Bidwell Gardens, London, N11 2AX

Please find set out below our comments on the Local Authority's Appeal Statement and third party representations in accordance with the extended deadline as referred to in your letter of 12 January 2022 following receipt of the Local Authority's belated appeal statement. We also comment on the results of the 2021 Housing Delivery Test as published earlier this month in accordance with the Inspector's request as set out in your e-mail of 14 January 2022.

LPA STATEMENT

For ease of reference our comments below refer to the specific paragraph numbers as set out in the LPA Statement.

Para 1.5 – From the discussion at the Planning Committee meeting it is considered that the elected Councillors/Member of the Planning Committee failed to comply with Paragraph 016 (Reference ID: 21b-016-20140306) of the Planning Practice Guidance in that they did not maintain an open mind with their decision not being in accordance with the Development Plan and being unduly swayed by local opposition which, as Paragraph 016 states, is not in itself a ground for refusing planning permission unless founded upon valid material planning reasons. For the reasons set out in our Appeal Statement of July 2021 and below it is not considered that the refusal of planning permission was founded upon valid material planning reasons.

Para 2.1 – The description of the site fails to acknowledge an outbuilding on the appeal site, close to the back edge of the Wroxham Gardens street frontage and visible above the fence from that road.

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Section 3.0 – As can be seen when comparing the appeal proposals with the two previous applications, the current scheme is very different and, as discussed in our Appeal Statement, has been carefully designed to respond to the previous concerns.

Para 4.6 – It is considered that the Local Authority have not taken into account all relevant London Plan policies in their Appeal Statement. As is referred to in our Appeal Statement it is considered that Policies GG2, H1 and H2 are of relevance to the appeal with the proposals being in compliance with their requirements.

Para 4.11 – Policy D5 is not referred to in the reason for refusal and no concern has been raised in respect of accessible and inclusive design.

Para 4.13 – Similarly Policy G7 has not been referred to in the reason for refusal of planning permission and no concern as been raised in respect of impact on trees. Para 6.38 of the Officer's report to Committee acknowledges that the trees to be removed are all of relatively low quality. The proposals incorporate new tree planting as the policy requires.

Para 4.14 – Policy DM2 is not referred to in the reason for refusal of planning permission and as stated above in connection with London Plan Policy D5, no concern has been raised in respect of accessible and inclusive design. As discussed in detail in our Appeal Statement in addition to the policies that are referred to by the Local Authority we also consider LB Haringey policies SP0, SP1, SP2, DM6, DM10 and DM14 to be of relevance. The proposals are discussed in accordance with all policies in detail in our Appeal Statement and we would respectfully cross-refer to that document.

Section 4 – Given that the London Plan was adopted more recently than the Local Authority's Strategic Policies and Development Management DPD. Para 012 (Reference ID: 21/B-012-20140306) of the Planning Practice Guidance is relevant. This states that where a policy contained in a Development Plan conflicts with another policy, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted. This is particularly relevant to the consideration of the proposals in the context of LB Haringey Policy DM7 and the fact that the site is garden land.

Para 4.17 – It is noted that the Local Authority are not suggesting that the principle of development fails to comply with this policy, either in their summary of the policy or in Section 5. The first sentence of Para 4.17 refers to "back-land sites". Given the site's frontage to Wroxham Gardens, with the width of that frontage being in keeping with plot widths elsewhere on Wroxham Gardens, it is not considered that the appeal site and the proposed development should be considered as a back-land development.

Para 5.2 – The proposed development retains ample space for trees and planting. It is not considered that the proposed development will appear cramped. With the limited visibility from Wroxham Gardens the proposed dwelling would not appear over-dominant. The site is not in a location where innovative design, to enable efficient and effective use of the site (as planning policies at national, strategic and local level all require), would be inappropriate. The proposals retain ample space for trees and planting with landscaping being acknowledged as

integral to the proposals. Hence no objection was raised at application stage to the suggested condition in the Officer's report to Committee in respect of a detailed soft landscaping plan being required to be submitted. The excavation involved in the proposals will not have any adverse impact on character, not being visible other than from within the site at the rear of the property.

Para 5.3 – The green roof was not incorporated in the proposals to compensate for lack of other planting. Indeed the proposals incorporate ample opportunity for good quality landscaping and planting as the Officer's report to Committee recognises and as no doubt would be controlled by condition were the appeal to be allowed.

Para 5.4 – It is considered that the proposed dwelling, with its flat roof and limited views from the street, sits comfortably in the Wroxham Gardens street scene between the garage of 8 Bidwell Gardens (this garage fronting Wroxham Gardens immediately adjacent to the appeal site) and the single storey garage extension to 1 Wroxham Gardens. Whilst it is acknowledged that the original houses are relatively uniform they have been subject to various extensions and alterations as evident from the street (as discussed in the Appeal Statement). The existing outbuilding on the appeal site that is visible from Wroxham Gardens close to the back edge of the pavement also needs to be considered. As a result of these factors, is it not considered that the design of the proposed development would be inappropriate.

Para 5.6 – The Local Authority's comments in this paragraph fail to recognise the significant differences between the previous appeal proposal and the current scheme with its very limited visual impact.

Para 5.7 - It is acknowledged that the proposed development will be visible from some neighbouring gardens. However this, in itself, does not render the development unacceptable. The LPA have not sought to suggest that it will be overbearing.

Para 5.8 – The proposed development has been very carefully designed so as to ensure that there will be no overlooking of neighbouring properties including their rear gardens. We would respectfully draw attention to Para 6.25 of the Officer's report to Committee which incorporates detailed comments in respect of how the proposals ensure that there will be no unacceptable impact on neighbours' privacy. We would also cross-refer to Paras 5.17 to 5.33 of our Appeal Statement which comment on how the design ensures there will be no unacceptable impact on privacy in detail. The Local Authority's comments in the last two sentences of Para 5.8 demonstrate a failure to properly consider the proposals and acknowledge how they very significantly differ from the previous appeal scheme. Paras 5.26 to 5.28 of our main Appeal Statement discuss in detail how the proposals differ from the two previous schemes, including that dismissed on appeal on this issue.

Para 6.2 – No objections are raised to the conditions referred to in the Officer's report to committee should the Inspector be minded to allow the appeal. As stated at Para 5.33 of our main Appeal Statement the Appellant would be happy to accept that the landscaping condition (Condition 4 as listed at Para 2.2 of the Officer's report to Committee) be an "in

perpetuity" condition in terms of it requiring replacement planting, rather than the 5 years to which the Local Authority's suggested condition refers.

THIRD PARTY REPRESENTATIONS

The Chair of The Bounds Green & District Residents Association suggests that the appeal site is part of the London Green Corridor. This is factually incorrect. As can be seen from the attached extract from the Local Authority's Planning Policy Map the site is not covered by any such designation. There is SINC Grade II land to the rear of properties on the north-eastern side of Wroxham Gardens, this also being an identified ecological corridor. To the south of Bidwell Gardens land is identified as SINC Local and Metropolitan Open Land. There is no designation at all affecting the appeal site or neighbouring land. We are concerned that this misunderstanding, by an influential Residents Association, may have led to the individual third party objections and the Committee overturning the Officer's recommendation. Whilst we are aware that no new evidence can be submitted at Final Comments stage the extract from the Planning Policy Maps is provided to respond to this third party's factual error. We therefore trust that the Planning Inspectorate will accept our submitting the attached screen-save.

BG&DRA suggests that the proposals will impact on neighbours sunlight and overshadowing of gardens. This is factually incorrect as the "Daylight, Sunlight and Overshadowing Study", submitted at application stage, demonstrates and indeed as the Local Authority themselves (professional officers and Councillors) accept, with the refusal of planning permission not raising this as a concern.

As regards the concerns in respect of the natural environment and wildlife (as referred to by the occupants of 20 Bidwell Gardens) the appeal site is little different to much of London in this respect. Planning policies at national, strategic and local level recognise the importance of the provision of additional housing and require that efficient and effective use be made of land. The Local Authority accept that the proposals will not give rise to any harm to the natural environment or wildlife.

Concern is raised by the occupants of 18 Wroxham Gardens in respect of temporary inconvenience during building works with reference to noise and traffic generation. However such temporary inconvenience is not a reason for refusal of planning permission as is generally acknowledged. Indeed, if it were, it would be impossible to construct the much needed additional housing almost anywhere throughout London.

With regard to the comment in respect of "different materials" raised by the occupant of 22 Bidwell Gardens the Local Authority's suggested Condition 3 requires details of brickwork to be submitted prior to commencement of development. The planning application form simply refers to "facing brick". Thus the colour/type of brick would be subject to the Local Authority's further approval to discharge this condition should the appeal to be allowed.

Regarding concerns raised by the occupant of 24 Wroxham Gardens regarding potential damage during construction works, that would be covered by the Party Wall Legislation and Building Regulations.

The attachment to the representation from the occupants of 8 Bidwell Gardens that incorporates a label stating "plot" with a yellow line around it does not include all of the appeal site and is smaller than the plot for the proposed dwelling.

All other matters referred to in the third party representations have been covered in the content of our main Appeal Statement and above.

HOUSING DELIVERY TEST

It is acknowledged that the 2021 Housing Delivery Test results, published on 14 January 2022, indicates that the presumption in favour of sustainable development as set out at Para 11(d) of the NPPF no longer automatically applies due to recent housing delivery performance in the Borough. The results show the Local Authority as being just within the "buffer" (even 1% lower and the "presumption" would still be applicable). As a result of Housing Delivery being under 85% the Local Authority are required to demonstrate a 20% buffer to improve the prospect of achieving the planned supply (NPPF Para 74(c) refers).

The London Plan 2021 identifies a 10 year target for the London Borough of Haringey of 15,920 dwellings over the 10 year period 2019/20 to 2028/29 (as referred to in Table 4.1 to which Policy H1 refers). As part of their Local Plan review the Local Authority will be consulting on potential housing sites this year. At this stage there can be no certainty as to whether they will be able to identify sufficient land to meet London Plan targets. Over the last 3 years the Housing Delivery Test 2021 demonstrates that, on average, there have been 968 dwellings completed per annum. This is significantly below the London Plan 2021 annualised target of 1,592 dwellings.

Para 74 of the NPPF requires that Local Authorities provide a minimum of 5 years' worth of housing against their housing requirement set out in adopted strategic policies (in this instance the London Plan 2021) with the 20% buffer over and above that being required for Haringey. Therefore to comply with the NPPF requirements Haringey need to identify land for 9,552 new dwellings over the next 5 years (5 x the annualised London Plan housing target of 1592 plus 20%).

The Local Authority's latest Housing Delivery Test Action Plan (July 2021) shows that sites with planning permission (where development has started or not started) as totalling 8,337. It is acknowledged that there is reference to a further 4,480 potential new dwellings on large and small "deliverable" sites but there is no breakdown of these sites or consideration as to whether they are likely to come forward for development over the next 5 years or how or why they are considered "deliverable"..

Therefore whilst it is acknowledged that according to the Local Authority's July 2021 Housing Delivery Test Action Plan the requirement in respect of the 20% buffer is complied with there are, as yet, no potential sites shown for consideration in the emerging Local Plan Review and with the current Local Plan being based on a lower target.

Regardless of the above the case for allowing this appeal is not made simply on the Local Authority's failure to deliver sufficient housing and is therefore not reliant on NPPF Para 11(d). For the reasons discussed in detail in the main Appeal Statement and above it is considered that the proposals comply with all relevant planning policies at national, strategic and local level and that there are no material considerations as to why, despite compliance with planning policies the appeal proposals should be considered unacceptable.

CONCLUSIONS

It is therefore hoped that the Inspector will allow the appeal, recognising the thorough assessment as set out in the Officer's report to Committee in respect of the merits of the proposals when compared with the far more generalised comments in the Local Authority's Appeal Statement, the latter failing to recognise the differences between the proposals the subject of this appeal and the previous proposals for the site.

Yours faithfully

A handwritten signature in black ink, appearing to read 'C. Apcar', with a stylized, flowing script.

Carolyn Apcar (MRTPI)