
Appeal Decision

Site visit made on 3 October 2016

by D M Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 28th October 2016

Appeal Ref: APP/Q5300/W/16/3154664

13 Walnut Grove, Enfield EN1 2BL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Squire against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/00274/OUT, dated 20 January 2016, was refused by notice dated 9 May 2016.
 - The development proposed is the erection of one pair of semi-detached dwellings and one pair of detached dwellings following the demolition of the existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with access, layout and scale to be determined at this stage. However, a suite of plans have been submitted showing the proposed elevations and floor plans. These are not marked as illustrative or indicative and are presented in some detail. I have had regard to them insofar as they are relevant to the appeal.
3. The Council's refusal reasoning cites policies from the Core Strategy, London Plan and Development Management Document. The appellant has queried this on the basis that it is not made explicitly clear which versions of the aforementioned documents are being referred to. Whilst I appreciate that Decision Notices should set out the title of documents in full, in the absence of any evidence to the contrary, I have proceeded on the basis that the Council's determination was based on the development plan as it applied at that time. Similarly, I am also required to assess the scheme in the light of current policies and guidance and this is what I have done.

Main Issues

4. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - The living conditions of neighbouring and future occupiers with particular regards to privacy, outlook and outdoor space provision;
 - On-street parking and highway safety;
 - Ecology; and
 - Trees.
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Reasons

Character and appearance

5. The host property is an unusually designed, large detached residence positioned at the head of a short cul-de-sac which rises away from Park Avenue. It occupies an irregular shaped plot and given its angular roof form, orientation and lack of an obvious facade, is something of an anomaly in Walnut Grove which otherwise comprises a long staggered terrace of 12 flat-roofed properties dating from the 1970s. The opposite side of Walnut Grove is lined by a band of mature landscaping which abuts the back edge of the road.
6. The appeal property has a large rear garden which is flanked to the east and south by a private access and open land associated with the New River. To the west are the spacious gardens to dwellings on Ringmer Place. As a consequence of the above, there is not a discernible pattern to development in the immediate area. Nonetheless, this is a pleasant suburban area where properties are well proportioned in relation to their plots and where mature landscaping lends the locality a verdant character. In that regard the appeal property which has clearly been carefully designed in relation to its plot, contributes positively to the character and appearance of the area.
7. There is little doubt that the loss of the existing house and the erection of 4 dwellings on the plot together with the associated access road would completely change the character of the land and create a more close-knit pattern of development than is typical in the immediate area. Although it would not be 'backland' development as proffered by the Council, the submitted drawings show dwellings that fill most of their individual plots and consequently have close spacing to their front and rear site boundaries. Moreover the strong vertical emphasis of the dwellings set against the rising topography as well as their orientation to each other and Walnut Grove would compound the feeling of too great a building mass for the plots and, cumulatively with all four houses, for the whole appeal site.
8. Based on the foregoing, and irrespective that the density would be within acceptable limits set out in the "*The London Plan 2016*" (the LP) I concur with the Council that the development would appear contrived and cause harm to the character and appearance of the area contrary to Policies CP5 and CP30 of the "*The Enfield Plan: Core Strategy 2010*" (the CS), Policies DMD6, DMD8, DMD37 of the "*Development Management Document 2014*" (the DMD) and Policies 3.4, 7.4. and 7.6 of the LP. These require proposals; to be of a high quality design, make a positive contribution to their surroundings, reinforce local distinctiveness and have regard to both local character and the layout of neighbouring development. There would also be conflict with the aims of the "*National Planning Policy Framework*" (the Framework) in terms of the need to add to the overall quality of the area.
9. In coming to this view I accept the appellant's argument that Policy DMD7 is of little relevance to the appeal scheme since the whole plot is being redeveloped. However, I have still found conflict with other policies in the development plan and therefore this has little bearing on my overall conclusions on the first main issue.

Living conditions

10. The submitted plans indicate that the dwellings would contain four bedrooms apiece and therefore it is logical to assume they would be occupied as family dwellings. With that in mind, the amount and quality of useable outdoor space for future occupiers of the dwellings would be limited.
11. The Council concede that the development would comply with Policy 9 of the DMD which requires 35m² of private amenity space per dwelling. However, I concur with the Council that consideration should not be solely limited to a strict mathematical exercise. In this instance the amount and layout of the garden space for the middle plot and the second semi-detached property would be notably poor. The orientation of the gardens to the dwellings and to those mature trees just beyond the western site boundary would result in gardens with very little direct sunlight. I recognise that potential occupiers would be able to exercise consumer choice in these matters. Nonetheless, I consider that the level of overshadowing and usable amenity space for future occupiers is indicative of a poor design and overdevelopment of this site and would conflict with the aims of Policy 7.6 of the LP to provide high quality outdoor spaces.
12. In terms of the living conditions of neighbouring occupiers, the Council point to the effect on the occupiers of St Martins and Larkworthy on Ringmer Place to the west of the site. However, as I saw on my site visit these properties are positioned some distance from the appeal site boundary. The Council have not cited any local separation distances that might be breached by the development. Whilst I accept there would be some change in outlook from these properties, the scale of this change would be modest and not at a level that could reasonably be described as overbearing or unusual in a built-up area.
13. I do however have some concerns about the potential for overlooking from the first floor windows of plot 3 to the garden of St Martins. Whilst this in itself is not a determinative issue, it does lend weight to my concerns. The Council's refusal reasoning also refers to poor outlook from bedrooms 1 and 3 of plot 4. However it is not clear from the Council's evidence how and why the outlook provided would be substandard.
14. Nonetheless, I conclude that the development would result in unacceptable living conditions for future occupants of the development. The development would thus conflict with Policies DMD8, DMD9 of the DMD, Policy 7.6 of the LP and the Framework which collectively seek to ensure that development safeguards the amenities of all existing and future occupiers of land and buildings.

Parking arrangements

15. Although the Council refusal reasoning refers solely to the amount of visitor parking, a significant number of local residents have raised concerns about the inadequacy of the proposed parking arrangements. In these circumstances it is appropriate for me to consider the issue of parking in the wider sense. The scheme would provide each dwelling with a single parking space. The justification for this comes from the Transport Statement (TS) submitted with the application which in turn draws upon Census data for the local area. Appendix C shows that the majority of dwellings in the ward have 2 cars or

more. On that basis alone I struggle to understand how it can be concluded that 1 space per dwelling would be an appropriate level of provision.

16. Whilst I acknowledge that the average for the area is 1.3 cars per dwelling, it is important to recognise that the area shaded in red on the plan contains a range of properties from smaller terraced dwellings through to large detached houses. Therefore, whilst it is not possible to deduce from the data what the average level of car ownership is for four bedroom properties in the area, it is not unreasonable to assume that it would be significantly higher than 1.3 cars.
17. I also accept there are alternatives to car based travel. However, the Council confirms that the PTAL¹ rating for the appeal site is 2 (poor) and on that basis the use of non-car modes of transport for most occupants, in most seasons of the year would not be a realistic alternative to car based travel. I therefore find that the level of off-street parking across the site would be substandard.
18. I noted on my mid-afternoon site visit that on-street parking along Walnut Grove was at, or very near, to capacity. I can also appreciate there would be more demand at peak times such as evenings and weekends. The proposal would therefore increase on-street parking stress in the area leading to inconsiderate parking particularly in close proximity to the turning head. This would be to the overall detriment of highway safety and likely to lead to neighbour disputes.
19. Therefore and notwithstanding the comments of the Council's Transportation Officer, who appears to conflate parking demand with trip generation, I conclude that the proposed parking arrangements would be unsatisfactory and cause harm to highway safety. This would be contrary to Policy DMD 45 of the DMD which stipulates 2 parking spaces per dwelling of 3 bedrooms or more.

Trees

20. There are a number of mature trees close to the western site boundary but in third party ownership. None are covered by Tree Preservation Orders but are prominent in views from Walnut Grove and contribute positively the amenity of the area. The Tree Survey indicates that the Plots 3 and 4 at the southern end of the site would encroach significantly in to the root protection areas of trees T2, T8 and T9 (Poplar) and T4 (Ash).
21. Whilst I note the appellant is prepared to use pile foundations to prevent any damage to the trees, there is nothing to suggest the Council is agreeable to such an approach. In the absence of a consensus on these matters, I have taken a precautionary approach and conclude that it has not been demonstrated that the proposal would safeguard the long term health of the trees. Thus there would be conflict with Policies 7.19 and 7.21 of the LP, Policy CP34 of the CS and DMD80 of the DMD which seek the protection of important trees and woodlands.

Affordable Housing

22. The Council argue that a contribution should be made to support the provision of off-site affordable housing. The requirement for such a contribution arises from Policies CP3 and CP46 of the CS and DMD2 of the DMD.

¹ PTAL is a way of measuring the density of the public transport network at any location within Greater London and is a generally accepted method of establishing how accessible a location is.

23. However, following the Court of Appeal judgement dated 11 May 2016², the Written Ministerial Statement of 28 November 2014 (WMS) and subsequent alterations to the Planning Practice Guidance (PPG) on planning obligations for affordable housing and social infrastructure contributions have been reinstated. The PPG states that such contributions should not be sought from development of 10 units or less and which have a maximum combined gross floorspace of no more than 1000m². This applies to the appeal scheme.
24. Whilst I note the Council no longer requires an education contribution, it is unclear whether the Council still intends to pursue the affordable housing contribution in light of the WMS. However, the final sentence of the Council's Statement in relation to 'Reason 4 (S106)' states '*the proposed dwelling houses are below 1000m² and thus would not require a contribution towards affordable housing*'. Accordingly, I conclude that an affordable housing and education contribution are not required.

Ecology

25. The Council's final reason for refusal relates to the effect of the proposal on protected species specifically bats which are protected by law. Whilst I acknowledge advice in paragraph 99 of the ODPM Circular 06/2005 and the proximity of the New River green corridor, no specific evidence has been adduced in relation to bat sightings or any other evidence which would point to the presence of bats. The existing property does not have a conventional pitched roof and appears to be well maintained. Therefore the likelihood of bats being present is small.
26. I therefore conclude that there is insufficient evidence to conclude that there is a reasonable likelihood of bats being present and so a survey is not required. In the event that any roosts or bats were found during construction they would be protected by other legislation. Accordingly, there would be no conflict with Policies DMD79 of the DMD, Policy 36 of the CS, Policy 7.19 of the LP and advice in the Framework and the PPG. Amongst other things these seek the protection, enhancement, creation and management of biodiversity.

Conclusion

27. I accept that the development would make efficient use of the land and deliver four dwellings in an area of need. These are matters that weigh in favour of the proposal. However, either on their own or in combination they do not outweigh the harm I have identified to the character and appearance of the area, living conditions of future occupiers, highway safety and trees and the conflict with the development plan in that regard.
28. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should be dismissed.

D. M. Young

Inspector

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.