
Appeal Decision

Site visit made on 6 December 2016

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/Q5300/W/16/3157944
1D Chase Court Gardens, Enfield EN2 8DH

- 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 Derkan Buldu against the decision of the Council of the London Borough of Enfield.
 - The application Ref 16/02091/FUL, dated 11 May 2016, was refused by notice dated 3 August 2016.
 - The development proposed is the erection of a first floor side terrace with additional seating area.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Derkan Buldu against of the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - i. the living conditions of the occupants of nearby residential properties with particular reference to noise and disturbance; and
 - ii. the character and appearance of the area.

Reasons

Living conditions

4. The appeal site is located to the rear of 55 Windmill Lane and is currently used as a café known as 'Olive Tree Café', which occupies two floors of the building. Access to the café is directly off Chase Court Gardens. The character of the area is mixed, with Chase Court Gardens being a relatively quiet residential street and the nearby section of Windmill Hill being mainly commercial.
 5. The nearest residential properties on Chase Court Gardens are in a three storey block of flats 1-6 Bennetts Lodge and detached and semi-detached houses on the opposite side of Chase Court Gardens.
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6. Bennetts Lodge is situated approximately 25 metres from the appeal site and is separated from it by a car parking area for two vehicles, a service road, which is used for commercial units along Windmill Hill and associated vehicle parking, and an open landscaped area containing landscaping and trees. A wooden fence separates the service road from the boundary with Bennetts Lodge.
7. The proposed terrace would be situated on a small flat roof extension. Glass screening to a height of 1.8 metres is proposed to protect the privacy of local residents and those using the terrace and as noise mitigation. Access to the terrace would be via the existing small first floor seating area of the café.
8. The appellant contends that the design of the proposal has taken account of the noise concerns and a noise assessment report was submitted with the planning application. However the report relates to a flue extraction system and, although it may provide some useful background noise baseline data, it does not include detailed assessment and analysis of noise levels associated with the proposal or noise impact assessment under a suitable methodology. Furthermore the additional references to noise in the appellant's statement lacks the level of detail required to be convincing particularly with regard to the effect of the development and its use on the living conditions of occupiers of nearby residential properties.
9. I understand that the terrace would be a small area with plans showing only eight covers, that there is background noise associated with commercial properties and the nearby busy road and that according to the Design and Access Statement the terrace would only be open between 09:00 and 21:00. I am also aware that planning conditions may be used in some cases to mitigate potential noise conflicts.
10. However, in the absence of more detailed analysis of noise impacts in this case, I conclude that the development would result in unacceptable harm to the living conditions of the occupants of nearby residential properties with particular reference to noise and disturbance arising from people talking, laughing and shouting. Being incompatible with its surroundings, the proposal would conflict with Policy DMD37 of the Development Management Document (DMD) Adopted November 2014 which seeks to ensure that development is not inappropriate within its context. However, with regard to living conditions I find no conflict with Core Policy 30 (Maintaining and Improving the Quality of the Built and Open Environment) of The Enfield Plan Core Strategy 2010-2025 Adopted November 2010 (the CS) which relates to the quality of the built environment.

Character and appearance

11. The proposed screening associated with the terrace would be 1.8 metre high glazed panels. Although a wide range of materials is used in the wider mixed residential and commercial area and there is a variety in terms of residential and commercial building styles, the rear of the row of properties along Windmill is fairly consistent, comprising mainly brick with slate or tile roofs.
12. Whilst a modern material such as glazing can enhance the overall appearance of a building or location, in this case the extent of 1.8 metre high glazing along a mainly residential street would be at odds with its surroundings. This conflict would be exacerbated by the relatively high level use of the glazing which would be particularly prominent along Chase Court Gardens.

13. Consequently, the development would result in a prominent, visually obtrusive and incongruous addition to the mainly residential street scene, out of character with the host building and its surroundings. On this issue I therefore conclude that the proposal would harm the character and appearance of the area. It would conflict with the design requirements of Policy DMD37 of the DMD and Core Policy 30 of the CS which seek to maintain and improve the quality of the built and open environment and deliver high quality design in Enfield.

Other matters

14. The appellant expresses disappointment at way in which the Council determined the planning application. However that is a matter for the Council and my decision is based on the planning merits of the case.

Conclusion

15. For the above reasons and taking account of other matters raised I conclude that the appeal should be dismissed.

Alastair Phillips

INSPECTOR