



Appeal Decision

Site visit made on 29 May 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 23 August 2019

Appeal Ref: APP/Q5300/W/19/3222185

106A Fox Lane, London N13 4AX

- 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 C Antoniadou against the decision of the Council of the London Borough of Enfield.
 - The application Ref 18/03881/FUL, dated 8 October 2018, was refused by notice dated 7 December 2018.
 - The development proposed is described as redevelopment of the site and erection of one 2-storey block with accommodation in roof space comprising 4 x self-contained flats (2 x 1-bed, 1 x 2-bed & 1 x 3-bed) incorporating private amenity space, cycle parking and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted amended plans (Proposed Site Plan (Drawing No.18-018-P02A) and Proposed Ground Floor Plan (Drawing No. 18-018-P03A)) with the appeal. They amend the proposal by changing most of the external private amenity space to a communal garden space. It appears these documents were submitted in order to address Refusal Reason 3 and are therefore a substantive matter in this appeal.
3. These documents were not subject any consideration by the Council during the determination of the original application. I requested confirmation whether the appellant or the Council had notified third parties of the amended plans. Both parties confirmed that they had not done this.
4. Having regard to the Wheatcroft Principle¹ and the relevant parts of the Planning appeals: procedural guide (2015) (as amended)² I consider the interested parties would not have been aware of the amended proposals, and determining this appeal on the basis of a revised scheme would have resulted in prejudice to those interested parties. Consequently, I have not accepted the revised plans and have determined the appeal having regard to the plans submitted with the original application.

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² Procedural Guide: Planning appeals – England: Annexe M - Can a proposed scheme be amended?

Application for costs

5. An application for costs was made by Mr C Antoniades against the Council of the London Borough of Enfield. This application is the subject of a separate Decision.

Main Issue

6. The main issues are as follows:

- The effect of the proposals on living conditions of future occupiers of Flat 3 in respect of access to, and level of, external space;
- The effect of the proposals on the supply of family housing in the Borough, and
- The effect of the proposals on the living conditions of neighbouring occupiers, where it relates to noise, disturbance and overlooking.

Reasons

Living Conditions of future occupiers of Flat 3

7. The proposals would result in the demolition of a detached 4 bed house, and the creation of four smaller flats, of which one would be a 3 bed flat.
8. The 3 bed flat (Flat 3) would have an internal private balcony of 8sqm, together with access to a private garden space to the rear of the block. As part of Refusal Reason 1, the Council consider that as Flat 3 is located on the first floor of the block, there would be no direct level access to the private garden space and this would be unacceptable. Whilst I consider it more desirable for families to have level access to garden spaces, I do not consider that this alone would be a sufficient reason for refusal as there is no policy before me that specifically seeks to resist this.
9. The standards set out in policy DMD9 (Amenity Space) of the Enfield Development Management Document (2014) (DMD) sets out the amenity space requirements for such a dwelling, where the minimum level of private amenity space of 29 square metres. As the proposal provides 8 square metres of dedicated private amenity space for Flat 3, the proposal fails to comply with DMD 9. The appellant acknowledges this at paragraph 6.25 of their appeal statement.
10. I note the appellant considers the 8sqm balcony will be 'fully functional' and that there are public parks nearby. However, for a flat that is very likely to provide a home for a family with children, I consider that 8sqm is an inadequate amount of amenity space where there is no other garden area available. This would cause significant harm to the living conditions of future occupiers of Flat 3. In light of the above, I also find harm in relation to policy DMD37 (Good Design) which seeks development that contains suitable, safe, attractive spaces, as well as Policy 3.5 (Quality and Design of Housing Developments) of the London Plan (2016) which seeks good design for all types of housing development.

Supply of family housing

11. The Council consider the proposal to be in conflict with policy DMD5 (Residential Conversions) of the Enfield Development Management Document (2014) (DMD), which seeks to control the conversion of existing units into self-contained flats and Houses in Multiple Occupation (HMO) only.
12. The Council considers the policy is applicable to the appeal proposals '*due to the nature of the proposal it is considered to replicate a semi-detached dwelling which would be used like a conversion as opposed to a standalone block of flats*'. I am unclear as to why the policy has been applied in this way and I do not consider DMD5 is applicable: the proposal is not for a conversion, it is a demolition and redevelopment of the site.
13. In terms of the proposed housing mix I consider the 're-provision' of a family sized dwelling (Flat 3) would count in favour of the proposals in light of the Council's stated lack of family housing within the Borough. I therefore find the proposals to be in alignment with policy CP5 (Housing Types) of the Enfield Council Core Strategy (2010) (CS) and DMD3 (Providing a Mix of Different Sized Homes) of the DMD, which seeks new development that offers a housing mix which maximises family (3+ bed) accommodation.

Living conditions: noise, disturbance and overlooking

14. The proposals have been revised from a previous scheme, which was subject to an appeal decision³, and this has been supplied to me by the appellant. I have considered the findings of the Inspector in that case.
15. I note that the previous scheme was, in part, dismissed on the basis of the impact on the living conditions of occupiers of neighbouring 108 Fox Lane. This included concerns associated with potential overlooking from proposed balconies (which were then of a different design), where the Inspector found the proposals to be contrary to policy DMD8 of the DMD.
16. Whilst I consider that the creation of self-contained flats at first floor and loft level may have a negative impact on the *perception* of overlooking, I do not consider that the design of the enclosed balconies (set 2m back from the external wall of the building) would result in any greater overlooking than could be achieved through the presence of windows at those levels. Further, given the relative levels of overlooking already in place within the immediate surrounding area, I do not consider the proposals would add to this in any significant way.
17. Given the mix of dwellings proposed, it seems to me to be unlikely that significant noise and disturbance would result from the development overall. Whilst it is likely that there would be a higher level of occupation within the flats, the creation of internal balconies, private terrace areas and external private garden spaces would not, in my view, automatically lead to materially greater noise levels, above those already generated by a family occupying the existing 4 bedroom house. Further, I have no robust evidence before me to support the conclusion that this would be the case.
18. Overall, I find no harm to the living conditions of neighbouring occupiers through overlooking, noise and disturbance and I therefore consider the proposals accord with policy DMD8 of the DMD.

³ APP/Q5300/W/18/3195061

Other Matters

19. I have noted the appellants assertions that the creation of multiple dwellings within the scheme would benefit the Borough through the creation of new housing, and I consider this to be a benefit of the proposals, albeit moderate, given the scale of the proposal. There would also be further economic benefits associated with the construction process and eventual occupation of the flats.
20. However, I do not consider that such benefits are capable of outweighing the harm that I have identified.

Conclusions

21. For the above reasons, and having had regard to all matters raised, the appeal is dismissed.

Sian Griffiths

INSPECTOR