
Appeal Decision

Site visit made on 18 September 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/Q5300/W/19/3229061
383 Cockfosters Road, Enfield EN4 0JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Troy Homes against the Council of the London Borough of Enfield.
 - The application Ref 18/02787/VAR is dated 12 July 2018.
 - The application sought planning permission for demolition of existing building and erection of a 2.5 storey block of 12 x 2-bed and 2x 1-bed self contained flats with accommodation and car parking at basement level and associated works without complying with a condition attached to planning permission Ref 17/00459/FUL, dated 7 September 2017.
 - The condition in dispute is No 2 which states that: Unless required by any other condition attached to this Decision, the development hereby permitted shall be carried out in accordance with the following approved plans and documents: PA001 THE LOCATION PLAN; PA003 TOPO SURVEY PLAN; PA004 TOPO SURVEY PLAN WHOLE SITE; PA008 MASSING COMPARISON; PA009A Proposed Wide Context Plan; PA010A Proposed Ground Floor; PA011A Proposed Lower Ground & Ground Floor; PA019A Proposed 1st & 2nd Floor; PA020A Proposed Front Elevation; PA021A Proposed Front Elevation / Section Through Parking; PA022A Proposed Rear & Side (South) Elevation; PA023A Proposed Side (North) Elevation and Section A-A; PA025A Materials and Precedent; Design & Access Statement; Ecology Assessment; Demolition Statement; Glazed and Stock Mixture.
 - The reason given for the condition is: in the interest of proper planning and for the avoidance of doubt.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and erection of a 2.5 storey block of 12 x 2-bed and 2x 1-bed self contained flats with accommodation and car parking at basement level and associated works in accordance with the application Ref 18/02787/VAR, made on 12 July 2018 without complying with condition No 2 set out in planning permission Ref 17/00459/FUL granted on 7 September 2017 by the Council of the London Borough of Enfield, but otherwise subject to the conditions set out in the schedule attached at the end of this decision.

Procedural Matters

2. The appeal is made against the Council's non-determination of the planning application. The Council has however indicated that it has no objection to the

proposed changes to the scheme. In reaching this view the Council had regard to effects on the character and appearance of the area, the living conditions of future occupants of the development, and the privacy of occupants in neighbouring buildings. So shall I.

3. The development has already commenced. At the time of my visit construction was well advanced, with the principal internal and external structural elements of the building already completed. Consequently, adjustments to the basement dimensions and access ramp have already taken place. Whilst this has helped to inform my assessment, my decision is based on the plans as submitted.

Main Issues

4. The main issues are the effect of the proposed changes to the development on the character and appearance of the area, the living conditions of future occupants, and the privacy of occupants of neighbouring properties.

Reasons

5. Viewed externally the proposed changes would each be minimal in nature, and would not fundamentally alter the appearance of the building. Even where it would be possible to view the changes cumulatively within individual elevations, the differences would not be particularly noticeable. For these reasons the proposed changes would not have any obvious adverse effect on the character and appearance of the setting.
6. Omission of 'side balconies' would result in some loss of amenity space for 2 of the flats on the ground floor. A reasonable amount of more useful space would however remain for use by future occupants of these flats. The addition of the proposed high-level windows would otherwise improve lighting to the interior of some flats, as would widening the 2-panel door opening on the rear elevation. Views from these windows towards neighbouring properties would either not be possible, or, in the case of the door opening, would only be increased very modestly. Consequently, the proposed changes would not give rise to any unacceptable impacts on the living conditions of future occupants or neighbours.
7. The Council has not passed comment on alterations at basement level, which, though not listed on the application form, are shown on the plans. It is apparent that given a general lack of external visibility these changes would not affect the character or appearance of the area, and by improving accessibility, would be of benefit to future occupants.
8. For the reasons outlined above I conclude that the effect of the proposed changes on the character and appearance of the area, the living conditions of future occupants, and the privacy of occupants in neighbouring properties, would be acceptable. The scheme therefore complies with Policies DMD8 and DMD9 of the Development Management Document (DMD) adopted November 2014 (the DMD), which between them seek to secure minimum provision of amenity space; Policy CP30 of The Enfield Plan: Core Strategy 2010-2025 Adopted November 2010, and Policy DMD37 of the DMD, which each seek to secure high quality design with regard to its context. Whilst the policies cited by the Council do not specifically reference neighbour amenity, I have had regard to the paragraph 127(f) of the National Planning Policy Framework (the Framework) which states that decisions should ensure developments provide a

high standard of amenity for existing and future users. I am satisfied that the scheme is consistent with this objective.

Other matters

9. The original planning permission was accompanied by a Unilateral Undertaking (the original UU). As is set out and explained in the officer report relating to application 17/00459/FUL, this secured a contribution towards off-site affordable housing, which was adjusted to take account of viability, and a contribution towards education provision. This satisfied development plan requirements, contributing towards the demonstrable need for social housing locally, and mitigating additional demands on local schools likely to arise from the development.
10. The Council has indicated that a deed of variation is required in order to enable the original UU to have continuing effect, and the appellant has submitted a new Unilateral Undertaking (the new UU) with the appeal. Given that the appeal scheme, if approved, would be a standalone planning permission, I agree that this is necessary. For the reasons outlined above, I am therefore satisfied that the new UU, as understood in relation to the original UU, complies with the tests set out for planning obligations in paragraph 56 of the Framework, and in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

Conditions

11. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged. Notwithstanding the Council's provision of a partial list of conditions, it is unclear what the current status of the conditions imposed on the original application is. I shall therefore impose all those all those that I consider remain relevant, albeit using a different order and numbering, and making changes to the wording to take account of the fact that the development has already commenced, that revised plans are involved, and to increase precision. Whilst this has required modifications which affect the original trigger points for submission of information, I am satisfied that the conditions remain effective. In the event that some conditions have in fact already been discharged, this is a matter that can be addressed between the parties.
12. As the development has already commenced there is no need for a condition setting a time limit for commencement. A condition identifying the approved plans is however necessary for the sake of certainty. In applying this condition I have omitted reference to documents which are not plans. For sake of clarity, the revised plans referenced are those submitted with the application, as opposed to the enlarged versions of these plans submitted with the appeal.
13. Condition 2 is required in order to fix the number of units.
14. Conditions 3, 4, 5, 6, 7 and 8 deal with matters of detailed design and landscaping, and are required in order to ensure the development has a satisfactory finished appearance in relation to its setting. Condition 5 is additionally required in order to ensure that the development makes adequate provision for the storage of waste, and Condition 6 to ensure safety, and avoid

- nuisance. I have added a retention and implementation clauses to conditions 5 and 7 respectively, in order to ensure their effectiveness.
15. Conditions 9, 10 and 11 relate to parking provision, and are required in order to ensure that the development can both cater for the parking demand it will generate, and to support the use of environmentally friendly forms of travel.
 16. Conditions 12 and 13 are required in order to ensure that the development does not have an adverse effect on highways safety, and to ensure the provision of safe access to the development.
 17. Conditions 14 and 15 are required to support the delivery of development plan objectives relating to energy and water efficiency of the dwellings provided.
 18. Conditions 16 and 17 are required in order to secure the provision of a sustainable drainage system.
 19. Condition 18 is required in order to secure provision of biodiversity enhancements.
 20. The Council originally applied 2 further conditions requiring the provision of a Construction Waste Management Plan (CWMP), and a Construction Methodology (CM). Given the stage the development has now reached, each condition relates to matters which are now to some extent no longer relevant, such as demolition, or processes and activities which are already well established and in operation. For this reason, and additionally given that the condition relating to the CWMP lacks an implementation clause, and is thus ineffective, I have not reimposed either condition.

Conclusion

21. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of conditions

- 1) Unless otherwise modified by compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 4523/PA001; MDL-1305-PL200 Rev. A; MDL-1305-PL201 Rev. A.
- 2) The development hereby approved shall only be laid out as 14 flats as shown on plan MDL-1305-PL200 Rev. A. There shall be no deviation from the number, size or mix of units from that approved, unless permission is otherwise granted by the Local Planning Authority.
- 3) Details of the external finishing materials to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 4) Details of the surfacing materials to be used within the development including footpaths, access roads and parking areas and road markings shall be submitted to and approved in writing by the Local Planning Authority. The surfacing shall be carried out in accordance with the approved detail before the development is occupied.
- 5) Design details of the refuse storage / recycling facilities shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be constructed in accordance with the approved details prior to first occupation of the development, and shall thereafter be retained.
- 6) Details of any external lighting, including the design, height and siting shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The details shall include an explanation of how the external lighting has been designed to minimise light spillage and its impact on wildlife, particularly along the wooded boundaries of the site. The external lighting shall be provided prior to the occupation of the first residential unit, and retained thereafter.
- 7) Details of the provision of a communal television system/satellite dish to serve the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The communal television system/satellite dish shall then be installed before the development is occupied.
- 8) Full details of landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - (a) planting plans;
 - (b) written specifications (including cultivation and other operations associated with plant and grass establishment);
 - (c) schedules of plants and trees, to include native, wildlife friendly species and large canopy trees in appropriate locations (noting species, planting sizes and proposed numbers / densities);
 - (d) implementation timetables;
 - (e) wildlife friendly plants and trees of local or national provenance; and
 - (f) explanation of how the landscaping conforms with the Drainage Strategy.All landscaping shall be carried out in accordance with the approved scheme during the first planting season following completion of the development

hereby permitted, and shall thereafter be managed in accordance with an agreed scheme of management. Any planting which dies, or becomes severely damaged or diseased within five years of completion of the development shall be replaced with new planting in accordance with the approved details.

- 9) A Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan should include:
 - (a) a scaled car parking plan with clearly marked out bays (inclusive of all disabled bays);
 - (b) allocated and unallocated surface/basement spaces;
 - (c) management of visitor parking;
 - (d) provision for unobstructed access to the basement cycle store; and
 - (e) details of a signal system to control traffic on the ramp.The development shall be carried out in accordance with the approved Car Parking Management Plan. The parking shall be provided solely for the benefit of the occupants of the development and their visitors and for no other purpose.
- 10) Details of the siting and design of electric vehicular charging points to be provided in accordance with London Plan standards (minimum 20% of spaces to be provided with electric charging points and a further 20% passive provision for electric vehicles in the future) shall be submitted to and approved in writing by the Local Planning Authority. All electric charging points shall then be installed in accordance with the approved details prior to first occupation of the development, and shall be permanently maintained and retained thereafter.
- 11) Details of the above ground and basement bicycle parking spaces as indicated on plans MDL-1305-PL200 Rev. A and MDL-1305-PL201 Rev. A, shall be submitted to the Local Planning Authority for approval in writing. The cycle storage shall be provided in accordance with the approved detail prior to first occupation of the development, and shall thereafter be permanently maintained, kept free from obstruction and available for the parking of bicycles only.
- 12) Details of the construction of any access roads and junctions and any other highway alterations associated with the development, inclusive of the reinstatement of redundant footway crossings, shall be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details before the development is occupied.
- 13) Any vehicular entrance gates erected shall be automatic to prevent stopping vehicles obstructing the footway, shall be hung so as to not open outwards, and shall be set back a minimum distance of 5m from the carriageway edge. Pedestrian gates shall be hung to open inwards.
- 14) An Energy Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Energy Strategy shall include the following details:
 - (a) how the chosen strategy complies with the energy hierarchy of the London Plan;
 - (b) how the development will provide for no less than a 35% improvement in the total CO2 emissions arising from the operation of the development and its services over Part L of Building Regs 2013 as the baseline measure;

- (c) the renewable energy technologies considered and discounted / adopted; and
 - (d) details of chosen renewable energy technology including design, size, siting, technical specification, and management plan.
- The development shall then be undertaken in accordance with the approved Energy Strategy.
- 15) Details of the internal consumption of potable water by the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Submitted details will demonstrate reduced water consumption through the use of water efficient fittings, and appliances and recycling systems to show consumption equal to or less than 80 litres per person per day. The development shall be carried out strictly in accordance with the approved details and maintained as such thereafter.
- 16) A Sustainable Drainage Strategy which shows how surface water will be disposed of by means of a sustainable drainage system, in accordance with the principles as set out in the Technical Guidance to the National Planning Policy Framework and DMD Policy SuDS Requirements, shall be submitted to and approved in writing by the Local Planning Authority. The Sustainable Drainage Strategy shall include details of:
- (a) design to a 1 in 1 and 1 in 100-year storm event with the allowance for climate change;
 - (b) follow the SuDS management train and London Plan Drainage Hierarchy by providing a number of treatment phases corresponding to their pollution potential;
 - (c) maximise opportunities, to improve water quality, biodiversity, local amenity and recreation value;
 - (d) allow for flows that exceed the design capacity to be stored on site or conveyed off-site with minimum impact;
 - (e) identify clear ownership, management and maintenance arrangements;
 - (f) include levels, sizing, cross sections and specifications for all drainage features; and
 - (g) explain how the strategy conforms to the Landscape Strategy.
- 17) Prior to first occupation of the development hereby permitted, a Verification Report demonstrating that the approved drainage / SuDS measures have been fully implemented shall be submitted to and approved in writing by the Local Planning Authority. This report must include:
- (a) as built drawings of the sustainable drainage systems including level information (if appropriate);
 - (b) photographs of the completed sustainable drainage systems;
 - (c) any relevant certificates from manufacturers/ suppliers of any drainage features; and
 - (d) a confirmation statement of the above signed by a chartered engineer.
- 18) Details of the siting and number of bat bricks/tiles and bird bricks/tubes/boxes designed into and around the new buildings and trees under the supervision of a suitably qualified ecologist shall be submitted to and approved in writing by the Local Planning Authority. Confirmation of installation, together with accompanying photographic evidence shall then be submitted to and approved in writing the Local Planning Authority prior to the first occupation of the development.