

Appeal Decision

Site visit made on 17 December 2019

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Appeal Ref: APP/Q5300/W/19/3238107

Land to the rear of 83 Berkshire Gardens, Southgate, London N13 6AE

- 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 Daniel Trindade against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/01104/FUL, dated 21 March 2019, was refused by notice dated 24 May 2019.
 - The development proposed is a new build, 2 story residential property on the land at the rear of 83 Berkshire Gardens.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the proposal on the character and appearance of the area, (ii) the effect of the proposal on the living conditions of the occupiers of 83 Berkshire Gardens with specific regard to their outlook and privacy, and (iii) whether or not the proposal is safe from flooding and would not increase flood risk elsewhere.

Reasons

Character and appearance

3. The site, accessed from, and fronting onto St Cuthberts Road has previously been separated from the garden of 83 Berkshire Gardens (No 83). As such it has a closer relationship to the properties on Berkshire Gardens, and No 83 in particular than those on Upsdell Avenue. It is currently fenced off and largely overgrown. There are a number of outbuildings and structures along the boundary between Berkshire Gardens and Upsdell Avenue which are visible from the road. Despite various alterations and extensions, the properties on both Berkshire Gardens and Upsdell Avenue, with their broad consistency of materials and form, retain a simplicity of character and appearance.
4. I understand from the submissions of the appellant that the form of the proposal has been driven by the constraints and opportunities of the site, the policy requirements for private outdoor space and off-street parking, as well as previous applications and an appeal decision.

5. The proposal is of a somewhat contemporary appearance, with a mixture of materials and design features, including the use of brick and timber on the street elevation. These would largely mirror the height of the existing boundary treatments along St Cuthberts Road, with a change in the materials above that level.
6. As a result, the proposed dwelling would appear tall, with relatively complex elevations in varying materials and an unusual roof shape. This would contrast with the low height and simple form of the other outbuildings in the immediate area. I also consider that the proximity of the proposal to the rear of No 83 coupled with the relative heights would appear awkward and unrelated to the existing character of the street-scene.
7. I acknowledge that the design of the elevations is intended to pick up on the vertical division and timber elements of the existing housing on Berkshire Gardens and Upsdell Avenue. However in my view, that character does not persist to the rear of these properties, seen from St Cuthberts Road. The immediate character of the appeal site is therefore different, and as a result, the proposed elevations appear over-complex and further highlight the differences between the character and appearance of the proposal and its context.
8. The proposal would therefore appear incongruous and unduly conspicuous within the street, and would, as a result cause harm to the character and appearance of the area.
9. As a result of the height, form, materials and location of the proposal, it would be prominent in views along St Cuthberts Road and in views from both Berkshire Gardens and Upsdell Road. Whilst visibility is not in itself an issue, in combination with the height, form and materials of the proposal, it adds to the harm to the character and appearance of the area which I have identified above. I do not agree with the appellant that the lightweight appearance, roof and overall design of the proposal reduces its apparent mass sufficiently to outweigh this harm.
10. The appellant has drawn my attention to and provided a copy of a previous permission at appeal for residential development of this site. I have no information before me as to whether or not this permission was implemented, but from my site visit, it appears that it was not. Both the Council and the appellant have noted that since that decision, there have been a number of refusals for residential development similar to the appeal scheme. I note the decision of the previous Inspector, and in particular, the sections highlighted by the appellant. However, having seen the plans and read the decision for that proposal, I consider that it is distinguished from that before me by its simpler form, which the Inspector at the time noted. This contrasts with the proposal before me.
11. The appellant has also highlighted other examples of the successful use of modern design and materials. Whilst I agree that there are circumstances in which it can be successful, I do not consider that this proposal is the appropriate solution for this location for the reasons set out above.
12. The proposal would therefore conflict with Policy 7.4 of the London Plan 2016, Policy CP30 of The Enfield Plan Core Strategy 2010-2015, adopted November 2010 (the Core Strategy), and Policies DMD6, DMD7, DMD8 and DMD37 of

Enfield's Development Management Document adopted November 2014 (the DMD). These policies seek amongst other things to ensure that development respects local character and context and that its scale and form is appropriate to the existing pattern of development.

Living conditions

13. As the site was previously part of the garden of No 83, it has a relatively close relationship to it. Whilst I note that the windows in the lower-ground floor are effectively screened both by their relative depth and the boundary treatment, the same does not apply to the upper-ground floor windows. Policy DMD10 of the DMD specifies minimum separation distances between rear facing windows. Although the bedroom windows in question could be considered side-windows, I have treated them as rear facing windows as both the appellant and Council have done the same. In any event, the policy does not allow for side facing windows.
14. The separation distance from those windows to No 83 is less than specified in the development plan policy. Although that policy does allow for shorter distances between windows, it does so only where it can be demonstrated that the proposal would not result in inadequate privacy for the proposed or surrounding development. I note the suggestion of the appellant that views from the bedroom windows would be partially blocked by the proposal itself. However, as their submission shows, there would still be direct views of the rear of No 83, and given the distances involved, I consider that this would give rise to an unacceptable loss of privacy for the occupiers of No 83.
15. Coupled with that, I consider that the height and width of the proposal and its proximity to the rear of No 83 would give rise to an unacceptable loss of outlook for its occupiers.
16. I accept that in some urban areas there are examples of shorter separation distances than in this case, and examples of over-looking and inter-visibility which may have a greater impact than proposed here. However, that situation does not currently exist here, and that level of dense and close urban form is not found in this area.
17. The proposal would therefore conflict with Policies DMD8 and DMD10 of the DMD, which seek to ensure that development proposals preserve the amenity, including privacy, of existing and future occupiers, through the specification of separation distances and standards.

Flood risk

18. The report from the Council highlights that there is an objection from the Drainage Officer relating to the lack of information on dealing with ground water and drainage effects. This lack of information has been translated into a reason for refusal. There are also third-party objections on this point.
19. I do not have any further information before me. As a result, I cannot be certain that a condition, suggested in-principle but not in detail by the appellant, could overcome the harm, or potential for harm identified by Officers of the Council. As such, in the absence of any further information, I must consider that the proposal fails to demonstrate that the site is safe from flooding and that it would not increase flood risk elsewhere.

20. The proposal would therefore conflict with Policies CP28 and CP29 of the Core Strategy, Policies DMD62 and DMD63 of the DMD and guidance in the Framework, all of which seek to ensure that development is safe from flooding and will not increase flood risk elsewhere.

Other Matters

21. I acknowledge that the principle of a dwelling has been established on this site, and that there are policy imperatives in the development plan taken as a whole and the Framework to increase housing supply, increase the range and choice within the housing market and that the proposal could contribute to Borough and city-wide targets. I also acknowledge that the proposal meets the requirements for internal and external space, as well as off-street parking, bike and bin storage and it is proposed to use sustainable materials and methods of construction. However, none of these outweigh the conflict I have found between the proposal and the development plan as set out above, and there are no material considerations of sufficient weight to indicate a decision should be taken other than in accordance with the development plan in this instance.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

S Dean

INSPECTOR