



Appeal Decision

Site visit made on 27 May 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary

Decision date: 03 August 2020

Appeal Ref: APP/Q5300/W/20/3246138

Car Park, Tudor Way, Southgate N14 6PS

- 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.
 - The appeal is made by Mr Tom Smith (Rovedale Limited) against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/01779/FUL, is dated 9 May 2019.
 - The development proposed is the erection of a three storey residential block to accommodate 9 dwellings and associated private refuse storage and private cycle storage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. A scheme for four residential units at the appeal site has been allowed at appeal¹. I henceforth refer to this as 'the previous permission'.

Application for Costs

3. An application for the award of costs was made by Mr Tom Smith (Rovedale Limited) against the Council of the London Borough of Enfield. This application is the subject of a separate decision.

Main Issues

4. Although the Council failed to determine the current proposal within the prescribed period, its Officer report clarifies that if it were still able to have determined the planning application, it would have refused it for four reasons. Having considered these reasons, I consider that the main issues are:
 - whether or not the proposal would preserve or enhance the character or appearance of the Southgate Circus Conservation Area;
 - the effect of the proposal on the living conditions of the occupants of surrounding properties, with particular regard to outlook, access to daylight and privacy;
 - whether or not the proposal would function appropriately, with particular regard to highway safety and pedestrian circulation; and

¹ APP/Q5300/W/17/3167602

- whether or not the proposal would make adequate provision for reducing the risk of surface water flooding.

Reasons

Conservation Area

5. The appeal site lies within the Southgate Circus Conservation Area (CA). I therefore have a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of this CA. The National Planning Policy Framework (the Framework) also advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefit of the proposal.
6. In considering the significance of the CA, this appears to derive from a mix of interesting and historic buildings constructed in a variety of architectural styles. Such buildings include the modernist Underground station complex, which is the main focal point of the CA, and the more traditionally designed, crescent-shaped, three and four storey terraced buildings known as The Broadway.
7. The appeal site is located towards the eastern edge of the CA and comprises a car park at the rear of The Broadway. It is bound on all sides by Tudor Way which follows the elliptical curve of these buildings. Given its positioning, the site is seen in the context of the rear of The Broadway as well as other large and more modern buildings nearby. This includes Jowitt Court immediately to the east which has ground floor commercial units and residential accommodation on the floors above. Most of these surrounding buildings have plain, discreet, roofs. Overall, whilst the car park is prominent within this particular part of the CA, it does not feature in any key views towards the station complex or the important buildings that frame it. Consequently, the appeal site makes a neutral contribution to the character and appearance of the CA.
8. This proposal seeks permission to construct a three storey block of nine flats. The height of this block would be acceptable given the varying building heights in the area and the scheme would increase the amount of soft landscaping at the site. However, the proposal would have a large, steeply pitched, crowned mansard roof. This would effectively be read as the third storey and would represent a significant proportion of the building when viewed from the side. The proposal's roof would therefore be an overly large and bulky feature which would give the flats a 'top heavy' appearance. Not only is this indicative of poor design, but such a roof would also appear incongruous in the context of the simple and unobtrusive roofscape of surrounding buildings. In addition, the proposal's roof would incorporate numerous, prominent, large square dormer windows. These are not particularly characteristic features of the roofscape of this part of the CA and would draw the eye to the discordant appearance of the flats.
9. The proposal's design would include features such as recessed elements and a gable to break up its elevations and traditional materials could be used for the external elevations. Nevertheless, taking all of the above into account, its design as a whole would be inappropriate and would fail to integrate effectively with the immediate setting. Consequently, the proposal would harm the character and appearance of this part of the CA.

10. My attention has been drawn to a development for an additional storey at Hobart House. However, this appears to be located outside of the CA and is therefore not directly comparable to the appeal scheme, which I have assessed on its own individual merits in any event.
11. Overall, for the reasons given, I conclude that the development would fail to preserve or enhance the character or appearance of the Southgate Circus Conservation Area. It would therefore conflict with Policies 7.1, 7.4, 7.6 and 7.8 of The London Plan (LP), Policies DMD6, DMD8, DMD37, DMD38 and DMD44 of the Development Management Document (DMD) and Core Policy 4, Core Policies 30 and 31 of The Enfield Plan Core Strategy (CS). Amongst other things, these seek to ensure that developments are of the highest architectural quality, have regard to the form and structure of an area, are appropriate to their settings, reinforce and enhance local character and sustain and enhance London's heritage assets.
12. Turning to the Framework, this seeks to make efficient use of land in accessible locations and states that small and medium sites can make an important contribution to meeting the housing requirement of an area. However, this should not be at the expense of high quality development which is sympathetic to local character. I have found that the proposal would not achieve this. The harm I have identified to the CA would be less than substantial within the meaning of the Framework. Any such harm merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development. I will return to this in my overall planning balance.

Living Conditions

Outlook

13. The Council refer to the standards set out in Policy DMD10 of the DMD for the distances between rear facing windows. However, these are not relevant for this proposal. Nevertheless, the proposed flats would be positioned within close proximity of integrated balconies and what appear to be habitable rooms facing the site at first and second floor flats at Jowitt Court. The bulk and mass of the proposal, together with its positioning, would therefore appear unduly oppressive from within these neighbouring properties.

Privacy

14. Numerous first and second floor habitable room windows at the proposed flats would afford close distance and direct views towards balconies and 'domestic' rooms at flats at Jowitt Court. This would unacceptably diminish their privacy. Some of these windows within the proposal are the only light sources for habitable rooms. It would therefore be unreasonable to impose a condition requiring them to be obscure glazed, with regards to the tests set out at paragraph 55 of the Framework.
15. To my mind, it is still important in densely developed urban areas to ensure that such effects on privacy do not take place or have been appropriately mitigated, which I find not to be the case here. In addition, the previous permission concerned a part one/part two storey development. It is therefore not directly comparable to the appeal scheme in terms of its impacts on privacy.

Access to Daylight

16. The appellant has submitted a daylight and sunlight study for neighbouring properties. This shows that all neighbouring windows that have a requirement for daylight or sunlight pass the relevant BRE diffuse daylight and direct sunlight tests. In addition, the study shows that the proposal would pass the BRE test for overshadowing to gardens and open spaces. Consequently, I find that the scheme would not have a significant impact on light received at neighbouring properties.

Overall Findings – Living Conditions

17. The proposal would not result in unacceptable impacts to the living conditions of the occupants of surrounding properties in terms of access to daylight. However, it would cause harm to the living conditions of the occupants of flats at Jowitt Court in terms of outlook and privacy. The scheme would therefore conflict with Policy DMD8 of the DMD insofar as it seeks to preserve amenity in terms of outlook and privacy. I have been referred to Policies 3.9 and 7.2 of the LP. However, these concern housing mix and accessible/inclusive design respectively. They are therefore not relevant to this main issue.

Functionality

18. It is proposed that the development would be car-free. However, the submitted Unilateral Undertaking (UU) does not appear to secure this. I have therefore assessed this scheme on the basis that some future occupants may have private vehicles. The Council raise concern that such a scheme would hinder the manoeuvrability of service/delivery vehicles. These appear to currently circulate around Tudor Way, stopping within available on-street parking bays or the carriageway, to serve surrounding properties.
19. However, Tudor Way comprises parking restrictions in the form of single and double yellow lines. The site also falls within an area covered by a Controlled Parking Zone (CPZ) and the executed UU would restrict future occupants from applying for CPZ parking permits. Taking this into account, vehicles owned by future occupants would be displaced elsewhere and I have no substantive evidence to show that they would be parked in obstructive locations at Tudor Way. Furthermore, the highly accessible nature of this location would be likely to discourage some car ownership at the site and the level of servicing associated with nine additional flats would be relatively small. Bins could also be suitably presented for collection on footways along the northern and eastern sides of the site.
20. Taking the above factors into consideration, I am satisfied that the proposed dwellings could be accommodated into the existing service arrangements without unduly restricting the movements of service/delivery vehicles. In addition, given that there would be no entrance to the flats along the southern side of the building, the absence of a footway at this part of the site would be unlikely to result in hazardous conditions for users of the highway. Neither would the absence of this footway significantly hinder pedestrian circulation in the area compared to the existing situation.
21. For the reasons given, I conclude that the proposal would function appropriately in terms of highway safety and pedestrian circulation. It would therefore accord with Policies 6.13 and 7.2 of the LP, Policies DMD8, DMD47

and DMD48 of the DMD and Core Policies 24 and 25 of the CS. Amongst other things, these seek to ensure that developments have appropriate parking arrangements, can be used safely and easily, encourage sustainable travel choices, have safe and functional provision for refuse collection and other service/delivery vehicles and do not prejudice highway safety. The scheme would also accord with the Framework which states that development should only be refused on highway grounds if there would be unacceptable impacts on highway safety, or the residual cumulative impacts on the road network would be severe.

Flood Risk

22. The appeal site is within Flood Zone 1, which indicates that there is a low risk of fluvial flooding. The evidence before me shows that the only source of flooding would be from residual surface water.
23. The amount of hardstanding at the site would be increased compared to the previous permission. However, there would still be an overall decrease in this regard compared to the existing car park. Indeed, the evidence before me shows that the scheme would not increase the peak flow and volume of discharge of water from the site. In addition, the appellant's submitted document 'FRA & SUDS Report for Planning' shows that SuDS could be incorporated into parts of the site. This would include the maximisation of porous and permeable areas and the use of some underground geo-cellular storage for surface water. Such a system would improve surface water storage at the site and could be secured through the use of an appropriately worded condition were the appeal acceptable in other respects.
24. Given the constraints of the site, it would not be possible to meet all of the requirements shown within the SuDS hierarchy identified in the LP. However, taking all of the above into account, I am satisfied that the scheme would not increase surface water flood risk for surrounding development. Furthermore, the appellant's evidence shows that proposed dwellings would incorporate features such as raised air blocks so that they would not be unduly susceptible to any surface water flooding.
25. For the reasons given, the proposal would make adequate provision for reducing the risk of surface water flooding. It would therefore accord with Policy 5.13 of the LP, Policy DMD61 of the DMD and Core Policies 21 and 28 of the CS. Amongst other things, these seek to direct developments to areas of lowest flood risk and appropriately manage surface water run-off. I have been referred to Policy DMD63 of the DMD and Core Policy 29 of the CS. However, these deal with the protection and improvement of watercourses and flood management and defence infrastructure. They are not relevant to this main issue.

Other Considerations

26. There are a number of listed buildings to the west of the appeal site. I have a statutory duty to have special regard to preserving the setting of these listed buildings. The proposal would be a considerable distance away from these heritage assets and would be separated from them by The Broadway. Consequently, it would preserve the setting of nearby listed buildings.

27. The Council's officer report raises concerns that are not within its recommended reasons for refusal. These include whether or not satisfactory living conditions would be provided for future occupants in terms of privacy and external amenity space. Given that I am dismissing this appeal on several substantive grounds, I have not considered these matters any further as they are not determinative to my decision.
28. The Council's recommended reasons for refusal make reference to Core Policies 2 and 5 of the CS as well as Policies 5.1, 5.3 and 7.3 of the LP. However, these deal with matters such as housing targets, housing mix, designing out crime, climate change mitigation and sustainable construction. They are not relevant to the main issues above.
29. The Council has requested various financial contributions towards projects to discourage car ownership and for other highway improvements. However, it has provided only limited details regarding the exact contributions required and the methodology for calculating them. Whilst the submitted UU would secure contributions towards car club membership and a monitoring fee, I therefore cannot be certain that the requested contributions meet the tests set out in the Community Infrastructure Levy Regulations 2010. In any event, given I am dismissing this appeal on several substantive grounds, I have not taken this matter further as it is not determinative to my decision. It should also be noted that, were the Council's requested contributions considered to meet the identified tests, their provision through the UU would be a neutral factor in the balance as this would be a policy requirement.

Planning Balance

30. The Government is seeking to significantly boost the supply of housing. The scheme would provide nine dwellings at the site, which would be an acceptable density given the accessible nature of the site. The proposal would also result in economic benefits associated with their construction and occupation. These social and economic public benefits weigh moderately in the scheme's favour.
31. I have found that the proposal would not harm the living conditions of the occupants of surrounding properties in terms of access to daylight. It would also function appropriately in terms of highway safety and pedestrian circulation and would make adequate provision for reducing the risk of surface water flooding. Furthermore, the scheme would be acceptable in other respects. For example, it would provide an appropriate housing mix and the flats would afford suitable living conditions for future occupants in terms of noise and disturbance and the quantum of internal floor space. However, these are all requirements of the development plan and are therefore neutral factors in the overall balance.
32. On the other hand, the proposal would result in harm to the living conditions of the occupants of surrounding properties in terms of outlook and privacy. Moreover, its design would result in harm to the CA, which is a designated heritage asset. Collectively, this harm carries significant weight against the proposal.
33. Taking the above factors into consideration, I am not persuaded that a clear and convincing justification for permitting the less than substantial harm to the heritage asset has been demonstrated. Such harm would therefore outweigh the public benefits associated with this scheme. Having regard to paragraph

11(d)(i) of the Framework, there is therefore a clear reason to dismiss the appeal, even if the Council is unable to demonstrate a five year supply of deliverable housing land.

Conclusion

34. For the reasons given, I conclude that the proposal conflicts with the development plan when read as a whole. There are no other considerations, including the advice of the Framework, that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

M Heron

INSPECTOR