



Appeal Decision

Site Visit made on 13 July 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/Q5300/W/21/3268803

34 Montagu Gardens, London N18 2EZ

- 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 Dogan Dogus against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/03350/FUL, dated 15 October 2020, was refused by notice dated 6 January 2021.
 - The development proposed is sub-division of site and erection of an end-of-terrace 1 bed 2-storey dwelling house with associated parking and crossover works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council amended the description of development slightly from that originally stated within the planning application. This amended description has been entered on the appeal form, but I have no confirmation that the appellant agreed to the change. I have therefore used the original description in my formal decision above.
3. The appeal must be determined on the basis of the development plan as it exists at the time of my decision. Since the Council issued its decision, the London Plan 2021 (LP) was published and became an operative part of the development plan, superseding policies of the London Plan 2016 cited within the reasons for refusal. The Council has identified the policies of the LP that it considers relevant to this case, and the main parties have been afforded an opportunity to comment on the LP as it relates to the appeal. As a result, I am satisfied that no prejudice would be caused by my considering the appeal against the relevant policies of the LP, and I make no further reference to the previous London Plan.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether or not the proposal would make satisfactory provision for drainage and provide a suitable location for housing with particular regard to flood risk; and
 - iii) the effect of the proposal on the living conditions of the occupiers of 43 Montagu Crescent with particular regard to light, outlook and privacy.

Reasons

Character and Appearance

5. Montagu Gardens and other residential streets near to the appeal site are predominantly characterised by semi-detached and terraced dwellings of mostly similar scale, depth, materials and designs including hipped roofs and consistent patterns of fenestration. These are generally positioned on steady building lines with relatively generous gardens to their rear, or in the case of dwellings on corners where plots tend to narrow towards the rear, wrapping around to their sides. This provides for a degree of spaciousness around the buildings, and together with the consistency in the appearance of the dwellings results in an attractive rhythm to the street scene and a distinctive character to the area.
6. The appeal proposes an attached dwelling to the side of 34 Montagu Gardens and with its attached neighbour at 32 Montagu Gardens would form a small terrace. Although other dwellings in the immediate vicinity of the site are semi-detached, there is a terrace to the opposite corner of Montagu Crescent from the site. I also saw a terrace of 3 properties at 48, 50 and 52 Montagu Gardens and given the mix of semi-detached and terraced buildings along the street, I do not find that the presence of a terrace in this location would in itself be conspicuous. With regard to the hardstanding that I observed to many of the nearby dwellings, I also find that the extent of parking proposed to the front of the site would not appear excessive or out of keeping.
7. However, the two-storey part of the dwelling would be of substantially lesser depth than Nos 32 and 34, and given its corner-plot location, the truncated side elevation would be prominent in views from the surrounding area. While its overall scale would be smaller, the dwelling would also be of greater width than the attached neighbours, resulting in an unbalanced front elevation to the building as a whole. Furthermore, while the dwelling would have a hipped roof design, this would be set down from the existing ridge line of the host building, and the contrasting angle of the rear roofslope would result in an awkward and visually jarring relationship when seen against Nos 32 and 34. The scale and form of the dwelling would therefore be conspicuous, and would set the development apart as a poorly integrated addition.
8. Although I observed some porch alterations nearby, these are relatively few in number and other variations to the distinctive regular pattern and proportions of windows are very limited. The fenestration to the front elevation of the dwelling and particularly the windows closest to No 34 which would be of differing alignment and size to those usually present would accordingly stand out. Taking these factors together, I consider that the dwelling would appear as an obtrusive and discordant feature in the street scene, irrespective of the use of matching materials.
9. The incongruous nature of the development within its surroundings would be further compounded by the siting of the dwelling very close to the angled boundary with 43 Montagu Crescent. The constrained relationship with the boundary would be emphasised by the splayed rear corner of the dwelling, and would be apparent in views from the street scene. Despite spacing forward of the dwelling and its set in from Montagu Crescent, the unusually limited garden to the rear of the building with little additional space between its side and the boundary would be significantly at odds with the layout and generally more

spacious setting afforded to nearby buildings. As a result, the development would appear cramped within the site, and in my judgement would significantly diminish the openness which is typical around buildings on corners nearby, detracting from the character and appearance of the area.

10. In support of the proposal, the appellant has drawn my attention to permissions granted for additional dwellings known as 36a and 52 Montagu Gardens. However, I saw in both cases that the resulting buildings are comparable in two-storey depth, height and roof form to their attached neighbours, and accordingly their impact on the character and appearance of the area is not directly comparable to the appeal before me.
11. I find for these reasons that the development would be a prominent and wholly incongruous feature which would disrupt the rhythm of the street scene and that it would cause unacceptable harm to the character and appearance of the area. It would therefore conflict with Core Policy 4 and Core Policy 30 of the Enfield Plan Core Strategy 2010 (CS), Policies DMD 6, DMD 8, DMD 13, DMD 14 and DMD 37 of the Development Management Document 2014 (DMD), and Policy D4 of the LP. Collectively, these policies broadly seek high quality design and require amongst other things that development is of appropriate scale, bulk, massing and form and that it respects and reinforces the character and appearance of the area. For the same reasons, there would be conflict with the National Planning Policy Framework (the Framework) which seeks high quality design and development that is sympathetic to local character.
12. The Council has also referred to Core Policy 5 and Core Policy 6 of the CS and Policy DMD 3 of the DMD which set out to meet housing needs and seek a mix of different sized homes including family-sized homes. However, while I have found that the small scale of the dwelling would be uncharacteristic against its surroundings, it would add to the overall mix of housing and I find no inherent conflict with these policies.

Flood Risk and Drainage

13. In accordance with the Planning Practice Guidance (PPG), the proposed dwelling would be considered a 'more vulnerable' type of development, and would be located within Flood Zone 3 which denotes land with a high probability of flooding. In such circumstances, the Framework and development plan impose a requirement for a site-specific flood risk assessment and, where it is not possible for a development to be located in zones with a lower risk of flooding, the application of the exception test. This test requires that wider sustainability benefits of a development to the community outweigh the flood risk, and that it will be safe for its lifetime without increasing flood risk elsewhere.
14. The appellant has provided a 'Flood Risk Assessment' (FRA), but the information within it is very limited, and it covers few of the points listed under the checklist for site-specific flood risk assessment contained within the PPG.
15. Importantly, it offers no site-specific assessment describing the risk of flooding to or from the development over its lifetime, including allowances for the impacts of climate change. The appellant has provided a map extract suggesting that the site benefits from flood defences, although no details of the nature of these have been provided and the Council disputes that there are defences in place. In any event, without assessment of the impact of climate

change, the future effectiveness of any existing flood defences is unclear. Similarly, without details of existing and future flood levels on the site, I do not know whether those flood proofing measures that are noted within the FRA would be effective or appropriate. The appellant further refers at appeal stage to provision of a refuge at first-floor level, but it is unclear whether or not occupiers would be able to safely access or exit the building during a flood event or to evacuate before. Accordingly, I find that it has not been demonstrated that the development would be safe for its lifetime. Moreover, I am unable to ascertain from the information before me whether or not the proposal would increase flood risk elsewhere, including through any effect on flood storage within the site. On this basis, the proposal would fail to meet the requirements of the exception test.

16. In addition, Policies DMD 60 and DMD 61 of the DMD sets out that development proposals should provide a sustainable drainage strategy to demonstrate how surface water will be managed as close to its source as possible and follow the drainage hierarchy in the London Plan. There is no such strategy before me to consider, and I am accordingly unable to determine whether adequate drainage could be provided at the site.
17. In view of the flood risk and consequent importance of drainage, I consider it important that sufficient information is available prior to any grant of permission to ensure that adequate drainage could be achieved. Compliance with the exception test is also a fundamental requirement of the Framework and development plan, and I can have little certainty from the very limited evidence before me that mitigation measures would be effective to ensure that the development would be safe for its lifetime and that it would not increase flood risk elsewhere. While I have considered the appellant's suggestion that details of both SUDS and mitigation measures could be secured by planning condition, I do not therefore find that it would be appropriate in this case to defer consideration of these matters to a later stage.
18. I therefore conclude on this main issue that it has not been demonstrated that the proposal would make satisfactory provision for drainage or that it would provide a suitable location for housing with particular regard to flood risk. The proposal would therefore conflict with Core Policy 21, Core Policy 28 and Core Policy 29 of the CS; Policies DMD 60, DMD 61 and DMD 62 of the DMD and Policies SI 12 and SI 13 of the LP insofar as they include requirements for development to demonstrate how surface water and flood risk will be managed appropriately, minimised and mitigated as part of development. There would also be conflict with the requirements of the Framework which seeks to avoid inappropriate development in areas at risk of flooding and to ensure that development is safe for its lifetime without increasing flood risk elsewhere.

Living Conditions

19. The Council suggests that the windows to the rear of the development would be only around 9m from windows to the rear of No 43, and the appellant does not dispute that the separation distance between the dwelling and the boundary with this neighbour would not meet the 11m minimum distance which Policy DMD 10 of the DMD generally seeks between windows and side boundaries. However, policy DMD 10 provides that development below standard distances may be permitted where it can be demonstrated that it

would not result in inadequate daylight, sunlight or privacy for the proposed or surrounding development.

20. Notwithstanding that its rear elevation would be perpendicular to the rear of No 43, there would be some views from the first-floor windows of the proposed dwelling towards rear glazing to No 43, as well as down onto the outdoor space to the rear of this building at close quarters. However, boundary treatment would restrict views from the ground-floor window to the development, and the appellant suggests that the first-floor windows could be fitted with obscure glazing. Given that these windows would serve a bedroom which would also have a further large window to the front of the dwelling and a hallway, I am satisfied that a condition to require the use of obscure glazing could be attached were the appeal to succeed, and would avoid a harmful loss of privacy for the occupiers of No 43.
21. The development would also be visible to occupiers of No 43. However, the main outlook from rear windows across the garden would remain open with only oblique views towards the development. There would be greater potential for views from within the outdoor space, but the proposal would not significantly enclose the space given the openness beyond the boundaries to its rear and other side. With regard to these factors and the scale of the development, I am satisfied that the separation from the boundary would be sufficient to avoid the development resulting in an undue sense of enclosure or visual dominance to occupiers of No 43. The position of the development broadly to the north east of No 43 would also limit likely overshadowing, and in view of its scale and separation I am similarly satisfied that it would not cause a harmful loss of sunlight or daylight.
22. Notwithstanding the distance between the development and No 43, I find for these reasons that the proposal would not result in inadequate light, privacy or outlook for neighbouring development, and I conclude on this main issue that the living conditions of neighbouring occupiers would not be unacceptably harmed. Accordingly, I find no conflict in this regard with Core Policy 30 of the CS, Policies DMD 7, DMD 8 or DMD 10 of the DMD, or Policy D6 of the LP which together broadly seek to ensure high quality development that does not harm the amenities enjoyed by neighbouring occupiers. For the same reasons, I find no conflict with the requirement within the Framework for a high standard of amenity.

Other Matters

23. The Council has raised concern that the dwelling would not meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings', referring to the lack of step-free access, door widths and potential to adapt the ground floor accommodation. However, the appellant suggests that door widths would conform to specifications, and that ramped access and adaptations could be provided and I see no reason in this case that such measures could not be secured by a suitably worded planning condition.
24. The Framework seeks to significantly boost the supply of housing to meet needs, and the LP sets out targets for the delivery of housing within the borough including on small sites such as this. The proposal would make effective use of the site to provide an additional dwelling, adding to the supply and mix of housing locally. However, the contribution would be limited by the modest scale of the development for a single dwelling. Moreover, the

Framework and LP balance these objectives against requirements that development also delivers well designed places and that flood risk and drainage are managed appropriately. Consequently, I do not find that the benefits of the proposal would outweigh the harm that would be caused to the character and appearance of the area or by the failure to demonstrate satisfactory provision for drainage and consideration for flood risk, nor the resulting conflict with the development plan.

Conclusion

25. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR