



Appeal Decision

Site visit made on 22 June 2021

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2021

Appeal Ref: APP/Q5300/W/21/3267411
92 Chase Side, Enfield EN2 0QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr P Buxton against the decision of Enfield Council.
 - The application Ref 20/03692/FUL, dated 11 November 2020, was refused by notice dated 19 January 2021.
 - The development proposed is a change of use from Hotel (Use Class C1) to residential home for up to 6 residents living together as a single household and receiving care (Use Class C3b).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies from the London Plan (2016) referred to by the Council in refusing permission have been superseded by policies from the London Plan (2021) (the LP), which has been adopted since the appeal was submitted. I must base my decision on the development plan prevailing at the time of my determination. In light of this, the main parties have had the opportunity to provide submissions in writing on the relevance of the new LP to the case.
3. The appellant submits that an alternative use classification may apply to the proposed development. Nevertheless, there is minimal evidence before me to support this submission. I have therefore determined the appeal in relation to the proposal as described above.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The living conditions of the future occupiers of the development and the occupiers of Buckworth Court with particular regard to the provision of private amenity space;
 - The safe and efficient operation of the highway network in the vicinity of the appeal site; and
 - The choice of transport modes available to future occupiers of the proposed development and their caregivers.

Reasons

Living conditions

5. Occupiers of the proposed development would share an existing area of amenity space associated with the adjacent property Buckworth Court (BC) with the occupiers of that property. As a result, whilst communal amenity space is proposed, no private amenity space would be available to occupiers of the development. BC is a facility that provides day care and accommodation for adults with special needs.
6. The appellant submits that Policy DMD 9 of the Enfield Development Management Document (2014) (the DMD) is not relevant to the appeal proposal, and that Policy DMD 15 should be applied in its place. Policy DMD 9 refers to the provision of private amenity space at dwellings. As the application is for accommodation which would fall within Class C3b ("use as a dwellinghouse") of the Town and Country Planning (Use Classes) Order 1987 (as amended), the policy is consequently of relevance in determining the appeal.
7. A committee report relating to another proposal¹ within the borough is additionally cited in support of submissions on the matter of the relevance or otherwise of Policy DMD 9 to the proposal. That scheme concerned proposed development within a different use class and a rear garden for the exclusive use of occupiers of the proposed development. As a result, there are only limited similarities between the two schemes. However, the committee report notes the provisions of Policy DMD 9 and concludes that the proposed garden area is acceptable. There is consequently no inconsistency in the Council's approach to Policy DMD 9 in respect of the two proposals, as both have been assessed against the policy.
8. Policy DMD 9 of the DMD sets standards which require the provision of minimum levels of private amenity space according to the type of development proposed. A minimum of 9 square metres of such space should be provided for a 4 bedroom/6 person dwelling with access to communal amenity space. No standard is listed for a 6 bedroom dwelling. The proposal would not provide any private amenity space. As a result, it does not comply with the standards within Policy DMD 9. The policy's supporting text notes the importance of suitable amenity space for leisure and relaxation. Insufficient space of this type consequently has the potential to harm the living conditions of the occupiers concerned.
9. Furthermore, if the amenity space shown were used as communal amenity space associated with both the proposed development and BC, there is minimal substantive evidence to demonstrate that the combination of users of the space from the two developments would accord with relevant policy and criteria concerning living conditions.
10. The suggested planning obligation or condition intended to restrict the use of the BC amenity space for the use of the occupiers of the proposed development would remove access to the amenity space for the occupiers of BC. The appeal fails to demonstrate that this would not have an unacceptably harmful effect on

¹ Local Planning Authority application reference: 16/02210/FUL

their living conditions. As a result, the suggested obligation/condition has not been demonstrated to be reasonable.

11. The appellant contends that areas of open space lie in the vicinity. However, due to the inconvenience and additional time taken to reach such areas, they do not provide sufficient mitigation for the failure to demonstrate the provision of adequate private amenity space for occupiers of the new and existing dwellings. As a result, the availability of such areas does not overcome the harm to living conditions which I have identified above.
12. The proposal consequently fails to demonstrate that it would not cause unacceptable harm to the living conditions of the future occupiers of the development and the occupiers of BC with particular regard to the provision of private amenity space. Thus, it conflicts with Policy D3 of the LP, which requires development proposals to provide conveniently located green and open spaces and to achieve outdoor environments that are comfortable and inviting for people to use. Further conflict exists with Policy D4 of the LP, which states that the design quality of development should be retained through to completion by ensuring maximum detail appropriate for the design stage is provided to avoid the need for later design amendments. Policies D3 and D4 refer to development proposals. The appeal proposal is a development proposal requiring planning permission, and therefore the two policies are of relevance to the appeal proposal.
13. Additional conflict exists with Policy D6 of the LP, which sets out that communal outside amenity spaces should provide sufficient space to meet the requirements of the number of residents. There is no substantive evidence before me to suggest that Policy D6 does not relate to housing schemes such as that currently proposed. Further conflict exists with Policy CP 4 of the Enfield Core Strategy (2010) (the CS), which states that high quality design will be required for all new homes. Additional conflict exists with Policies DMD 8 and DMD 9 of the DMD, which set out that new residential development must provide high quality amenity space which meets the stated minimum standards.
14. Further conflict exists with Standard 26 of the Mayor of London Supplementary Planning Guidance: Housing (2016). This states that a minimum of 5sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1sqm should be provided for each additional occupant.

Highway issues

15. The existing hotel and day care centre at the appeal site are served by a rear parking area, which contains a limited number of spaces. The plans set out that two spaces which lie under the appeal building are proposed for the parking of vehicles associated with the development. However, the application form states that seven on-site parking spaces are both existing and proposed.
16. No assessment of the parking demand generated by existing and proposed uses at the site is provided. Nevertheless, several of the parking spaces are marked by signage as restricted for the use of the day care facility on weekdays between 0900-1700. This leaves only a limited number of spaces which would cater for vehicles associated with both the hotel use and the appeal proposal during these periods.

17. The day care facility and hotel would continue to operate alongside the appeal proposal. Whilst the proposal would entail the loss of ten of the hotel rooms, I cannot conclude with sufficient certainty that this loss would increase parking availability at the site due to the lack of substantive evidence on the matter, and indeed the appeal sets out that demand for the hotel rooms has been decreasing in recent years.
18. Even if only the two parking spaces directly under the building are taken into account for use associated with the proposal, it is evident from the existing signage and the use of the spaces during my site visit that these are already in use by the day care facility at the site. The appeal fails to demonstrate how the spaces could acceptably be shared by the day care and residential facilities.
19. Thus, in view of the above factors, it is not possible to determine whether the existing parking arrangements would adequately cater for the demand from the appeal proposal. Furthermore, the appeal does not demonstrate that vehicles could safely manoeuvre within the limited parking area if all spaces were in use. Any lack of parking provision or difficulties in manoeuvring within the site would be likely to increase the demand for on-street parking in the vicinity.
20. At the time of my site visit there was a significant level of on-street parking in the area, including some pavement parking. Large nearby areas of residents-only parking restrictions, other restrictions and a school additionally lie nearby. These factors indicate that there is a high demand for on-street parking in the vicinity of the appeal site. The Manual for Streets² sets out that on-street parking can introduce a road safety problem, particularly if traffic speeds are above 20 mph and there are few places for pedestrians to cross with adequate visibility. It can additionally increase congestion due to the need for vehicles to wait where on-street parking results in only one clear side of the road. I consider that these issues apply to the highway network in the vicinity of the appeal site. The question before me is consequently whether the proposal would increase the level of on-street parking demand in the area by a harmful amount.
21. In view of the site's poor/moderate PTAL (Public Transport Accessibility Level) and the existing pressures on on-street parking in the area, the provision of on-site parking to serve the needs of residents, caregivers and visitors at the site is necessary. However, I have minimal information before me to demonstrate the number of parking spaces which may be appropriate. As a result, I cannot assume that any increase in demand for on-street parking in the area would be so small as to cause no harm to highway safety and congestion.
22. The appellant refers to the Council's assessment of the parking provision of a scheme³ in 2007. Nevertheless, as that proposal concerned a day care centre and this concerns a residential scheme, different considerations would have applied. Furthermore, the scheme referred to was assessed against a different policy background, as the LP has been adopted since it was determined. Different considerations would therefore have applied. Moreover, even if the other development and circumstances were similar, they would not inevitably provide an example that should be followed even if harm results. Accordingly,

² Department for Transport, 2007

³ Local Planning Authority reference: TP/07/2391

the other development does not alter my conclusions concerning the current scheme.

23. I acknowledge that the Council's highways and social services departments did not appear to object to the proposal. However, I am not bound by any lack of objection to find the development's effect acceptable in light of all other available evidence.
24. Thus, the appeal fails to demonstrate that it would have an acceptable effect on the safe and efficient operation of the highway network in the vicinity of the appeal site. The proposal consequently conflicts with Policies T6 and T6.1 of the LP, which set maximum car parking standards which allow for up to one parking space for the proposal. Further conflict exists with Policy CP 25 of the CS, which seeks to foster road safety. Additional conflict exists with Policies DMD 8, DMD 45 and DMD 47 of the DMD, which set out that new development must provide adequate parking, that parking layouts must meet all manoeuvring requirements, and new development should result in no adverse impact on highway safety and the free flow of traffic. Further conflict exists with the transport provisions of the National Planning Policy Framework (2021).

Transport modes

25. Policy T5 of the LP states that developments should provide cycle parking at least in accordance with the standards set out in Table 10.2 and Figure 10.3. These set out that a minimum of 2 long-stay cycle spaces should be provided for the proposed development. This is intended to facilitate and encourage cycling, and to reduce car dependency and the health problems it creates.
26. The proposal includes no cycle parking spaces. The site's urban location combined with the limited public transport provision and high demand for on-street parking in the vicinity are likely to make cycling an attractive transport mode for residents and caregivers at the development. However, a lack of cycle parking is likely to reduce the ability to use this mode of transport, and could potentially render the private car a preferred choice.
27. Whilst it is submitted that there may be reduced demand for cycle parking at the development, there is minimal evidence to support this. Furthermore, although another recent appeal decision⁴ in the borough did not reach a determination on the issue of cycle parking, this concerned a different type of proposal which was determined against a different policy background, and the issues are consequently not so similar as to render this proposal acceptable in that regard.
28. The appellant suggests that the imposition of a condition requiring the provision of a cycle parking area would resolve concerns on the matter. Nevertheless, no wording has been proposed. Moreover, the appeal process should not be used to evolve a scheme and it is likely that other parties could reasonably expect to be consulted on such an amendment. Thus, the suggested condition fails to overcome the identified harm.
29. As a result, the appeal proposal would provide an unacceptable choice of transport modes to future occupiers of the proposed development and their caregivers. Thus, the appeal conflicts with Policy T5 of the LP, the aims of which are set out above. Further conflict exists with Policies CP 24 and CP 30

⁴ APP/Q5300/W/20/3254687

of the CS, which set out that sustainable travel choices will be encouraged and accessible neighbourhoods will be promoted. Additional conflict exists with Policies DMD 8 and DMD 45 of the DMD, which require new development to provide adequate parking and to make provision for cyclists in accordance with the standards set out in the LP.

Other Matters

30. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.
31. Whilst I acknowledge that there may be opportunities for occupiers to share activities available to users of the adjacent day care facility, there is no indication that these could not be provided to occupiers at an alternative location which would not result in the harm identified above. Thus, this is a benefit to which I give only minimal weight.
32. There is minimal evidence before me to suggest that the proposed development would provide accommodation for older people, and therefore it has not been proven that the background text to Policy DMD 15 of the DMD should be a consideration in determining the appeal. Thus, I attach only minimal weight to the matter.

Conclusion

33. The proposal fails to demonstrate that it would not cause unacceptable harm to living conditions, the safe and efficient operation of the highway network and the choice of transport modes, and it would conflict with the development plan taken as a whole. There are no material considerations that indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

C Beeby

INSPECTOR