



Appeal Decision

Site Visit made on 8 November 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2021

Appeal Ref: APP/Q5300/W/21/3274143

Rear of 3-7 Seaforth Gardens and 35 Broad Walk, London, N21 3BT

- 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 Harry Pantelides (Megalux Ltd) against the decision of London Borough of Enfield.
 - The application Ref 20/02863/FUL, dated 4 September 2020, was refused by notice dated 2 November 2020.
 - The development proposed is described as "Development of the site for 3 detached dwelling houses, incorporating soft and hard landscaping and installation of boundary fencing."
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Government released a revised National Planning Policy Framework in July 2021, and the latest revision of the London Plan was published in March 2021. The main parties have had the opportunity to comment on these revised documents. The Council has not submitted an appeal statement, so have not addressed these documents. I have therefore only referred to the policies in their Development Management Document 2014 and Core Strategy 2010 in relation to the main issues, other than that relating to the parking spaces proposed as the parking standards in the London Plan are clearly identifiable.

Main Issues

4. The main issues in determining this appeal are:
 - The effect of the proposed development on the character and the appearance of the area,
 - Whether it would provide safe access to the highway,
 - The number of car parking spaces,
 - The effect on trees on and adjacent to the appeal site; and,
 - Whether it would provide acceptable living conditions for future occupiers of the proposed houses.

Reasons

Character and appearance

5. The appeal proposal is for development of garden land to the rear of several houses on adjoining streets. Policy DMD7 of the Development Management Document 2014 (the DMD) sets out criteria against which the development of garden land will be assessed. It states that such development will only be permitted if all the criteria are met.
6. Criteria a) and d) of Policy DMD7 require that the development not harm the character of the area and that the development, among other considerations, would not adversely impact on the existing pattern of development in that locality. The neighbouring properties on Seaforth Gardens and Broad Walk are large, detached houses of varying styles and character but arranged in a predominantly linear fashion directly addressing the streets. Within the immediate vicinity of the appeal site there is no comparable backland development. The introduction of three large houses onto the appeal site would result in an uncharacteristic form of development, unrelated to either Broad Walk or Seaforth Gardens, and incongruous in its setting. While the development would not be prominent in either street scene the houses would, given their size and siting, be highly visible from neighbouring properties. This would be particularly true of houses adjoining the appeal site, with two of the proposed houses located immediately adjacent to the gardens of 5 Seaforth Gardens and 33 Broad Walk.
7. A certificate of lawful development has been granted for erection of a large garage on part of the site, but this garage would only be a single structure and a single storey in height. The potential fallback position of implementing its construction therefore carries little weight in my determination of this appeal.
8. I have had several other sites involving backland development in the borough drawn to my attention. I have little information available about most of the sites, and therefore it is not clear when they were granted permission, the specific circumstances of the sites or against what policies the proposals were assessed. The site at the former Woodcroft Sports Ground increased community growing space in the area, with most of the site being used to provide a formal wildlife habitat. No such benefits are proposed as part of this development. In any case, the closest of these sites is around 200 metres from the appeal site, and therefore outside of its immediate vicinity. These other developments therefore attract little weight in my determination of this appeal, as none are so close to the appeal site that they can weigh in favour of backland development being characteristic of the area around the appeal site. Notwithstanding this, each appeal must be determined on its own merits, which I have done with this case.
9. The appeal site is in a relatively accessible location with regards to local infrastructure. It is of a sufficient size to accommodate the three houses and would meet the space standards for garden space. The retained garden spaces for the donor properties would be similar in depth to their neighbouring properties on Seaforth Gardens and Broad Walk. The proposed development would therefore comply with criteria b), c) and e) of Policy DMD7.
10. The final criterion requires that the development provide appropriate access to the public highway. This is addressed further below.

11. The proposed development would be harmful to the character and appearance of the area, contrary to criteria a) and d) of Policy DMD7 of the DMD. It would also conflict with Policies CP5 and CP30 of the Core Strategy 2010 (the CS) and Policies DMD6, DMD8 and DMD37 of the DMD. These policies collectively require that the scale and form of development is appropriate to the existing pattern of development or setting.

Highway safety

12. Access to the site would be taken from Seaforth Gardens via an existing single-width driveway and crossover. While the driveway is wide enough to allow passage for any vehicle, and trees in the front garden of No 3 have been removed to improve visibility splays, the access is narrow and the vehicle crossover is immediately next to a section of highway verge containing a street light. The swept path analysis provided by the appellant indicates that larger vehicles entering from, or leaving in, the direction of Broad Walk would have to cross this verge. This would cause conflict due to the street light and potentially affect other users of the highway, whether on the pavement or in the road if the narrow access resulted in the large vehicle engaging in extended manoeuvres to negotiate the access. This would possibly endanger the safety of other users and obstruct the free flow of traffic.
13. For a development of this scale, conflict between vehicles entering and leaving the site would likely be rare. The access is straight, allowing vehicles and pedestrians clear sight along it. If I were minded to allow the appeal, signs advising that priority be given to incoming traffic could be secured by condition.
14. Nevertheless, the proposed development would overall fail to provide safe access to the highway. It would therefore conflict with Policies CP24 and CP25 of the CS, and Policies DMD45, DMD46 and DMD47 of the DMD. Taken together these state that development will only be permitted if the access and road junction which serves the development is appropriately sited and is of an appropriate scale and configuration and there is no adverse impact on highway safety and the free flow of traffic.

Car parking

15. Policy DMD45 of the DMD states that car parking proposals will be considered against the standards set out in the London Plan (the LP). Since the application was determined by the Council the new LP has been published, and for this development parking for up to three cars should be provided in accordance with Policy T6.1 and Table 10.3. The intent of this includes avoiding the dominance of vehicles on streets, facilitating higher density development and supporting the creation of mixed and vibrant places that are designed for people rather than vehicles.
16. Eight spaces are proposed, with two dedicated spaces for each house and two visitor spaces. The visitor spaces could accommodate disabled users, and the supporting text for Policy T6.1 recognises that some disabled parking should be provided at new residential developments. Nevertheless, the provision of eight spaces would overall conflict with Policy DMD45 and Policy T6.1 of the LP.

Trees

17. The appeal site is largely clear of established trees, but there are many on adjoining land immediately next to the common boundaries with the site. These trees vary in age, maturity, and quality but generally the development would fall outside of the root protection area (RPA) of any of the surrounding trees.
18. Where development would lie closer to established trees in the vicinity of the access road and footpaths no-dig construction measures could be used to prevent harm to the roots. The foundations to one of the proposed houses would encroach on the RPA of a Category A tree in the adjoining Grovelands Park. The Arboricultural Method Statement recommends the use of pile and beam foundations or similar to avoid damage to this tree.
19. The Council suggests that the information submitted by the appellant does not consider the full impact of the development, including construction impact and post-development pressure on the trees. This is based on their tree officer's representation during the application. However, the full text of this representation is not available to me.
20. With regards to safeguarding of trees during construction, including storage of materials, If I were otherwise minded to allow the appeal I see no reason to doubt that these matters could be addressed by reasonably worded conditions. As to post-development pressure, this is addressed below.
21. Accordingly, the proposed development would not be likely to result in unacceptable harm to trees on and adjacent to the appeal site. It would therefore accord with the requirements of Policy DMD80 of the DMD. These include that development ensure that the future long term health and amenity value of trees on the site and in adjacent sites is not harmed, and that adequate separation is provided between the built form and the trees.

Living conditions

22. The proposed houses would be surrounded by trees along all the site boundaries. These trees are of varying size and maturity, but those within Groveland Park in particular are tall and provide a solid screen to the boundaries.
23. Each of the three houses would have large rear gardens, with House 1 having a very wide rear garden, and the other houses having deeper gardens. While there would be tall, mature trees surrounding the houses, the separation distance to the windows of habitable rooms and the size of the garden spaces would in each case be significant. Future occupiers would not experience unacceptable overshadowing or restricted outlook from these relationships, nor would the impact be likely to lead to them seeking the reduction or removal of the trees.
24. Accordingly, the development would provide acceptable living conditions for future occupiers of the proposed houses. It would therefore accord with Policies DMD8, DMD9, DMD37 and DMD80 of the DMD and Policy CP4 of the CS. Collectively these policies require, amongst other considerations, that development provide good quality private amenity space and a well-designed and functional layout.

Planning Balance

25. The Council has delivered 56% of its housing target in the last three years. Accordingly, the presumption in favour of sustainable development is engaged in determining this appeal. I am also mindful that the new LP sets a much higher housing target over ten years for the Council than the previous revision, and this target is above that set for housing delivery in the CS.
26. Within this context, the appeal proposal would deliver three new family houses on a windfall site, supporting the Government objective of significantly boosting the supply of homes. The site is small, and the new houses could be delivered quickly. Delivery of housing on small sites is supported in the LP. The location is sustainable, with access to public transport, shops, and services within walking distance of the site. The houses would be built to a high standard of energy efficiency and would provide electric charging points for visitors' vehicles.
27. The number of houses to be built is relatively small. Nevertheless, given the Council's significant shortfall in housing delivery, the benefits of the scheme attract considerable weight.
28. Regarding the number of parking spaces to be provided, I recognise that the development was designed prior to the publication of the new LP which sets lower parking standards than the previous revision. The conflict with the parking standards in the LP therefore attracts limited weight in this instance.
29. However, the appeal proposal would cause considerable harm to the character and appearance of the area given the scale and prominence of the houses and their uncharacteristic and incongruous siting. The unsatisfactory vehicle access also attracts considerable weight given the potential harm to safety and effect on the free flow of traffic. Taken together these harms would significantly and demonstrably outweigh the benefits of the proposed development.
30. There are therefore no material considerations that lead me to conclude that this appeal should be determined other than in accordance with the development plan.

Conclusion

31. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR