



Appeal Decision

Site Visit made on 16 June 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2021

Appeal Ref: APP/Q5300/W/20/3249456

1, 2 & 2A Bridge Road, London N9 0NN

- 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 Agha Sirwan (ATS carpets and furniture) against the Council of the London Borough of Enfield.
 - The application Ref 19/00688/FUL, is dated 10 February 2019.
 - The development proposed is described as demolition of existing retail/warehouse and detached 2-bedroom house, construction of new build development with retail/warehouse to the ground floor, 9 self-contained flats to the upper floors, provision of roof terrace, cycle racks, bin storage spaces and parking for 4 cars.
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Decision

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

Preliminary Matter

2. The Council did not determine the application within the statutory time limit. I have had regard to the five objections which it has indicated would have been its reasons for refusal, as referred to in its statement of case and the accompanying officer report. The appellant was given the opportunity to comment on the Council's objections. I have taken comments received into account in my decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, having particular regard to the streetscene and heritage assets;
 - its effect on the living conditions of the existing occupiers of No 1 Balfour Mews, having regard to daylight and outlook;
 - whether it would minimise energy-related CO₂ emissions;
 - whether it would manage the risk of flooding due to surface water run-off; and
 - whether it would make satisfactory provision for cycle and pedestrian infrastructure.

Reasons

Character and appearance and heritage assets

4. The appeal site faces Bridge Road in a mixed residential, retail and commercial area. It comprises a low, shallow pitched early 20th century retail warehouse¹ next to a long, narrow building used as a house. On one side of it is a late 19th/early 20th terrace of taller buildings facing Fore Street, known as the Town Hall Buildings² (THB), form a retail shopping parade with flats above. On the other side is a railway line and embankment with a Victorian railway bridge and beyond that a modern housing estate with some low flat blocks and houses. Opposite the site is a public park (The Green) and behind is a low terraced building converted to dwellings in Balfour Mews. The boundary of the Fore Street Conservation Area³ (CA) runs along Balfour Mews and along Bridge Road and the site is in the setting of the CA.
5. The significance of the CA, a designated heritage asset, is derived, in part, from buildings in Fore Street which is a historic main road. The THB is a non-designated heritage asset due to its substantial 3-storey scale and massing and an 'eclectic free Jacobean' architectural style of red brick, stone dressings and elaborately detailed bay windows. This landmark building forms an urban block of some quality and stature and is a focal point in the streetscene, including a gateway turret as it turns the corner into Bridge Road, stepping down in height to the side and rear next to the appeal site. The warehouse has an ornate gable end but is otherwise utilitarian in appearance and the house is innocuous and largely inconspicuous. Despite trees in The Green, this well-used open space and pedestrian route within the CA provides a key view towards the THB and the appeal site and, from one edge, towards the historic railway bridge which is in the setting of the CA.
6. The proposal would demolish the existing buildings and replace these with a single building. Most of the ground floor (and part first floor at the rear) would be a retail showroom and at the front, 3 storeys above would provide 9 flats. The Council has no objection in principle to regeneration and improvement of the public realm by redevelopment of the site and loss of these buildings. I have no reason to differ.
7. However, despite that the building would be partly inset into existing ground level, there would nonetheless be a substantial increase in the height and overall scale and massing of built form on the most publicly visible front part of the site. The proposal would, as a result, be manifestly at odds with the distinctly more subservient nature of the existing buildings in relation to the THB, reflecting their location and status in a secondary corridor of built form behind Fore Street, nestled unobtrusively next to the railway embankment.
8. While there is no prevailing architectural style in the area, a significant proportion and part of the side elevation of the proposed building next to the corner with Balfour Mews would be largely blank. In addition, many of the projecting front elevation balcony structures, which otherwise articulate the front elevation, would have appreciable substance to the floor, roof and

¹ Originally a social club

² Nos 387-405 Fore Street

³ Enfield Fore Street Conservation Area Character Appraisal, September 2016 (the CACA)

supporting column structures. These significant aspects of the design would therefore unduly accentuate the overall bulk and form of the building.

9. Despite the inset of the fourth floor and transition in external materials in this upper part, the siting of the building, next to the gap formed by Balfour Mews, would therefore nonetheless appear overly dominant in the Bridge Road streetscene. It would also exert an unwelcome competing influence in relation to the THB in views from within the CA from Fore Street, including the largely open, undeveloped corner of The Green, and also as emerging towards it from the pedestrian subway under the railway bridge. Moreover, in these views the obscured base of the ground floor would result in an unduly narrow visible part and compress the apparent height of this lower part of the building. It would, therefore, give a disconcerting and disproportionate top heavy appearance to the building as a whole.
10. The contemporary form of architecture, materials and fenestration, including flat or very shallow roof forms, would be quite different to the design and appearance of most nearby buildings, including the THB. However, it is not an infill (gap) site in Fore Street or a redevelopment in the CA but a backland position in the setting of the CA. While not the only suitable approach, an appropriate innovative design would not therefore necessarily be unacceptable per se and need not be dismissed out of hand as an 'oddity'. The blocks of flats on the other side of the railway line are 3 and 4 storeys high and while relatively close, are nonetheless separated from the site by the embankment and bridge. They do not therefore have any meaningful visual or spatial relationship with the site or provide an appropriate context for its redevelopment. The much taller tower blocks of flats to the north east of the site are significantly further away.
11. Considering the above, I find that the proposal would be unduly prominent and conspicuous. It would jar in important public views from Fore Street and The Green, appreciably detract from the primary significance of the THB and unduly erode the more spacious and diminutive part of the setting of the CA formed by the site and the low key buildings on it. Moreover, the close proximity and overall bulk of built form, and its overwhelming presence in Bridge Road, would adversely diminish the legibility and visual significance of the Victorian railway bridge and its contribution to the setting of the CA. This would cause appreciable harm to the character and appearance of the area, having particular regard to the streetscene, and also, indirectly, to the significance of the THB and railway bridge non-designated heritage assets. The adverse effects of the proposal on the significance of the CA arising from this development in its setting would be limited to this small part of the CA and, as a result, would cause less than substantial harm to the CA overall.
12. Accordingly, it would conflict with Core Strategy⁴ (CS) Policies CP30 and CP31 and Development Management⁵ (DM) Policies DMD6 and DMD8. These policies include that development should have regard to its context and take into account the nature of the surrounding area, reinforce local distinctiveness and be appropriate having regard to scale, form, bulk and massing and to the existing pattern of development and setting. It should also preserve and enhance heritage assets. The proposal would also conflict with the CACA and the Council's objectives for the CA set out in its Management Plan, 2016.

⁴ Enfield Core Strategy, November 2010

⁵ Enfield Development Management Document, November 2014

Living conditions

13. The dwelling at No 1 Balfour Mews includes a first floor rear elevation dormer window facing towards a lower part of the gable end of the warehouse. There is an appreciable gap in between and this window mostly appears above the sloping plane of the warehouse roof. It has not been suggested that it is not a habitable room window and it did not appear to be fitted with obscured glazing or have visible external wastepipes. The evidence is such that I cannot, therefore, be certain that it is not a habitable room window.
14. The rear of the proposed building would have an almost flat monopitch roof, with the lower edge facing No 1. It would nonetheless be sited significantly closer to No 1, than the gable end of the warehouse, and the horizontal eaves level and facing full two-storey vertical height of the end elevation would run in front of, and across, this dormer window. Notwithstanding the measurements that I have been referred to, the appeal plans do not show the dormer window. I am, therefore, unable to reconcile the measurements with the plans or what I saw at my site visit. In the absence of greater certainty in terms of plans, I am satisfied that most of this north facing dormer window would be marred by the overly close proximity of the siting, height, scale and massing of the upper part of this opposing end of the proposed building.
15. Some daylight would be available to the dormer window; however, it would be mainly from a narrow plane at the top. In the absence of a daylight report, the proposal would therefore likely substantially reduce the extent, direction and quality of daylight received into this room. Furthermore, views from this room would be mainly upwards at an acute angle towards the sky. The proposal would, therefore, significantly obstruct normal perpendicular or sideways views and such views that would be possible would be abrupt and unduly oppressive.
16. Taking all of the above into account, I find that the proposal would have an unacceptable adverse effect on the living conditions of the existing occupiers of No 1 Balfour Mews, having regard to daylight and outlook. Consequently, it would not comply with CS Policy CP4 or with DM Policies DMD8 and DMD10. These policies include that development must preserve amenity in terms of daylight and outlook and maintain satisfactory distancing between buildings.

CO₂ emissions

17. DM Policy DMD51 requires all development to minimise energy-related CO₂ emissions to achieve reduction targets and submit a detailed Energy Statement (ES), in accordance with DM Policy DMD49 which requires all planning applications to include a Sustainable Design and Construction Statement (SDCS). DM paragraph 8.2.3 indicates that reduction targets will be verified against the Code for Sustainable Homes (CSH) and BREEAM⁶ and if not met, DM Policy DMD53 seeks reductions using low or zero carbon renewable energy technologies, preferably provided on-site. DM Policy DMD50 sets out assessment methods and requires compliance with CSH and BREEAM targets (or equivalents) or planning permission will not be granted. Moreover, DM paragraphs 8.1.4 and 8.1.5 indicate that a Pre-Assessment (PA) should accompany a planning application and that it, and a SDCS, will form the basis of a condition or a planning obligation for additional details in the final development. In other words, a two-step process.

⁶ Building Research Establishment Environmental Assessment Method

18. It has not been suggested that the proposal should not meet the Council's relevant reduction targets or, if necessary (and possible), provide appropriate low or zero carbon renewable energy technologies on-site. However, there is no evidence that the appellant submitted a PA or a SDCS and an ES has not been submitted. I have been referred to a planning permission granted by the Council for development at 28 Lavender Hill⁷. In that decision notice condition 10 seeks the submission of an ES for CO₂ emissions, however I do not know whether a PA or a SDCS had been submitted in that case. Moreover, the current appeal proposal is for a significantly greater quantum of development, including commercial use, and a different site. It is not, therefore, comparable.
19. It remains to be seen whether the proposal could meet reduction targets, or if not, provide appropriate low or zero carbon renewable energy technologies on the site. Consequently, this consideration is material to an in-principle decision to grant planning permission. The evidence is such that I cannot be certain or, therefore, reasonably deal with this matter by a condition. Accordingly, the appellant has not demonstrated that the proposal would minimise energy related CO₂ emissions or comply with CS Policy CP20 or with DM Policies DMD49, DMD50, DMD51 and DMD53. These policies, broadly, seek to mitigate the impacts of climate change, including through sustainable design and construction in new development.

Flood risk

20. The main parties agree that the proposal would need to incorporate an appropriate sustainable urban drainage system (SuDS) to manage the risk of flooding due to surface water run-off. I have no reason to reach a different view. DM Policy DMD61 requires a Drainage Strategy (DS) for all development and must be demonstrated through a SDCS which, by virtue of DM Policy DMD49, should be part of a planning application. In addition, DM Policy DMD59 will only grant planning permission for proposals which would not be subject to, or result in, unacceptable levels of flood risk on site or increase the level of flood risk to third parties. In turn, DM Policy DMD60 means that development must incorporate appropriate mitigation and DM Policy DMD62 sets out further requirements in this regard.
21. There is no evidence that the appellant submitted a SDCS or a DS. While condition 7 at 28 Lavender Hill asks for a sustainable drainage strategy, the circumstances of that case are not directly comparable. It remains to be seen whether in this current appeal the proposal would be capable of providing an adequate DS and SuDS on the site. Consequently, this consideration is material to an in-principle decision to grant planning permission. The evidence is such that I cannot be certain or, therefore, reasonably deal with this matter by a condition. Accordingly, the appellant has not demonstrated that the proposal would manage the risk of flooding due to surface water run-off or comply with CS Policy CP28 or with DM Policies DMD49, DMD59, DMD60, DMD61 and DMD62. These policies, broadly, seek to assess and, where necessary, prevent, manage or mitigate flood risk on and off-site.

Cycle and pedestrian infrastructure

22. The Council agrees that the proposed cycle parking spaces for residents of the flats would be acceptable. I have no reason to disagree. There are many

⁷ 20/00989/FUL

facilities and services nearby that would be accessible by walking or cycling, or elsewhere using public transport. Nonetheless, the Council seeks to mitigate the impact of additional demands on existing transport and highway networks arising from new development, in accordance with CS Policies CP24 and CP46. These policies include for improvements to the road network, to encourage sustainable travel choices and for financial contributions towards infrastructure, such as highway and access improvements and related pedestrian, cycling and public realm initiatives. This would be secured by a suitable planning obligation.

23. The Council seeks a contribution of £5,000 towards the provision of short stay cycle parking, improvements to local cycle infrastructure and for local pedestrian improvements. The appellant has provided no evidence on this issue and has not submitted a planning obligation to make any financial contribution. I note that the Council considers that the contribution sought in this appeal is 'in line with similar scale developments'; however, and nonetheless, it has provided no objective evidence to substantiate this figure or given any detailed calculation methodology.
24. Accordingly, while I am satisfied that a planning obligation would in principle mitigate the impact of otherwise unacceptable development and make it acceptable in planning terms⁸, and that a contribution would be necessary and related directly to the development, I cannot be certain that the sum sought by the Council is fairly related in scale and kind. In these circumstances, I find that I am, therefore, unable to determine that the Council's request with regard to provision for cycle and pedestrian infrastructure would accord with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests for planning obligations set out in Framework paragraph 57.

Other Matters

25. I have been referred to aspects of the procedural handling of the appeal application by the Council, including correspondence. The appellant has also referred to similar matters in respect of other applications in the Borough. However, the appellant lodged the appeal for the reasons that it did and the Council acted as it did. I have considered the appeal and the proposal on its individual planning merits.

Planning Balance

26. Against the Government's Housing Delivery Test the delivery of housing in the Borough was substantially below⁹, ie less than 75%, the Council's housing requirement over the previous three years (at 56%). Consequently, Framework paragraph 11 d) is engaged.
27. In terms of benefits, a net gain of eight homes would make a small, but notable, contribution to the Borough's housing supply. It would be aligned with the Framework's objective to significantly boost the supply of homes and meet people's living needs, including for studio and family sized flats and for disabled persons. A modern showroom with better access and facilities would enhance the appellant's business and be aligned with objectives of the Framework to support economic growth and meet local business needs. Both uses would, in principle, comply with the Council's development plan. The social, economic

⁸ Framework paragraph 55 and Planning Practice Guidance paragraph 23b-002-20190901

⁹ National Planning Policy Framework (the Framework) paragraph 222

and environmental benefits associated with building and occupying or using the development (including a CIL payment), which would be high quality, have adequate internal and external space and overlook (police) a public space, are therefore factors which carry moderate weight in the proposal's favour.

28. The proposal would provide an enhanced mixed use active frontage along Bridge Road and would complement uses in the local area. Subject to suitably worded conditions, it would include three car parking spaces, make satisfactory provision for refuse and recycling (including water efficiency measures) and for servicing and deliveries, and there would be no undue noise experienced by future occupiers of the flats from trains, who would also have satisfactory and secure private and communal living space. It would not adversely affect the living conditions of the occupiers of other nearby properties and demolition and construction works could be carried out in a satisfactory manner. The absence of harm, and compliance with development plan policies and the Framework in these respects, are neutral factors in my decision.
29. However, the Framework also seeks to achieve well-designed places and conserve the historic environment so that development is sympathetic to local character and history and makes a positive contribution to local distinctiveness. The proposal would cause harm to the character and appearance of the area and would not conserve the significance of non-designated heritage assets. I give significant weight to these considerations. By virtue of location in its setting, the proposal would not conserve the Fore Street Conservation Area which the Framework requires that I give great weight.
30. The proposal would cause harm to the living conditions of the occupiers of a residential property, at odds with the objective of the Framework to ensure a high standard of amenity. I give substantial weight to this consideration. The proposal would also not make satisfactory provision for CO₂ emissions or flood risk. It would conflict with objectives of the Framework for managing climate change and flooding and I give both of these matters moderate weight.
31. The proposal would therefore conflict with relevant development plan policies, which are consistent with the Framework, and would diminish the Council's objectives in these regards. I consider that collectively the adverse impacts would significantly and demonstrably outweigh the benefits of the additional homes and the retail use, when assessed against the Framework as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this case.

Conclusion

32. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding.
33. For the reasons given above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR