

Appeal Decision

Site visit made on 11 January 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/Q5300/W/21/3271984

93-95 Silver Street, Edmonton N18 1RP

- 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 Roxburgh Properties Limited against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/04014/FUL, dated 9 December 2020, was refused by notice dated 10 February 2021.
 - The development proposed is described as 'A change of use, demolition of existing single storey structures and construction of two storey mix use building containing a workshop for personal vehicle tyre replacement, light vehicular maintenance and repairs on ground level and office space on upper level.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Both parties have been provided with an opportunity to make further representations in relation to this matter. As such, I have had regard to the revised Framework in considering this appeal.
3. Reference is made in the Council's reasons for refusal to the policies in the London Plan (March 2016). Since the appeal application was decided, the latest version of the London Plan (2021) has been published and is now part of the development plan for London. The previous policies have therefore been replaced. Both main parties have been given the opportunity to make representations in this regard, but none have been provided. On this basis, I will determine this appeal on the basis of the policies contained within the Borough Council's development plan documents.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the appeal site is a suitable location for industrial development with specific regard to development plan policies; and
 - Whether the proposed development would lead to an unacceptable effect on flooding with specific regard to drainage.

Reasons

Character and Appearance

5. The appeal site is in use as a car wash on land to the rear of Silver Street that fronts Sheldon Road. It comprises a hard surfaced area and a small single storey structure set well into the site. A tall brick wall with gates forms the boundary with Sheldon Road and the point of access for the car wash. The proposed development would be read as part of the Sheldon Road street scene. There are some minor variations such as bay windows and small front extensions, but Sheldon Road consists of traditional two storey terraced residential dwellings where uniformity in scale, form and building line contributes positively to the character and appearance of the area.
6. The proposed new building would include a forward projecting element that would breach the historically established building line of Sheldon Road. This would noticeably disrupt the development pattern in the street scene, appearing incongruous. The proposed first floor windows would be much larger than those of the neighbouring residential properties. This would create a solid to void ratio which would be at odds with the prevailing traditional appearance of housing development on Sheldon Road. Furthermore, the proposed development would include an external access at first floor level, providing the only means of access to the proposed offices. This access would be visible from the street scene and would be visually inconsistent with the more traditional ground floor access arrangements of surrounding properties.
7. To the rear, the proposed development would incorporate a relatively boxy flat-roofed element at first floor level. However, the existing property at 2 Sheldon Road has a similar flat-roofed extension at first floor level. The proposed development would largely obscure this neighbouring extension when viewed from the street. Furthermore, the rear of the proposed development itself would not be prominent in the street scene given the screening effect which would result from the proximity to the neighbouring development on Silver Street. As such, the rear element of the proposed development would not give rise to harm.
8. However, and overall, the combination of the single storey front projecting element, the uncharacteristic solid to void ratio and the first-floor external access would result in a development which, when viewed from the street scene, would be visually harmful to the character and appearance of the surrounding area. Whilst I accept that the existing appearance of the site is not particularly characteristic of the surrounding area, the proposed development would have a far more prominent harmful visual impact, given its scale in comparison to existing development on the site.
9. As such, the proposed development would conflict with Core Strategy¹ Policy CP30 and Development Management Document² Policies 37, 38, 39 and 40. These policies collectively seek to ensure that new development is of a high-quality design, which is in keeping with local character.
10. The proposed development would also conflict with Framework Paragraph 130, which requires in part that development is in keeping with local character.

¹ The Enfield Plan – Core Strategy – 2015-2025, Adopted November 2010

² Improving Enfield – Development Management Document (DMD), Adopted November 2014

Whether the site is a suitable location for the proposed development

11. Given the appeal site and the proposed development would front onto Sheldon Road, it is not part of the shopping frontage and is, physically and visually, more contiguous with the residential development on Sheldon Road.
12. The documents submitted with the planning application demonstrate that the appellant originally considered the proposed tyre-fitting use at ground floor level to fall within Use Class B2 (Industrial). This is the basis upon which the Council determined the application. However, the appellant now asserts that this use falls under Use Class E(g)(iii) which relates to 'industrial processes' which 'can be carried out in a residential area without detriment to its amenity'. The Council do not allege any harm to the living conditions of neighbouring residents. As such, it is possible that the use could be considered to fall under Class E(g)(iii). However, this is a moot point, given that both classes relate to industrial uses and the Council's contention pertains to the suitability of the appeal site as a location for industrial development, with regard to the relevant development plan policies.
13. Development Management Document Policy DM23 states that new industrial development will be directed to the Borough's strategic industrial locations and locally significant industrial sites. However, this policy does not prohibit industrial development outside of these areas. Indeed, it sets out a range of criteria for new industrial development outside of the designated industrial areas.
14. The Council do not allege conflict with Criteria (b) or (c) of Policy DM23, which relate to highway impacts and adequate servicing and parking, respectively. Criterion (a) requires that the use is compatible with the existing uses in the surrounding area with no adverse impact on surrounding areas. The Council's Officer Report indicates that the proposed development would conflict with this criterion, given the presence of surrounding residential and commercial uses. However, the fact that the proposed use would be different to those surrounding it is not a reason in itself to consider it incompatible.
15. The Council do not allege any harm to the living conditions of occupiers of surrounding residential properties. Indeed, the Council's Environmental Health Officer has not objected to the proposed development in this regard. The ground floor tyre-fitting use would be contained within a building and hours of operation could be controlled by condition, such that the effect of the proposed development on living conditions would not be unacceptable. Furthermore, there is no evidence to indicate any harm would be caused to the operation or provision of retail/commercial units on Silver Street. Indeed, the ground floor industrial use, given its small scale and location, sited away from the shopping frontage, would not impinge on the operation of these adjacent units. The Council has indicated that the appeal site may have previously been used for parking associated with the adjacent commercial units, but there is no evidence before me to support this assertion and there is no objection from the relevant authority on highways or parking grounds.
16. The Council's reasons for refusal also refer to Development Management Document Policy DM25. However, this policy deals with new retail, leisure and major office development and it is therefore not relevant to the proposed development. A copy of Policy DM26 has also been provided, although this policy is not referred to in the Officer Report or Decision Notice. Policy DM26

relates to development within Enfield Town, referring to the primary shopping area, primary shopping frontages and secondary shopping frontages. There is no evidence before me to confirm that the appeal site is within any of these areas. In the absence of such evidence, it is therefore not possible to conclude on compliance, or otherwise, with this policy. However, given that I am dismissing this appeal on other grounds it is not necessary for me to seek further evidence in this regard. Despite this, based on the information before me and taking into account my earlier conclusions, the proposed development would not result in harm to the operation of the surrounding commercial units.

17. As such, notwithstanding that there is insufficient evidence to conclude on whether there would be a conflict with Development Management Document Policy DM26, the evidence before me demonstrates that the location of the proposed development is acceptable and there would be no conflict with Development Management Document Policy DM23, which seeks to direct industrial development to suitable locations.
18. The proposed development would also accord with Core Strategy Policies 13, 17, 18 and 19. These policies relate to supporting economic development, strengthening town centres, protecting retail uses and supporting office development in town centre locations respectively.
19. Core Strategy Policies 14 and 15 are not relevant as they relate to safeguarding identified industrial sites.
20. The Council has indicated that the proposed development would conflict with the Framework but has not expressed which part. I find no conflict with the Framework in relation to this main issue.

Drainage

21. Development Management Document Policy 61 requires that a Drainage Strategy (DS) is submitted with applications for new development which is not before me. A DS would be necessary in this instance given the amount and scale of development proposed. However, there is no evidence before me to indicate that suitable and appropriate drainage measures could not be implemented and as such, these measures could be secured by a planning condition requiring the submission and approval of details by the Council prior to commencement of the proposed development.
22. As such, subject to a suitably worded condition, the proposed development would not result in an unacceptable increase in flood risk or inadequate drainage. The development would therefore comply with Development Management Document Policy 61. The proposed development would also comply with Core Strategy Policy 21, which requires in part that water supply, sewerage and drainage infrastructure is in place in tandem with development.
23. In addition, subject to an appropriately worded condition, the proposed development would comply with Framework Paragraph 167, which requires that new development does not increase flood risk elsewhere.

Other Matters

24. The appellant has provided various letters from companies in support of the proposed tyre-fitting use, including letters from tyre shop and car wash businesses and an estate agent. These letters outline that there is a demand

for commercial tyre shop and vehicle repair units in the local area. The appellant has also suggested that such a use requires a central location close to the main carriageway. Whilst I acknowledge this, there is no compelling evidence to indicate that this demand cannot be met elsewhere. As such, this is not a matter which outweighs the harm which the development would cause.

25. The appellant has also suggested that the proposed development would be less harmful than the existing use for a variety of reasons, including lower noise emissions, lower energy and carbon emissions and a lower impact on water quality. The appellant also asserts that the proposed development might benefit local residential property prices. However, I have found that the proposed development would be significantly more harmful to the character and appearance of the area than the existing development. Even if I accept these other beneficial effects, they would not be sufficient to outweigh this harm, which is specific to the appeal site itself. In addition, a lack of objections from neighbouring occupiers to the proposed development does not in any way, reduce or negate the harm which I have identified.

Conclusion

26. The appeal site would be a suitable location for the type and use of development proposed and the proposed development would not, subject to conditions, give rise to any flood risk issues through drainage. These matters would however be a lack of harm which, by definition, cannot be used to weigh against harm. As such, the proposed development would conflict with the development plan taken as a whole. There are no other material considerations worthy of sufficient weight that would indicate that a decision should be made other than in accordance with the development plan. As such, the appeal is dismissed.

Luke Simpson

INSPECTOR