

Appeal Decision

Site visit made on 15 March 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022

Appeal Ref: APP/Q5300/W/21/3278266

Land rear of 93-95 Devonshire Road, Southgate N13 4QS

- 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 Marios Ioannou against the decision of London Borough of Enfield.
 - The application Ref 21/00900/FUL, dated 9 March 2021, was refused by notice dated 12 May 2021.
 - The development proposed is Construction of two storey, two bedroom detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In determining the appeal, I have had regard to the revised National Planning Policy Framework (the Framework), upon which the main parties have had an opportunity to comment.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area
 - Whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to the provision of private amenity space.
 - The effect of the proposal on the living conditions of the occupants of 97 Devonshire Road, with particular reference to privacy and outlook.
 - Whether the proposal would provide appropriate landscaping.
 - Whether the proposal would provide sustainable drainage.

Reasons

Character and appearance

4. The appeal site is located to the rear of properties in Devonshire Road and would have a frontage on Devonshire Close. The former is comprised of 2 storey semi-detached and terraced dwellings, where the design detail, set back from the pavement, fenestration and roofscape contribute positively to something of a homogenous character and appearance. The proposed development would be of substance and occupy much of its plot but would be

read as part of Devonshire Close where two storey dwellings that face onto it are set further back into their plots. In addition, the properties addressed 1-4 The Walk, Fox lane have rear gardens that back onto the close. Some new development is also nearing completion at the Fox Pub, on land immediately to the north of the appeal site.

5. The proposal would site between here and the gable wall of the traditionally designed 2-storey dwelling at 93 Devonshire Road. The Fox Pub development has a contemporary design and rises, in steps, to a height of 5 storey. It is sited close to the southern boundary, and the back edge of the pavement. The proposal would not be of the same scale, but it would share some of its characteristics, including the incorporation of large windows and modern materials. Within this context the proposal would be seen as a transitional building set between the large scale contemporary development at the Fox Pub, and the traditional style of property found in Devonshire Road. With that in mind, the appeal scheme would not appear incongruous.
6. As such, it would not be contrary to Policies CP 30 of The Enfield Plan Core Strategy 2010-2025 (CS), Policies D1, D3 and D6 of the London Plan 2021 (LP), Policies DMD6, DMD7, DMD8 and DMD37 of the Improving Enfield Development Management Document (DMD) and the Framework. These policies, amongst other matters, seek to achieve high quality development that is of a scale and form appropriate to the existing pattern of development or setting.

Living Conditions - Future Occupiers

7. A private amenity space is indicated to the rear of the proposed dwelling. The Council in its officer report states that this measures just under 26 sqm and exceeds the minimum requirement for a 2 bed property, which is 23 sqm.
8. Notwithstanding the above, the proposed rear garden would be directly overlooked, at close quarters, from the first floor windows, a balcony and an external stair located close to the southern boundary of the Fox Pub development. The proposed rear garden would also be overlooked to a more limited extent from the rear facing first floor windows of 93 – 101 Devonshire Road. As a result, it would not be a pleasant place to spend time in, and accordingly there would be harm to the living conditions of future occupiers through an unacceptable loss of their privacy.
9. The Council's evidence alludes to substantive concerns in regard to overshadowing. Given the height and scale of the Fox Pub development and existing properties in Devonshire Road, it is likely that daylight and sunlight reaching into the site would be severely restricted. This would be particularly apparent during the early morning and into the evening. This would add to the harm that I have found.
10. Consequently, the proposal would be contrary to Policies DMD7, DMD8, DMD9 and DMD10 of the DMD, Policy CP30 of the CS and paragraph 130 of the Framework. These, amongst other matters, seek a high standard of amenity for future occupiers

Living Conditions - Neighbours

11. The proposed development would have first floor windows in the rear elevation of the proposed dwelling, serving a bedroom, within 4 metres of the common

boundary to 97 Devonshire Road. There would be direct line of sight with no existing, or proposed, screening that would prevent overlooking. As a result, there would be a significant reduction in privacy within the rear garden of No 97, and it would be a less pleasant place to spend time in. Accordingly, there would be harm to the living conditions of the existing occupiers.

12. The proposed development would therefore be contrary to Policies DMD7, DMD8, DMD9 and DMD10 of the DMD and paragraph 130 of the Framework, which, amongst other matters, seek a high standard of amenity for existing residents.

Landscaping

13. At the time of my site visit the appeal site was devoid of any significant landscape features. The area immediately to the rear of No 93 has been cleared, with only a limited number of sparse bushes to the rear of No 95. The limited vegetation that I saw did not make a significant contribution to the character or appearance of the area.
14. 1-6 Devonshire Close had modest sized front gardens, some of which have trees planted within them. There are street trees within Devonshire Road. That said, the properties in Devonshire Road only had short front gardens, with limited landscaping. Furthermore, I saw the Fox Pub development was set back from the pavement by a similar distance to that of the proposed development. In this regard I saw little scope for any substantive landscaping on the Devonshire Close frontage to the Fox Pub development, notwithstanding its much greater height and mass.
15. I do not accept that the development would result in the loss of trees of significance. Moreover, I find that the scheme would provide an opportunity to provide landscaping to the frontage of the site that is compatible with other properties, and developments, within the area. Consequently, the development would accord with the provisions of Policies DMD80 and DMD81 of the DMD and Policy G7 of the LP. These policies seek, amongst other matters, to ensure the retention and protection of existing trees of amenity and biodiversity value, and the provision of high quality landscaping that enhances the local environment.

Sustainable Drainage

16. I have taken into account the comments of the Council, as set out in their officer report, and the response provided in the appellant's statement in support of the appeal. From what I have seen on site, and read, I am satisfied, that in the event that I allow the appeal, the differences between the parties could be addressed by adding a suitably worded condition.
17. As such, and in regard to this main issue, the proposals could comply with Policies SI12, and SI13 of the LP, Policy DMD61 of the DMD and the NPPF. These policies, amongst other matters, seek to minimise flood risk and mitigate any impacts as close to its source as possible.

Other Matters

18. I acknowledge that the appellant engaged in pre-application discussions with the Council and responded to their opposition to a larger house by applying for the smaller dwelling. That said, I do not have full details of the earlier scheme

or the full response that the Council provided. Consequently, I am not privy to any other matters they might have raised at the time. I have nevertheless considered the scheme before me on its own merits.

19. The appeal site is in a sustainable location, close to existing services and facilities, and within easy reach of public transport links. In this regard I also note the intention of the appellant to deliver a car free scheme and a willingness to enter into a Section 106 agreement to this effect, preventing future occupants from obtaining on-street parking permits. However, I do not have a completed agreement before me, and the location of the appeal site would mean the principle of the proposed development would be acceptable. This is not a contentious matter in the appeal.
20. I agree that small sites can contribute towards housing supply and both the Framework and the London Plan place emphasis thereon. That said, I have not been advised that the Council is in a housing undersupply situation in regard to the Framework and in any event the erection of a single dwelling in this case, on the site proposed, would give rise to planning harm and conflict with the development plan. Matters to which I would attach substantial weight.

Conclusion

21. I have found that there would not be harm in regard to the first main issue and, subject to conditions, none in respect of the fourth and fifth. However, a lack of harm would be neutral in each case and thus could not, by definition, be used to weigh against it. The appeal scheme would conflict with the development plan for the reasons that I have given. Specifically in regard to the second and third main issues. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

John Gunn

INSPECTOR