

Appeal Decision

Site visit made on 22 March 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2022

Appeal Ref: APP/Q5300/W/21/3279841

Rear of 143 Bullsmoor Lane, Enfield, EN3 6TH

- 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 Parwana Ltd against the decision of London Borough of Enfield.
 - The application Ref 20/03721/FUL, dated 3 November 2020, was refused by notice dated 29 January 2021.
 - The development proposed is demolition of existing garage to create 1 no. bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 14 January 2022, the Government published the 2021 Housing Delivery Test (HDT) results. The HDT results show that the London Borough of Enfield has delivered 67% of its housing requirement over the latest 3-year period. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework (the Framework) would be engaged. As this was also the outcome of the 2020 HDT results I have not sought further views from the parties on this matter.
3. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021 and the London Plan 2021 has been published. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.

Main Issues

4. The main issues are:
 - the effect of the proposed dwelling on the character and appearance of the area;
 - whether or not adequate arrangements are made for the disposal of surface water from the site; and
 - whether or not the development demonstrates the highest standards of sustainable design and construction.

Reasons

Character and appearance

5. The appeal site comprises an area to the rear of 143 Bullsmoor Lane, a two storey semi detached dwelling with loft conversion. This part of Bullsmoor Lane comprises a mix of semi-detached two storey dwellings and detached single storey bungalows and is dominated by the A1055 with the dwellings being set below the level of the road.
6. The appeal site is currently occupied by an existing garage which is located to the rear of the dwelling and has its own access off Holmesdale which is a residential estate. The garage would be replaced by a single storey detached dwelling which would be located towards the rear of the site, fronting onto Holmesdale.
7. Although there is a greater variety of dwelling styles within Holmesdale, I consider that the siting of the proposed dwelling would introduce a discordant and incongruous feature which would be highly visible from the adjoining developments. Holmesdale extends along the rear of the dwellings fronting Bullsmoor Lane and with the associated parking areas connected with the existing flats and dwellings opposite, this part of the estate clearly functions as an ancillary space. The introduction of a single dwelling fronting onto the existing access would lead to a change from the subservient ancillary function of the existing area, resulting in a contrived and incongruous form of development.
8. The development of the rear garden would increase the density of development within the locality, which is generally characterised by long narrow rear gardens, including some, such as the appeal site, with ancillary outbuildings. The subdivision of the plot will result in a dwelling to the rear of the existing properties in Bullsmoor Lane, which is at odds with the prevailing pattern of development in the immediate vicinity.
9. Reference has been made to the redevelopment of an adjoining site. Whilst no plans have been submitted of this scheme, the evidence before me indicates that this permission included the demolition of the existing dwelling and a redevelopment of the site with a development which fronts onto Bullsmoor Lane, which is not the same as the case before me. In any event, I am not bound by other decisions of the Council and I give this minimal weight.
10. I therefore conclude that the proposed development would introduce a discordant built form to the locality that would be out of keeping with and harm the character and appearance of the surrounding area. Consequently, it would conflict with policy CP30 of the Enfield Plan Core Strategy 2010-2025 (CS) and policies DMD8 and DMD37 of the Improving Enfield Development Management Document 2014 (DMD) which together seek to maintain and improve the quality of the built environment by setting out general standards for development with aims of achieving high quality and design led development.
11. Whilst recognising that policies H1, D1 and D3 of the London Plan (LP) seek to optimise site capacity and increase housing supply, they also state that the form and layout of development should enhance local context by positively responding to local distinctiveness with regard to building types, forms and proportions. Therefore, for the reasons I have identified above the development

would also fail to accord with policies H1, D1 and D3 of the LP. It would also fail to accord with policy D4 which seeks to deliver good design.

Surface water

12. The site is subject to site specific surface water flooding. Core Policy 21 of the CS requires developers to ensure that sustainable drainage measures are incorporated within developments wherever possible, as a means to manage surface water runoff. Policy DMD 61 of the DMD requires a drainage strategy to be submitted for all developments. It sets out that the development should seek to achieve greenfield run off and must maximise the use of Sustainable Urban Drainage Systems (SuDS).
13. Paragraph 167 of the National Planning Policy Framework (the Framework) sets out that when determining planning applications it is necessary to ensure that flood risk is not increased elsewhere and where appropriate applications should be supported by a site-specific flood risk assessment. This includes land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.
14. The appellant has failed to submit a Flood Management Strategy, which is required to demonstrate flood compensation and an overland flow route to the back of the site. In addition, the proposed development includes a basement and insufficient information has been submitted, in the form of a Groundwater Flood Risk Assessment, to demonstrate that this is feasible.
15. The appellant has advanced a case whereby this information could be submitted by condition, however there is a lack of certainty that the site could be developed as proposed with the inclusion of the basement. Therefore, it is not possible to conclude that an otherwise unacceptable development could be made acceptable through the use of such a condition.
16. In conclusion, the proposed development has failed to demonstrate that it would not increase the risk of flooding, contrary to Core Policy 21 of the CS, policy DMD 61 of the DMD and paragraph 167 of the Framework. It would also fail to accord with policies SI12 and SI13 of the LP which seek to ensure that flood risk is managed in a sustainable way.

Sustainable Design and Construction

17. Policy DMD 49 of the DMD sets out that all new development must achieve the highest sustainable design and construction standards and that all planning applications must be accompanied by a Sustainable Design and Construction Statement which demonstrates compliance with policies, with further details provided in Appendix 3 of the plan.
18. The supporting text to the policy states that the contents of the statement are designed to encourage developers to engage with the principles of sustainable design and construction at the earliest possible point in the design process and cultivate a culture of change in the development process that will encourage innovation to realise the strategic objectives of the plan.
19. The appellant has not submitted a statement as required by the policy, nor have any details been provided which would indicate how the proposed dwelling would meet the criteria set out within the policy.

20. It has been put to me that this matter can be dealt with by planning condition, however it is clear from the supporting text to the policy that the intention is that the statement should be used in order to evolve the design of the dwelling to meet the standards required and therefore I am not persuaded that this can be done retrospectively following the grant of planning permission.
21. In conclusion, the proposed development has failed to demonstrate that it would achieve the highest sustainable design and construction standards and is therefore contrary to policy DMD 49 of the DMD.

Other Matters

Housing Delivery

22. The 2021 HDT results show that the Council has underdelivered against its housing requirement over the latest 3-year period. Consequently the presumption in favour of sustainable development contained in the Framework is engaged whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.
23. Paragraph 11 of the Framework states that where the policies that are most important for determining the application are out of date, permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 8 sets out that these policies include those relating to areas at risk of flooding. Therefore, I am not required to apply the tilted balance in this respect.
24. However, even if the tilted balance were to be applied the benefits of the scheme would be significantly and demonstrably outweighed by the harm I have identified. Taking into account the current shortfall, 1 dwelling would provide a limited contribution to housing supply in the area.
25. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
26. Nevertheless, the identified adverse impacts of the development, as set out above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including its presumption in favour of sustainable development.

Conclusion

27. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict. For the reasons outlined above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR