



Appeal Decision

Site visit made on 11 April 2022

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th June 2022

Appeal Ref: APP/Q5300/W/21/3283540

45 Belgrave Gardens, Southgate N14 4TS

- 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 Payman Akbarian against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/01335/FUL, dated 9 April 2021, was refused by notice dated 15 June 2021.
 - The development proposed is erection of two storey detached dwelling house on land to the rear of No 45 Belgrave Gardens, including new vehicular access from rear laneway, off-street parking, landscaping and all associated site works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (Framework) was revised in July 2021. It replaces the version from 2019 that the Council considered when it determined the application. The appellant and the Council were able to comment on the bearing of the current version of the Framework on the proposal during the appeal process.
3. In January 2022 the latest Housing Delivery Test results were published. These indicate that the presumption in favour of sustainable development, as set out at paragraph 11(d) of the Framework, is applicable. The appellant's evidence highlights that the presumption applied last year due to the test results published in January 2021, and both main parties have been able to comment on the latest results during the appeal. As such, it has not been necessary to seek views from the parties regarding the latest test results.
4. Following my site visit, the appellant and the Council were provided with an opportunity to comment on the proposal's implications in respect of car parking and whether suitable ceiling heights would be provided for the proposed dwelling. These considerations have informed the main issues identified below. I have taken the comments received into account in making this decision.
5. The appellant provided additional drawings with their comments on car parking and ceiling heights. One shows the scheme in a scenario with no proposed off-street parking. The others would have the effect of increasing much of the first floor ceiling height of the proposed dwelling from 2.4 metres to 2.5 metres and moving an internal wall slightly to resize two of the bedrooms.

6. It is important that the scheme that I consider is essentially that which has been considered by the Council and on which interested parties' views have been sought. To do otherwise would be prejudicial to the positions of the Council and interested parties.
7. An application drawing shows a proposed off-street parking space and thus removal of that space to create a car-free development would change the nature of the scheme significantly. Additionally, the description of the development on the application form refers to a new vehicular access and off-street parking. Although no objections were raised by residents, I cannot be sure that this was due to parking being proposed originally. Interested parties may be unaware of the alternate scenario put forward and could have the view that it would give rise to different impacts on the locality. Accordingly, in the interests of fairness, I have considered the appeal on the basis that off-street parking is proposed as shown on the application drawing.
8. The ceiling height and wall position changes would be minor and effect the interior of the proposed dwelling only. The external appearance and position of the dwelling would be unaltered. I have therefore taken these changes into account, as this will not prejudice interested parties.

Main Issues

9. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the implications of the proposal in respect of car parking;
 - the effect of the proposal on the living conditions of the occupiers of Nos 43 and 45 Belgrave Gardens, with particular regard to outlook, light and privacy; and
 - whether the proposal would provide satisfactory standards of accommodation for the future occupiers, with particular regard to outlook, light, ventilation, ceiling heights and room sizes.

Reasons

Character and appearance

10. The site features a two storey, semi-detached property with a front and rear garden at 45 Belgrave Gardens. The main parties indicate that the site has been subdivided into two residential units. No 45 is located at the end of a row of similar semi-detached properties and is adjacent to a highway junction with Prince George Avenue (PGA). The rear garden is enclosed by brick wall and features a detached garage accessed from an unnamed side road, which also joins PGA. The side road serves the rears of the properties fronting Belgrave Gardens and provides for access, parking and servicing to a mix of commercial and residential properties fronting Bramley Road. The rear boundaries of the properties located along Belgrave Gardens are generally enclosed by outbuildings, walls and fences.
11. Notwithstanding Bramley Road, the area is predominantly residential. The side road functions as a boundary between the mixed use area and the residential area. Although the side road has a utilitarian character overall, this is not obvious from PGA as No 45's brick wall and hedging opposite the site's rear

- boundary are nearest to the junction, and the rear of the properties along Bramley Road are thus set back.
12. The Enfield Characterisation Study describes the residential area as being of a classic suburban typology. Most of the nearby properties include two storey, semi-detached dwellings that are similar in size to and have features in common with No 45, such as pitched and hipped roofs and two storey front projections. There is some variety in the built environment, such as flats present in Belgrave Close, but overall there is consistency in the character and appearance of the residential area.
 13. Notably, the properties along PGA feature front or side elevations oriented towards the highway. The dwellings facing PGA tend to be set behind driveways and have front boundaries generally enclosed by low walls. The dwellings with side elevations oriented towards PGA face secondary roads and are set back from the highway in a similar manner to No 45. The rear gardens between those dwellings and the dwellings facing PGA create gaps which provide relief to the mostly continuous built form along the highway. The space provided by the gardens to the rear of Belgrave Gardens contributes to this characteristic despite being at the edge of the residential area.
 14. The proposed dwelling would be detached and sited in the rear garden of No 45. It would face PGA and primarily be viewed in the context of the housing along that road. The dwelling would include pitched and hipped roof slopes and have a two storey front projection that would be reflective of dwellings in the vicinity of the site. However, it would nevertheless appear at odds with the nearby housing along PGA as it would be detached, sit behind a wall that would extend across its entire frontage and be taller than most front boundary walls, and be accessed from the side road. The proposed reductions to the wall's height would not address these issues.
 15. Additionally, the scale and massing of the proposed dwelling relative to the outbuildings at the ends of the adjacent rear gardens would be significant. The lack of articulation to the rear of the dwelling would further that juxtaposition. There are no directly comparable buildings located along the side road and thus, when viewed from there and from the junction with PGA, the dwelling would appear as an incongruous addition to rear garden land.
 16. Furthermore, the dwelling would appear cramped and awkwardly positioned as a result of its side elevation being immediately adjacent to the side road, together with it being close to No 45, which features a single storey projection that is near to and visible from PGA. The fencing between the properties and therefore the limited garden lengths would also be visible due to the sloping nature of the site and the height and stepped nature of the side wall.
 17. The appellant contends that the distances between the proposed dwelling and No 45 would be similar to distances between other dwellings along PGA; however, only distances between properties at first floor level have been put forward. Moreover, the proposal is not directly comparable due to its proximity to both No 45's single storey projection and the side road. There are small distances between the side and rear of properties in Belgrave Close. However, the properties there are set back and less visible from PGA, and the relationship between the proposed dwelling, the side road and No 45 is also not directly comparable to the relationships in Belgrave Close.

18. The appellant contends that the spatial relationship between dwellings within the area is more the result of market demands and development yields at the time when the residential area was created than purposeful design choices. It is also put forward that modern urban design principles encourage the use of corner plots. However, the pattern of development and the spaces between buildings nonetheless form part of the character of the area, and the siting of the development would give rise to harmful impacts as identified above. The site's location at the edge of the residential area does not justify the harm identified.
19. It has been advanced that land in the vicinity of the site may be allocated for development in the Council's emerging Local Plan, and that development is likely to be promoted around Bramley Road, the side road and to the rear of the properties fronting Belgrave Gardens. However, there is nothing firm and substantive before me which indicates whether or in what form allocations or development might come forward. Whilst there are no obvious indications that this proposal would prejudice future development in the immediate vicinity, this matter does not lead me to conclude that the harm is warranted.
20. The proposal would harm the character and appearance of the area. It conflicts with Policies D3 and D4 of the London Plan (LP), Policies DMD6, DMD7, DMD8 and DMD37 of the Council's Development Management Document (DM), and Policies CP4 and CP30 of The Enfield Plan Core Strategy (CS). Amongst other things, these seek high quality design and to protect and enhance the character of the locality. It is also contrary to Chapter 12 of the Framework, which sets out that decisions should be sympathetic to local character.

Parking

21. The site is located mainly within a Public Transport Accessibility Level (PTAL) 4 area. Oakwood Underground Station, bus stops, and various services and facilities are located near the site. It is also within a Controlled Parking Zone (CPZ) that limits on-street parking to within bays that are restricted to permit owners' vehicles only from 2pm to 3pm from Monday to Friday.
22. Amongst other things, LP Policy T6 sets out that car-free development should be the starting point for proposals in places that are well-connected by public transport. In addition, LP Policy T6.1 identifies that up to 0.5 to 0.75 car parking spaces are permissible for a 3 or more bed dwelling in a PTAL 4 area in outer London, with the lower standard applied as a maximum in more accessible locations.
23. The off-street parking space would be large enough to accommodate a moderately sized car. The appellant contends that the parking standards should be rounded up to the nearest integer where a fraction of a space is permitted. The supporting text to LP Policy T6.1 appears to suggest this in calculating disabled persons' parking, but there is no explicit support for rounding up in relation to other types of spaces and this would exceed the maximum standard. Whilst the proposal would be at the edge of a suburban area in outer London, suitable for a family, and car-clubs have not become established in the area, the site is nonetheless well-connected by public transport. No parking would therefore be needed for the prospective occupiers. Accordingly, the provision of the parking space conflicts with LP Policies T6 and T6.1.

24. The parties have agreed that a positively worded planning condition could be used to secure a planning obligation to prevent the occupiers of the dwelling from obtaining parking permits. Additionally, the Council has suggested that a Grampian condition could be used as an alternative, but no draft wording or explanation of how this might control parking has been provided.
25. The six tests for imposing conditions are listed at paragraph 56 of the Framework. The Planning Practice Guidance (PPG)¹ sets out that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability. The PPG also advises that a negatively worded condition is unlikely to be appropriate in the majority of cases. However, it states that in exceptional circumstances a negatively worded condition may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk, which may apply in the case of particularly complex development schemes. The PPG advises that in such cases the heads of terms or principal terms need to be agreed prior to permission being granted to ensure that the test of necessity is met and in the interests of transparency.
26. Convincing evidence has not been put forward which suggests that the agreed condition would pass the test of enforceability. Furthermore, exceptional circumstances have not been presented for imposing a negatively worded condition, and no heads of terms or principal terms have been provided. As such, neither a positively nor negatively worded condition to secure an obligation would pass the tests for conditions. Furthermore, in the absence of specific information regarding the permit parking process in the borough, I cannot be sure that a condition to require that the development is car-free without reference to an obligation would be precise, enforceable and reasonable in all other respects. Therefore, the proposal would not prevent the prospective occupiers of the dwelling from applying for parking permits.
27. It is likely that the occupiers would apply for permits given the size of the property. However, as most dwellings within the area feature off-street parking, and the CPZ is only restricted to permit holders for an hour each weekday, it is unlikely that the increase in demand arising from an additional household in this specific location would have a significant effect on the availability of on-street parking or highway safety.
28. Nevertheless, the proposal would facilitate car ownership and therefore discourage walking, cycling and public transport. Whilst the environmental impacts from one dwelling would be small, the LP's promotion of sustainable transport across London would be undermined, and the impacts of providing off-street parking for housing in similarly accessible locations elsewhere in London would be substantial. The provision of an electric vehicle charging point and cycle parking would not overcome this issue.
29. The proposal encourages car ownership and use in a location wherein car-free development is appropriate, and thereby fails to promote sustainable transport. It conflicts with LP Policies T6 and T6.1, which set out that parking should be restricted in line with levels of public transport accessibility and connectivity and not exceed specified maximum standards. Furthermore, it conflicts with LP Policies T1 and T2 and Chapter 9 of the Framework, which seek to discourage car ownership and promote sustainable transport.

¹ Reference ID: 21a-010-20190723

Neighbours' living conditions

30. The ridge of the proposed dwelling would be slightly higher than the ridge of No 45. Although the dwelling would extend across much of the width of the rear garden to No 45, the distances between the buildings would be such that adequate outward views would be retained for the existing occupiers. Outward views from No 43 would also be acceptable given that the development would be offset from its rear elevation. The proposal would not result in the neighbouring dwellings or gardens being overly enclosed, or effect outlook to the extent that it would be overbearing.
31. The dwelling would be more northerly than the adjacent ones. Having regard to this and the separation distances between them, the proposal would not result in significant losses of light. Parts of the rear gardens of Nos 43 and 45 would be adversely impacted, particularly in the evenings. However, the dwelling would principally effect daylight and sunlight to the roof of No 43's outbuilding. The proposal's impacts on light receipt would thus be acceptable.
32. Fencing between the proposed dwelling and the existing properties would provide for adequate levels of privacy at ground floor level. Although a window and a roof light would be oriented towards No 45, a condition could require that these are fixed shut and obscure glazed to prevent overlooking.
33. The Council contends that the window facing No 45 would result in the perception of overlooking. However, it should be clear to the neighbours' that the window is obscured glazed and, over time, that it is non-openable too. Any perception of overlooking would be short lived and thus would not significantly affect the neighbours' living conditions.
34. The proposal would not have an unacceptable adverse impact on the living conditions of the occupiers of Nos 43 and 45. In this respect, the proposal accords with LP Policy GG1, DM Policies DMD7, DMD8 and DMD10, and Chapter 12 of the Framework, which seek to protect residential amenity and set out minimum distances between new and existing dwellings unless it is demonstrated that development would not result in housing with inadequate daylight, sunlight and privacy. The Council argues that the proposal would conflict with CS Policy CP30 in respect of this main issue; however, it relates mostly to character and appearance matter and thus is not directly relevant.

Standards of accommodation

35. The proposal includes an open plan kitchen, dining and living room that would be dual aspect. That room would benefit from three sets of windows, including a large bay one facing towards PGA, and glazed folding doors. As such, it would benefit from satisfactory levels of outlook, light and ventilation. Although one of the bedrooms would be served by a narrow window, it would benefit from the aforementioned rooflight, which would provide adequate levels of daylight and sunlight. Outlook from the rooflight would be limited; however, all the other habitable rooms would benefit from dual aspects and unrestricted outward views. Moreover, a family sized dwelling is proposed and thus the users of that bedroom could use the other rooms for most aspects of daily life.
36. Following amendments to the proposal as described above, the dwelling's ceiling heights and room sizes would be satisfactory. Additionally, private

amenity spaces for each dwelling following the development would exceed the minimum size requirements of DM Policy DMD9.

37. The proposal would provide satisfactory standards of accommodation for the future occupiers. In this regard, the proposal accords with LP Policies D3 and D6, DM Policies DMD6 and DMD8, CS Policy CP4, and Chapter 12 of the Framework, which seek to build strong and inclusive communities and secure satisfactory living standards.

Other Matters

38. The Council contends that the proposal conflicts with LP Policies GG2 and H2 in respect of its refusal reasons. However, these policies relate to making best use of land and the provision of housing on small sites and therefore I find no direct conflict with them in respect of those main issues.
39. Although not reflected in the refusal reasons, the Council considers that the proposed drainage strategy is unacceptable. Additionally, the Council's drainage team has objected to the proposal. Although a comprehensive strategy has not been provided, there is nothing compelling before me which indicates that a suitable strategy could not be secured by means of a condition. As such, the proposal is acceptable in respect of drainage.

Planning Balance

40. The proposal would contribute to the delivery and supply of housing by providing family sized and energy efficient accommodation in an accessible location. Moreover, the Council has not disputed that there has been a consistent and significant undersupply of family sized housing in the borough over many years. Additionally, although the Council contends that the use of residential garden land is not required to meet its local housing targets, the latest Housing Delivery Test results do not offer support for that stance, which would frustrate housing delivery further.
41. I also recognise that the development plan and the Framework encourage the delivery of housing on small sites and the incremental intensification of accessible residential locations such as the site. In addition, the appellant sets out that the proposal would make a positive contribution to biodiversity. As the site is principally laid to lawn and extensive hedge planting is proposed alongside other new landscaping, I have no compelling reasons to disagree.
42. However, having regard to the small amount of housing proposed, the development's benefits are limited. Conversely, I have found that the proposal would harm the character and appearance of the area. Additionally, the proposal would fail to discourage car use in a location wherein car-free development would be appropriate and undermine the promotion of sustainable transport modes.
43. Taken together, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when the policies in the Framework are taken as a whole. Accordingly, the Framework does not indicate in favour of the development.
44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. Although there are material

considerations indicating in favour of the proposal, these do not outweigh the proposal's conflict with the development plan.

Conclusion

45. For the reasons given above, the appeal is dismissed.

Mark Philpott

INSPECTOR