



Appeal Decision

Site visit made on 13 May 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2022

Appeal Ref: APP/Q5300/W/21/3285138

Rear of 49-55 Albany Park Avenue, Enfield EN3 5NU

- 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 outline planning permission
 - The appeal is made by Mr M & O Quresi against the Council of the London Borough of Enfield.
 - The application Ref 20/03465/OUT, is dated 13 October 2020.
 - The development proposed is construction 4 x 3 bed houses on site r/o 49-55 Albany Park Avenue.
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Decision

1. The appeal is dismissed and outline planning permission for construction 4 x 3 bed houses on site to the rear of 49-55 Albany Park Avenue is refused.

Preliminary Matters

2. The appeal was initially made in the name of a different appellant to the names given on the application form; however, it was ultimately confirmed that the appeal should proceed in the name of the original applicants.
3. The application was made in outline with all matters reserved. I have determined the appeal on this basis, and treated the plans submitted as being for illustrative purposes only.
4. The appeal is made against the failure of the Council to issue a decision on the application within the prescribed period. It indicates in its statement of case that it considered the application invalid due to insufficient detail being submitted as required under its validation requirements, specifically details of access. However, the Council has not provided evidence to substantiate its position. Conversely, the appellants show a screenshot from the Council's website indicating the application was made valid on 21 April 2021 and I note that public consultation was undertaken on the application.
5. Therefore, I am satisfied that the application was valid and I have proceeded to consider the planning merits of the proposal. The Council's putative reasons for refusal are set out within its statement of case, and I have drawn the main issues of the appeal from these.

Main Issues

6. The main issues are:
 - i) The effect of the proposal on the character and appearance of the area;

- ii) Whether the proposal would be capable of providing suitable access for pedestrians and emergency vehicles;
- iii) The effect on the living conditions of neighbouring occupants, with particular reference to outlook and sense of enclosure;
- iv) The effect of the proposal on existing trees, and;
- v) Whether the proposal is capable of providing satisfactory storage for cycles, refuse and recycling.

Reasons

Character and Appearance

7. The appeal site comprises the majority of the rear gardens of four consecutive dwellings on Albany Park Avenue, Nos 49, 51, 53 and 55. Although indicated on the submitted plans to be separate gardens, I saw on site that they now form a single area with no internal sub-division, except for a small area to the rear of No 49. Four garages/outbuildings stand to the rear of the site, next to an unmade, single track service road which runs from the main street down the side of No 49 and around the rear of all properties up to No 91 where it returns to meet the main road.
8. The dwellings form part of a short terrace of eight. These terraces are characteristic of Albany Park Avenue. Single storey extensions exist to each dwelling in the group. The rear gardens are narrow and deep, with the aforementioned outbuildings bookending the gardens at the rear. The rear elevations of dwellings on Stainton Road stand to the side and rear of the site, separated by the service road and their rear gardens.
9. The layout of Albany Park Avenue is suburban in character, with consistent building forms and plot widths. The generous depth of the rear gardens and their distance from the public realm provides a sense of spaciousness and tranquillity to the surroundings. The proposed four dwellings are indicatively shown laid out as a terrace, parallel to and facing the existing dwellings at Nos 49-55, with gardens to the rear replacing the existing outbuildings, and access gained via the service road to an access road at the front with parking and turning areas. I recognise, however, that other layouts could be put forward at reserved matters stage.
10. The proposals would represent a form of backland or tandem development, of which there are no existing examples to the rear of dwellings on Albany Park Avenue. I recognise that there is built form in terms of the outbuildings to the rear of most of the properties between Nos 49 and 91, some of which have quite large footprints. However, so far as I am aware, none of these are separate dwellinghouses or greater than a single storey in height. Based on the condition of the road and some outbuildings, they are not used on a regular basis, but appeared to me to be ancillary features which typify the functional character and secondary status of the area to the rear of the dwellings around the service road.
11. The introduction of four dwellings in this location would result in the gardens of the existing dwellings being shortened to a fraction of their current depth. Whilst the appellants point to the shorter depth of the gardens to the west, the central section from Nos 49-91 is characterised by its deep gardens. The

dwelling would not front the road but would sit significantly back from the street frontage. As a result, they would not appear as a consistent part of the street scene, but would form a conspicuous, detached cluster of buildings that would interrupt the pattern of development in a jarring manner. The proposed dwellings would create a denser, more urban form of development with small gardens, at odds with the prevailing linear pattern and contrary to the rhythm, shape and spacious depth of plots along Albany Park Avenue.

12. The appellants indicate that the dwellings would be two storeys in height, which would render them a highly visible presence from neighbouring properties, particularly the shortened gardens of Nos 49-55, the adjacent gardens of Nos 57 and 59, which I saw were in active use, and the upper floors of dwellings in Stainton Road. The proposed dwellings would erode the spacious qualities of the rear gardens, instead introducing significant built form and hardstanding for parking areas and the access driveway, which would also be anomalous features to the rear of the terrace.
13. I acknowledge that the layout submitted is illustrative, but given the size of the site, the quantum of development proposed and the need to provide access, parking and turning areas, along with garden space, I consider that any layout being advanced at reserved matters stage is unlikely to diverge significantly from that shown. This aside, a different arrangement of the dwellings would not overcome the concerns identified, as it would still be an uncharacteristic form of backland development in this area.
14. The appellants refer to a number of developments elsewhere in the Borough. However, no plans or other details of the planning circumstances of these developments have been provided, and therefore I am unable to ascertain whether they are comparable to that before me. In any event, they relate to developments on different streets where there will be inevitable differences in site circumstances. Accordingly, I afford limited weight to these other decisions, which do not alter my findings on this issue.
15. For the reasons set out, therefore, I conclude that the proposal would significantly harm the character and appearance of the area, in conflict with Policies D4 of the London Plan (March 2021) (the LP), Policy 30 of the Enfield Core Strategy (November 2010) (the CS); and Policies DMD6, DMD7, DMD8, and DMD37 of the Enfield Development Management Document (November 2014) (the DMD). Together, these policies require high quality, design-led development that is appropriate to the existing pattern, density and character of the area.

Access for Emergency Vehicles and Pedestrians

16. Access is a reserved matter; however, it is still necessary to establish whether access can be gained in principle to the site, in this case for emergency vehicles. The service road is a narrow, unmade and grassed lane with a locked gate, indicated to be some 3 metres wide. The appellants indicate that the access can be widened to 4.25 metres by taking a strip of land from the side of No 49 and the gate relocated further along the service road.
17. I note the local highway authority's comments that emergency vehicles require a minimum access width of 2.75 metres and need to be able to get within 45 metres of a dwelling. The level of detail on the plans is limited, but from what I saw on site, it may be possible to widen the service road to the point where it

enters the appeal site. Details of this could be provided at reserved matters stage.

18. The local highway authority did not raise objection in terms of pedestrian access. Given the scale of the development, the expected number and frequency of pedestrians would be low, and unlikely to be a source of conflict with vehicles, which would have to travel at low speed along the service road given its size.
19. Therefore, on the evidence before me, I am satisfied that the proposal could make suitable provision in principle for access by pedestrians and emergency vehicles. No conflict would therefore arise with Policy DMD47 of the DMD, which requires new development to provide adequate, safe and functional access for pedestrians and emergency services vehicles.
20. The Council also refers to conflict with Policies DMD45 and DMD46, but these relate specifically to parking provision and vehicle crossovers, and so are not directly relevant to the point of dispute.

Living Conditions

21. The constraints of the appeal site mean that the dwellings are likely to be orientated towards the existing dwellings at Nos 49-55. It is possible that the dwellings could be positioned to provide sufficient separation distances between facing windows to prevent an undue loss of privacy from overlooking.
22. However, four dwellings, whether in a terrace as shown illustratively on the submitted plans, or a different layout, would introduce substantial massing that would overbear on the gardens of Nos 57 and 59, diminishing the outlook from, and enjoyment of, the gardens for occupants of these properties. The outlook from the rear of the existing dwellings at Nos 49-55 would also be significantly impeded, with the open aspect of the deep rear gardens replaced with immediate boundary walls and dwellings standing conspicuously behind them.
23. The presence of dwellings and additional occupants would also significantly increase the level of activity compared to normal garden use, particularly through vehicle movements which would increase considerably in frequency compared to the sporadic use of the service road at present. This would particularly cause noise and disturbance for occupants of Nos 49 and 47 either side of the service road as vehicles would pass immediately next to these dwellings and their rear gardens.
24. For these reasons, I consider the proposal would lead to adverse impacts in terms of noise, disturbance and outlook which would significantly harm the living conditions of neighbouring residents. The proposal would conflict with Policy CP30 of the CS and Policies DMD6, DMD7, DMD8 and DMD37 of the DMD in terms of their requirements that new development is designed so as to preserve residential amenity, including in terms of outlook, noise and disturbance.

Effect on Trees

25. The Council criticises a lack of information in respect of the effect of the proposal on an existing street tree on Albany Park Avenue. However, the tree is located in line with the common boundary between Nos 49 and 51, several metres from the service road. No development is proposed in this area, and I

have no reasons to consider that the proposal would be likely to pose a severe risk to the health of this tree. Any residual impact, such as from construction activity, could be addressed by way of a suitably worded planning condition were the appeal to be allowed. No other trees are referred to by the Council, and those I saw on site were modest specimens that, so far as I am aware, are not subject to protection. Therefore, I find no conflict with Policy G7 of the LP or Policy DMD80 of the DMD which require development to retain trees of value whenever possible.

Cycle Storage

26. The Council refers to the comments of the local highway authority which point to a lack of information in respect of cycle storage. 8 spaces are indicated to be required. The precise location of cycle storage could be addressed through the reserved matter of layout, but on the basis of the illustrative plans, there appears to be sufficient space within the overall site to accommodate cycle storage within a fully realised layout. I find no conflict in this respect with the aims of Policy T5 of the LP, Policies CP24 and CP25 of the CS and Policy DMD45 of the DMD to encourage sustainable modes of transport, including cycling, through provision of secure, safe and accessible cycle storage.

Waste Storage

27. The Council refers to distance guidelines within the Manual for Streets requiring refuse vehicles to be able to get within 25 metres of the storage point for refuse and residents not being required to move refuse more than 30 metres to get to the storage point. The site appears to be more than 30 metres from the highway, which would either require residents to move bins a considerable distance out to the highway, or refuse vehicles to enter the site to collect. Given my conclusions above with respect to access for emergency vehicles, it is possible that access could also be provided for larger refuse vehicles to access the site.
28. Moreover, there is nothing in evidence which indicates that sufficient space could not be found within a future site layout for storage of refuse and recycling.
29. On the evidence before me, therefore, the proposal is capable of making suitable provision in principle for refuse storage and collection, in accordance with Policy D4 of the LP, Policy CP22 of the CS and Policy DMD8 of the DMD and Enfield's Waste Planning Guidance, which require development to make suitable provision for on-site waste storage and collection for the lifetime of the development.

Other Matters

30. I have had regard to other matters considered by the Council, including parking and external amenity space for the dwellings, and to the comments of interested parties raising other matters not encompassed within the main issues, including the effect on ecology, lack of public transport options and strain on local services. However, I have limited information before me in these matters and they are not contested by the Council at the appeal stage. As my findings in respect of the main issues point to the dismissal of the appeal, it is not necessary to consider these other matters in further detail, as they would not alter my overall decision.

31. I acknowledge that the proposal would provide four dwellings which would contribute to the Council's housing targets; however, the scale of development is such that this would be a modest contribution attracting limited weight in favour of the proposal.
32. There would also be economic benefits arising from the construction of the dwellings and from use of local services by future residents. Again, however, these benefits would be modest in scale and attract limited weight.

Conclusion

33. The proposal would result in conflict with the development plan, taken as a whole, to which I afford significant weight. Other material considerations in this case do not indicate that permission should nevertheless be forthcoming despite this conflict.
34. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR