



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: 09 JUNE 2022

Appeal Ref: APP/Q5300/W/21/3287693

366 Southbury Road, Enfield EN3 4JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Mehmet Belek against the decision of the Council of the London Borough of Enfield.
 - The application Ref 19/03400/CND, dated 3 January 2020, sought approval of details pursuant to conditions Nos 3, 4, 5, 6 and 7 of planning permission Ref 16/02774/FUL, granted on 10 October 2016.
 - The application was refused by notice dated 26 May 2021.
 - The development proposed is conversion of existing premises into 1 x 3-bed flat at ground floor and 1 x 2-bed flat at first floor, involving first floor rear extension and front porch.
 - The details for which approval is sought are:
 - Condition No 3: Trees, shrubs and grass to be planted
 - Condition No 4: Refuse storage and recycling
 - Condition No 5: Siting, number and design of cycle parking spaces
 - Condition No 6: Submission of energy statement
 - Condition No 7: Internal consumption of potable water
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Decision

1. The appeal is dismissed insofar as it relates to the details of landscaping and cycle storage submitted pursuant to Conditions Nos 3 and 5 attached to planning permission Ref 16/02774/FUL.
2. The appeal is allowed insofar as it relates to the details of refuse storage, energy performance and water consumption submitted pursuant to Conditions Nos 4, 6 and 7 attached to planning permission Ref 16/02774/FUL, granted 10 October 2016. These details are approved in accordance with the application Ref 19/03400/CND, dated 3 January 2020 and the relevant plans and documents submitted with it.

Procedural Matter

3. The appeal form indicates that the reason for the appeal was the Council's refusal to vary or remove a condition. However, the application form is clear that this was an application for approval of details reserved by condition, and the other evidence before me confirms this. I have therefore considered the appeal on this basis.

Background

4. The appeal site is a semi-detached dwelling on the northern side of Southbury Road. Planning permission was granted in 2016 for the sub-division of the

dwelling into two flats, with associated extensions. Works appeared to be nearing completion at the time of my visit, with the extensions already in place, as were cycle and bin storage areas for which approval is sought.

5. Of the conditions submitted for approval, Conditions Nos 3, 4, 5 and 6 required details to be approved prior to the commencement of development. However, there is no indication from the Council that it considers these conditions are *conditions precedent* that go to the heart of the permission and that, consequently, the permission has not been lawfully implemented. Ultimately, whether they are conditions precedent or not, or whether there has been a lawful commencement of development on the site, are matters that lie outside my remit in the determination of this appeal and so do not form part of my considerations, which are limited to whether the information submitted to discharge the conditions is satisfactory.
6. The Council has provided no officer report or appeal statement in respect of this case. Neither does its decision notice offer precise reasons for its refusal to approve the details submitted.

Main Issues

7. The main issue for each condition is whether the details submitted are acceptable and sufficient to discharge the condition, having regard to its reason for being imposed.

Reasons

Condition No 3 - Trees, shrubs and grass to be planted

8. The appellant indicates that the Council sought a landscaping arrangement for the front garden that reflected the 2016 permission but argues that this was difficult to achieve given the need to accommodate cycle and bin storage structures which had to be placed in the front garden.
9. The front garden area is set behind a low brick wall with railings above between taller pillars and a pedestrian entrance gate to one side. A small area of grass exists behind the wall with low planter boxes forming its border. The remainder of the space is laid to concrete, including the path leading from the front gate. This hardstanding continues down the side of the building to the rear garden.
10. A large, metal bicycle cage has been erected to one side of the front garden, behind the grassed area and in front of the side passage. On the other side, bin storage has been installed, in the form of slatted timber enclosures.
11. I saw that the nearest neighbouring properties appeared to have generally simple landscaping with front gardens laid to grass with some hedge planting. The maintenance of a simple grassed area would be acceptable in this context. However, the drawing submitted by the appellant (201911/366SR/VAR/02) does not show the grassed area at all. Rather, it shows the cycle storage positioned where the grassed area exists on site.
12. Consequently, the details before me do not sufficiently demonstrate an acceptable landscaping scheme. Such details are necessary given the condition includes an ongoing requirement to replace any planting that dies or becomes damaged or diseased within five years and to do so in accordance with the

approved details. Therefore, I find that these details are not satisfactory to discharge Condition No 3.

Condition No 4 - Refuse storage and recycling

13. The location of the refuse storage installed on site corresponds with the location shown on drawing 201911/366SR/VAR/02. The slatted timber enclosures I saw were somewhat rickety in appearance, but relatively unassuming in their positioning to the side of the garden against the hedgerow of the adjacent property. Although the bin storage would be visible from the public realm, the narrow side passage, which includes a step, would make it difficult for occupants to move full bins from the rear garden for collection. On the evidence before me, I am satisfied that the details provided in respect of bin storage are satisfactory and can be discharged.

Condition No 5 - Siting, number and design of cycle parking spaces

14. The reason for the imposition of this condition is to ensure the provision of cycle parking spaces in line with the Council's adopted standards. These standards have not been provided in evidence, and therefore it is unclear whether the cycle storage on site would be sufficient to serve the development.
15. However, the requirement of the condition to provide details of the siting and design of the spaces also suggests an intention by the Council to ensure the cycle storage is acceptable in terms of character and appearance. The cycle storage cage installed on site is a substantial structure standing conspicuously in the front garden. Its utilitarian form and materials lack any aesthetic quality and it appears as an overt security measure that presents an intimidating, defensive appearance that conflicts strongly with the residential character of the site and detracts from its appearance.
16. I have no evidence from the appellant to demonstrate that a structure of this size and form is necessary, nor any indication as to whether other designs for cycle storage have been considered. The appellant has also not provided substantive reasons why the cycle storage is required to be within the front garden, given there is ample space in the rear garden. Whilst the side passage is narrow, particularly where the side gate is, it appeared capable of moving a bicycle through. Therefore, I am not persuaded that the siting in the front garden is unavoidable, or that no more discreet location could not be found within the site.
17. On the evidence before me, therefore, I find that the siting and design of the cycle storage within the front garden is harmful to the character and appearance of the area. Along with the lack of detail in respect of the number of spaces to be provided, the details before me are not acceptable to discharge the condition.

Condition No 6: Energy statement

18. The condition requires it to be demonstrated that the development will achieve a 19% improvement above Part L of the Building Regulations 2013, which relate to conservation of fuel and power. The appellant has submitted an Energy and Sustainability Statement (May 2021) which concludes that the development will achieve this requirement. I have no evidence from the Council to challenge the appellant's position, and therefore I am satisfied that these details are acceptable to discharge the condition.

Condition No 7: Internal consumption of potable water

19. The condition requires that internal consumption of potable water is equal to or less than 105 litres per person per day. The appellant's Energy and Sustainability Statement (May 2021) calculates a consumption rate of 99.34 litres per person per day, meeting the requirements of the condition. As above, I have nothing from the Council to dispute these figures. Therefore, I find these details acceptable to discharge this condition.

Conclusion

20. For the reasons set out above, I conclude that the appeal should be allowed insofar as it relates to details submitted pursuant to Conditions Nos 4, 6 and 7, and dismissed insofar as it relates to details submitted pursuant to Conditions Nos 3 and 5.

K Savage

INSPECTOR