



Appeal Decision

Site visit made on 28 June 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st July 2022

Appeal Ref: APP/Q5300/W/21/3288183

74 Cedar Avenue, Enfield EN3 7JD

- 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 N Ali against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/02776/FUL, dated 15 July 2021, was refused by notice dated 9 September 2021.
 - The development proposed is sub-division of site and erection of 2x semi-detached 2-storey single family dwellings involving hardstanding, associated parking, refuse and recycling bins.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to accurately represent the proposal and I have therefore used it within this decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - Highway safety;
 - Flood risk; and
 - Carbon emissions.

Reasons

Character and Appearance

4. The appeal site is located in a suburban area characterised by semi-detached and terraced properties. The proposed dwellings would be located to the side of 74 Cedar Avenue which is one of a pair of semi-detached dwellings.

5. The site is located close to the junction between Cedar Avenue and Swan Way. No 74 and the adjoining dwelling of 72 Cedar Avenue are set at an angle to this junction, and the proposed dwellings would reflect this alignment.
6. However, dwellings in this area are characterised by a layout which fronts onto the highway and which are separated from the front boundary by an extent of garden. Although Nos 72 and 74 are set at an angle to the junction, this alignment respects the curve of the highway and appears as a logical transition between the alignment of dwellings on adjoining streets. However, due to the constraints of the site, the appeal proposal would appear as an incongruous continuation of the arrangement of Nos 72 and 74 which would not sit comfortably within the wider streetscape. In particular, the proposed House B would be located in close proximity to the boundary with Swan Way, and due to this 'corner on' arrangement and the limited set back from the highway it would appear as a jarring and incongruous feature within the streetscape.
7. There are dwellings on the opposite side of the junction which are set at an angle, but these do not project as close to the boundary with Swan Way as would the appeal proposal. There are also dwellings elsewhere on Swan Way as well as on Carterhatch Road and which are located in close proximity to the edge of the highway, but these respect the frontage alignment of the streetscape and do not establish a context for the layout of the appeal proposal.
8. The Council refers to the bulk and massing of the proposed dwellings compared to those of Nos 72 and 74. However, whilst the appeal proposal may be slightly wider, the detailing of the proposal would reflect those of the neighbouring dwellings. There is also some variation in the width and design of dwellings in this area, and on that basis I consider that the design and scale of the dwellings is acceptable. However, this does not lead me to a different conclusion in respect of the harm arising from the layout of the site.
9. I conclude that due to its layout and proximity to the boundary with the highway, that the proposal would lead to significant harm to the character and appearance of the area. The proposal would therefore be contrary to policies D3 and D4 of the London Plan 2021; CP 30 of the Core Strategy 2010; and DMD 7, DMD 8 and DMD 37 of the Development Management Document 2014 (the DMD). Together, these policies seek high quality development of garden land that takes account of the nature of the surrounding area and land use, and responds to its context through its layout, orientation, scale, appearance and shape. The proposal would also be contrary to the National Planning Policy Framework (the Framework) in respect of achieving well-designed places.

Highway Safety

10. The proposal would create a new vehicular access serving a parking area to the front of house A. As well as providing access for vehicles this would also serve as the pedestrian access to the dwelling.
11. The new access would be located in close proximity to the junction between Cedar Avenue and Swan Way. The proposal would therefore introduce new vehicle movements at a point where drivers would be concentrating on passing through the junction, and pedestrians would be focussed on crossing the road or passing the proposed access. Due to the arrangement of the junction, vehicles and pedestrians would approach the proposed access from a number

of different directions which drivers of vehicles may not be aware of, even allowing for the visibility splay indicated by the appellant. This would be likely to lead to conflicts between vehicles and pedestrians to the detriment of highway safety.

12. The appellant contends that the proposed access would replicate that serving Nos 72 and 74. However, although a dropped kerb access is depicted on the plans, this existing feature is for pedestrian rather than vehicle access, and does not establish the principle for a vehicular access at this point.
13. I conclude that due to its proximity to the junction, the proposed access would lead to unacceptable harm to highway safety. The proposal would therefore be contrary to policies T1, T2, and T4 of the London Plan; CP 24 and CP 25 of the Core Strategy; and DMD 7, DMD 46, and DMD 47 of the DMD. Together, these policies seek to address matters of highway safety, provide appropriate access to the public highway, and provide safe convenient routes for pedestrians. The proposal would also be contrary to the Framework which seeks to prevent an unacceptable impact on highway safety.

Flood Risk

14. The appeal site is identified as have a high risk of surface water flooding. A Flood Risk Assessment (FRA) was submitted with the planning application, however the Council has expressed concern that this was not sufficiently detailed and did not set out flood risk mitigation measures.
15. The appellant has submitted a further FRA with the appeal, which includes reference to the replacement of impermeable surfaces and the use of soakaways, amongst other things. However, these measures are only set out in general terms and do not represent a substantive demonstration that the proposal would mitigate the risk of flooding and reduce the risk of flooding elsewhere.
16. In their Statement of Case, the appellant contends that an FRA is not required for reasons including the size of the site and sources of flooding. However, it has been clearly identified that the site is at risk of surface water flooding, and on that basis I consider that an FRA and a Drainage Strategy are required.
17. The appellant also considers that this matter could be addressed by condition. However, on the basis of the limited evidence provided, there is no certainty that such a condition would ensure that measures in respect of flood risk and drainage would be effective.
18. I conclude that it has not been suitably demonstrated that the proposal would mitigate the risks of flooding for future occupiers or reduce the risk of flooding elsewhere. The proposal would therefore be contrary to policies SI 12 and SI 13 of the London Plan; CP 28 of the Core Strategy; and DMD 59, DMD 60, DMD 61 and DMD 62 of the DMD. Together, these policies seek to address the management of surface water and address matters of flood risk. The proposal would also be contrary to the Framework with regards to meeting the challenges of flood risk.

Carbon Emissions

19. The Council refers to policy DMD 51 of the DMD which states that development will be required to demonstrate how it would minimise energy related CO₂

emissions, and contends that due to the lack of an energy statement that the appellant has failed to demonstrate how this would be achieved.

20. However, there are a variety of methods as to how such emissions could be minimised, and it is feasible that these could be incorporated in the design of the proposal. Given the minor scale of the development, it would be appropriate to require an energy statement as a planning condition, rather than representing a reason to refuse planning permission.
21. Subject to a condition requiring the submission of an Energy Statement, the proposal would make suitable provision for the minimisation of energy related CO₂ emissions and would therefore comply with policies SI 2 of the London Plan; CP 20 of the Core Strategy; and DMD 51 and DMD 53 of the DMD. Taken together, these policies seek to ensure sustainable energy use. The proposal would also not conflict with the Framework in respect of meeting the challenge of climate change.

Other Matters

22. The appellant refers to a number of planning permissions granted in the surrounding area which they consider establish precedents in favour of the appeal proposal. However, I do not have full details of the circumstances that led to those proposals being accepted and so cannot be certain that they represent a direct parallel to the appeal proposal, including in respect of layout, the relationship with the wider streetscape, the relationship with highway junctions, and pre-existing access arrangements.
23. I am mindful of the benefits of the proposal, including that it would lead to the provision of two new dwellings in a sustainable location on an underused area of land. However, even given the Council's performance on the delivery of housing, the contribution to housing supply from two new dwellings would be limited.

Conclusion

24. The Council states that it has failed to meet the Housing Delivery Test and refers to paragraph 11(d) of the Framework. However, I have concluded that the proposal would fail to meet the policies of the Framework in respect of areas at risk of flooding and that this provides a clear reason for refusing the development. Therefore, on the basis of footnote 7 of the Framework, the 'tilted balance' of paragraph 11(d) is not triggered.
25. Notwithstanding my conclusions in relation to carbon emissions, the proposal would conflict with the development plan as a whole in respect of character and appearance, highway safety, and flood risk and drainage. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR