



Appeal Decision

Site visit made on 16 August 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2022

Appeal Ref: APP/Q5300/W/22/3290633

1 - 44 Avalon Close, Enfield EN2 8LR

- 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 Tas Alexandrou (Southern Territory (UK) Ltd) against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/01308/FUL, dated 7 April 2021, was refused by notice dated 6 September 2021.
 - The development proposed is construction of a part 3rd floor and 4th floor to both existing blocks to provide a total of 8 units (4 on each block) comprising 4 x 2 bed split level units, 2 x 2 bed flats and 2 x 1 bed flats; 8 additional car parking spaces, a bicycle store for 16 bikes plus 2 Sheffield stands and additional bins (to be located within the existing bin shed).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Tas Alexandrou (Southern Territory (UK) Ltd) against the Council of the London Borough of Enfield. This is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development upon the privacy of existing residents on the third floor of 1-44 Avalon Close.

Reasons

4. 1-44 Avalon Close comprises two blocks of flats of very similar appearance, each containing a maximum of four storeys. They are set within a parcel of landscaped open space. The flats are located within an area generally characterised by two and three storey properties whilst low rise blocks of flats are quite common in the area.
5. The blocks contain a centrally positioned staircase with circulation space from which each individual flat is accessed. Windows serving the flats are predominately located within the walls which face the landscaped open space. However, the arrangements on the third floor of each block do differ somewhat from the floors beneath. The third floor flats are accessed via open air circulation space and do contain windows adjacent to this space. Balconies serve flats on these top floors.

6. On the third floor the existing communal staircase access arrangement would be revised. Consequently, walking routes to the flats on that floor would alter. At present, when walking between the staircase and the entrance doors serving Nos 22 (within Block A) and 44 (within Block B) the route is straight and only angled views towards the obscure glazed bathroom windows that serve neighbouring Nos 21 and 43 are available. When undertaking this walk, there is no reason to deviate from this straight course in order to gain entrance to the flats and therefore make the view into the bathroom windows less oblique. Presently, anyone approaching Nos 21 and 22 in Block A, and 43 and 44 in Block B also has no reason to walk toward Nos 19 and 20 or 41 and 42.
7. In contrast, in the revised arrangement, it would be necessary for anyone approaching Nos 22 and 44 to walk along the revised communal hallways whereupon the bathroom windows would be directly in front of them. As a part of this walk, and before a corner is turned the occupier or visitor would come to within close proximity of the bathroom windows. Given how direct and, at points, how close these views would be, together with the sensitivity of the rooms involved and even accounting for the obscure glazing, unacceptable harm to the privacy of the occupiers of Nos 21 and 43 would occur.
8. In the revised arrangement it would also be the case that anyone exiting the communal staircase would do so directly facing the bathroom windows of Nos 19 and 41 and be required to walk past the bathroom windows of Nos 20 and 42 in order to approach the remaining flats on the floor. An increase in pedestrian movements past, and in close proximity to, the bathroom windows serving Nos 19, 20, 41 and 42 would therefore occur with, again, resultant harm to the privacy of those occupiers. The proposed communal staircase access arrangements differ from those subject to the previous appeal, would result in different walking routes and, in turn, different effects upon the living conditions of occupiers on the third floor. For the above reasons, I find that harmful effects upon privacy would result.
9. Each of the 8 flats proposed would be accessed via entrance doors on the fourth floor not the third. No entrance doors serving the proposed flats would therefore be located in very close proximity to the bathroom windows of Nos 21 and 43. Such an arrangement was included in a previous rendition of the scheme and formed part of the grounds on which an earlier appeal was dismissed.
10. The majority of windows proposed to serve the 8 flats would be positioned so that views therefrom would be directed away from any existing third floor windows and balconies. The remaining minority of windows would be set at a high level which would restrict the potential for overlooking. As a result, existing third floor residents would not suffer from a loss of privacy by reason of the positioning of the proposed windows.
11. However, due to the harm identified upon the occupiers of Nos 19, 20, 21, 41, 42 and 43, the development would fail to adequately protect the privacy of the occupants of those properties, contrary to Policies D6 of the London Plan, 2021 and DMD8 of the Enfield Development Management Document, 2014. In summary, and amongst other things, those policies seek to ensure that development is of high quality and protects the living conditions of occupiers including in respect of their privacy. Whilst Policies CP4 and CP30 of the Enfield Core Strategy 2010 do relate to the design of development, there is no detail

within them of particular relevance to privacy and therefore I do not find that those policies are influential upon my conclusions on the main issue.

Other Matters

12. I note that the effects of the development upon the character and appearance of the area and upon the levels of the outlook that existing third floor residents experience were not cited within the Council's reason for refusal. Such matters were also not the grounds on which the earlier appeal was dismissed and I have no reason to disagree with these assessments. I also note that there is no dispute that the proposed units would meet the necessary minimum internal space standards. However, the lack of harm in respect of these matters is neutral in the planning balance and so does not outweigh the harm I have identified in respect of the main issue.
13. I note the appellant's submissions that the Council has failed to take proper account of amendments made to the proposed development but my separate Decision in relation to the costs application concludes on whether the Council has behaved unreasonably.

Conclusion

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
15. The Housing Delivery Test indicates that the delivery of housing within the London Borough of Enfield was substantially below (less than 75% of) the housing requirement over the previous three years. In such instances paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged. There are no relevant Framework policies protecting areas or assets of particular importance in this case.
16. The 8 flats proposed would boost the supply of housing in the area. I give this matter substantial weight given the housing delivery position.
17. On the other hand, I have found that the proposals would adversely affect the living conditions of existing residents. I find that this harm is of such magnitude that it significantly and demonstrably outweighs the aforementioned benefits of the development when assessed against the policies in the Framework taken as a whole.
18. In turn, the conflict that I have identified with the development plan is not outweighed by other considerations, including the Framework. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

H Jones

INSPECTOR