



Appeal Decision

Site visit made on 26 September 2022

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2022

Appeal Ref: APP/Q5300/W/22/3293861

7 Second Avenue, Enfield EN1 1BT

- 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 Osman Ismail, on behalf of Lycium Ltd, against the decision of the London Borough of Enfield.
 - The application Ref 21/03996/FUL, dated 20 October 2021, was refused by notice dated 2 February 2022.
 - The development proposed is the sub-division of site and erection of a pair of semi-detached dwellings together with parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended site plan (Secon-PA-C01-02-C) has been submitted in support of the appeal. This shows on plot parking reduced from four to two spaces and the addition of cycle and bin stores for both proposed dwellings. This plan has been submitted to address two of the Council's Reasons for Refusal. These changes are not substantive, and it would not prejudice any party for me to take these into consideration. The Council has not commented as to whether it finds that the amendment would address its concerns with respect to Reasons 3 and 4. Nevertheless, I shall take the revised plan into account in this appeal.
3. Furthermore, The Council's fifth Reason for Refusal related to the loss of trees and hedging. However, during my visit I observed that the site had been cleared of all vegetation. The appellant confirmed that this was undertaken following the Council's decision. As such, I have not considered this matter further.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the living conditions of 9 Second Avenue (No 9) with particular respect to privacy,
 - The effect of the proposed scheme on the character and appearance of the area, including with respect to the effect on tree and hedge cover, and
 - Whether the proposal would promote sustainable travel with respect to the provision of on-plot parking and cycle storage.

Reasons

Living conditions – existing

5. The development plan for the borough includes the Enfield Development Management Document (2014) (DMD). DMD policy DMD10 provides guidance for the separation distances to be maintained between new development and existing buildings. This seeks a minimum distance of 11 metres between windows and side boundaries unless such a relationship would not result in inadequate privacy for surrounding development. The rear elevation of the proposed dwellings would be around 5.5 metres from the rear boundary of the site. Rear windows would serve a living/dining room at ground floor and two bedrooms for each dwelling at first floor. Views from the ground floor windows into neighbouring gardens would be mostly screened by the existing rear boundary fence. However, views from first floor windows would overlook several rear gardens and the windows of the dwellings of surrounding neighbours, most especially the rear garden of No 9.
6. Views into neighbouring windows of dwellings would be oblique and a reasonable distance from the proposed bedroom windows. However, the level of overlooking into most of the rear garden of No 9 would be extensive over a short distance. Due to the number and size of rear facing windows, the magnitude of overlooking would be invasive and significantly harmful to the living conditions of occupiers of No 9. This effect would not be mitigated by the existing landscaping within these gardens as these would only partially screen views.
7. The Appellant references several local examples of existing dwellings in close proximity to rear boundaries. However, this evidence does not adequately demonstrate that these are sufficiently similar to illustrate that the effect of overlooking onto No 9 would be similar. Furthermore, due to the limited size of the proposed rear gardens, these could not accommodate substantive tree or hedge screening to reduce overlooking without compromising the proposed garden areas.
8. Consequently, the proposed development would result in substantial harm to the living conditions of occupiers of neighbouring dwellings through a material loss of privacy.
9. Accordingly, the proposal would conflict with policy D3 of the London Plan (2021), policies CP4 and CP30 of the Enfield Core Strategy (2014) (CS) and DMD policies DMD6, DMD7, DMD8, DMD10 and DMD37 in regard to the effect on living conditions. These seek, inter alia, for development to be high quality and not result in the creation of inadequate privacy for surrounding development.

Character and appearance

10. The appeal site is to the rear of a corner plot at the junction of Second Avenue and Main Avenue. Second Avenue consists of semi-detached housing that include decorative brick elevations and bay windows. These dwellings form a regimented formation with a uniform pattern and design of development. In contrast, development along Main Avenue is less uniform with a more diverse range of housing that includes terraced and detached properties. The appeal site consists of garden land which connects to other rear gardens of dwellings

of Second and Third Avenues. This open space contrasts with the comparatively close-knit pattern of development in the area. In being inconsistent with the prevailing character of the area the site makes a neutral contribution to its character and appearance.

11. The proposed dwellings would have hipped roofs, brick banded elevations and bay windows. These features would add interest and complement similar features found in local development. The proposed dwellings would be recessed from the highway to a similar extent as housing opposite the site and stand behind the informal front building line formed by the side elevations of 7 Second Avenue and 1 Third Avenue. Although the footprint of the dwellings would occupy a large proportion of the site, their proximity to the boundaries would be in keeping with the area and some local garden areas. Consequently, the proposal would integrate well with the variety of housing evident within Main Avenue, in terms of layout, scale and size of plots, and would accord with the prevailing character of local development.
12. The proposal would be within a currently open part of the street. Nevertheless, views from Main Avenue would remain largely open between the proposed dwellings and existing built form. These retained views would adequately maintain the limited open character found on site between existing buildings.
13. As a result, the proposal would complement the character and appearance of the area.
14. Consequently, the proposal would accord with policy D3 of the London Plan, CS policy CP 30, DMD policies DMD6, DMD7, DMD8, DMD10 and DMD37 and the National Planning Policy Framework (the Framework) with respect to character and appearance. These seek, among other matters, for development to respect locally distinctive or historic patterns of development and positively respond to local distinctiveness through layout, orientation and proportions.

Parking provision and cycle storage

15. Policy T6 of the London Plan requires car parking provision to be restricted in line with Public Transport Accessible Levels (PTAL) to promote the use of sustainable travel modes. The site is within a PTAL rating of 2. The London Plan states, at policy T6.1 that parking provision should not exceed that which is set out at table 10.3. This table states that three-bedroom dwellings, proposed in areas with a PTAL rating of 2-3, should provide a maximum of one space per dwelling. The amended plan satisfies this requirement.
16. Several streets, local to the site, are subject to a controlled parking zone. First and Second Avenue are subject to resident parking permits that allow only residents to park on street between 1pm and 2pm Monday to Friday. Although only offering a snap-shot in time, I noted that parking was readily available on street during my visit. This would be capable of accommodating any limited latent demand caused by the proposal. Furthermore, despite having a PTAL rating of 2, main parties concur that the site would have good access to public transport. This would provide reasonable sustainable travel alternatives for future occupiers as opposed to being reliant on private car ownership. Based on the site's location the proposed parking provision would be suitable.
17. The London Plan seeks, at policy T5, for cycle parking provision to meet the minimum standards of table 10.2 and Figure 10.3. Table 10.2 requires two

'long stay' cycle spaces per dwelling. It is also recognised that it only requires visitor parking ('short stay') spaces for dwellings proposed in groups of 5 or more. Although this matter could have been suitably addressed through the imposition of a planning condition the amended plan also satisfies this requirement.

18. As a result, the proposal would include a suitable provision of car and cycle parking in consideration of policy requirements and the accessibility of the site. Accordingly, the proposal would comply with policies T5, T6 and T6.1 of the London Plan and DMD policy DMD45 for the above reasons. Although the Council found the proposal to also conflict with other policies, CP policy CP25 (pedestrian and cycle routes), DMD policies 47 (for the design of access roads) and 48 (relating to Transport Assessments) do not appear to be relevant to this small-scale proposal. These therefore weigh neither for nor against the scheme.

Planning balance and Conclusion

19. The Framework seeks to significantly boost the supply of housing. Furthermore, the proposed three-bedrooms dwellings would meet an identified shortfall of three bed properties in the borough. Also, the proposal would complement the character and appearance of the area and would provide a suitable level of parking and cycling provision. Nevertheless, the harm identified to the living conditions of neighbouring occupiers with respect to overlooking would be substantial resulting in a material loss of privacy. This harm would be substantial and would outweigh the merits of the proposal.
20. The proposal would harm the living conditions of neighbouring occupiers and would conflict with the development plan when taken as a whole. 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 not succeed.

Ben Plenty

INSPECTOR