



Appeal Decision

Site visit made on 10 October 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2022

Appeal Ref: APP/Q5300/W/22/3291531

33 Perry Mead, Enfield EN2 8BP

- 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 Ms Nikki Wetherill, Viali Developments, against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/03894/FUL, dated 11 October 2021, was refused by notice dated 20 January 2022.
 - The development proposed was originally described as Technical Details Consent for the construction of three-storey building of 5 dwellings with associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of internal space and private amenity space, privacy and outlook;
 - The effect of the proposed development on the living conditions of the occupants of 33 Perry Mead, with regard to outlook and light;
 - The effect of the proposed development on highway safety;
 - The effect of the proposed development on drainage and flooding; and
 - Whether or not the proposed development provides appropriate cycle storage.

Reasons

4. Permission in Principle was granted in 2021 for the erection of up to 5 single family dwellings¹ at the appeal site. The appellant applied for Technical Details

¹ 21/02071/PIP

Consent following the grant of Permission in Principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The Permission in Principle has established that the location, land use, and amount of development is suitable in principle. For Technical Details Consent applications, the decision maker can consider the remaining detailed matters but cannot reopen what has been agreed at the Permission in Principle stage.

5. In considering the effects of the proposed development, I have taken into account this approval. I will return to this matter later in my decision in relation to the Council's consideration of the application.

Character and appearance

6. The appeal site comprises an end of terrace dwelling, situated on a corner plot. The site is currently bounded by a high boundary hedge which limits views into the garden. Perry Mead is characterised by two-storey terraces with a simple appearance and uniform character. Most dwellings located on corner plots are situated within spacious plots. The proposed development would result in the subdivision of the site and erection of a three-storey block of flats, with a recessed third floor, balconies and staircase with an obscure glazed screen to serve the upper floor flat.
7. I observed on my site visit that on the corner of Perry Mead and Holtwhites Hill, there is a relatively new residential building which is clearly differently designed to the terraces on Perry Mead. In close proximity to that building are three and four-storey buildings. The building is well-designed and integrates successfully with buildings along Perry Mead and Holtwhites Hill.
8. The appellant has drawn my attention to the National Model Design Code and considers that the layout maximises the efficient use of the site and raises the standard of design within the street, in accordance with the National Planning Policy Framework (the Framework). In addition, I recognise that bold, contemporary and innovative new developments can integrate successfully with existing buildings.
9. The proposed building would not respect the front building lines of 25-31 Perry Mead, towards the north of the site. It would also erode the spaciousness of the plot and the density would not be reflective of the immediate area. However, mindful of the Permission in Principle approval, it is difficult to see how a development would not have an impact on the building lines or spaciousness of the plot or reflect the density of the area.
10. The building would have a flat roof and its height would not be dissimilar to the ridge height of the nearby terraces. Having said that, it would clearly read as a three-storey building and the eaves height would be noticeably higher than the nearby terraces. This in combination with the design (including flat roof, balconies, fenestration and staircase with an obscure glazed screen), scale, bulk and massing of the proposed building would result in a poorly designed scheme, in relation to its surroundings, which would detract from the established pattern of development.
11. For these reasons, the proposed development would cause harm to the character and appearance of the surrounding area. Consequently, it would conflict with Policy CP30 of the Council's Core Strategy 2010-2025 (2010) (CS),

Policies DMD6 and DMD8 of the Council's Development Management Document (2014) (DMD) and Policies D3 and D4 of The London Plan (2021) (LP). These policies, seek amongst other things, to ensure new residential development is of an appropriate scale, bulk and massing, taking into account the existing pattern of development.

12. The reason for refusal relating to this main issue refers to Policy CP31 of the CS, which relates to the Borough's heritage assets. It is not clear how the proposal conflicts with this policy. Based on the evidence submitted, I do not consider that this policy is relevant to the proposal, and the scheme would not conflict with it.

Living conditions- future occupants

13. The appellant states that each of the units would comply with the National Space Standards, including in terms of floor areas and floor to ceiling head height. The cross section drawing shows that the floor to ceiling height would be 2.4m for all the flats. This would comply with the Nationally Described Space Standards which requires a minimum floor to ceiling height of 2.3m for at least 75% of the Gross Internal Area.
14. Nevertheless, the proposal would conflict with Policy D6 of the LP which states that the minimum floor to ceiling height must be 2.5m for at least 75% of the Gross Internal Area of each dwelling. The supporting text highlights that this is required to address the impacts of the urban heat island effect and the fact that the majority of housing developments in London are made up of flats.
15. The table set out in section 10 of the Officer's report shows that three of the units would not comply with minimum internal space standards. The gross internal floor areas in this table differs to those shown in the proposed cross section drawing. Having said that, both the Council's and appellants case show that flat 5 would not comply with the minimum 70sqm floor space standard. The table also shows that three of the units would also fail to provide the minimum built-in storage area set out in Policy D6 and the Nationally Described Space Standards.
16. The Council are concerned about the size of the amenity spaces relating to flat 3, 4 and 5. Having regard to the Permission in Principle approval, I find it difficult to see how five units could comply with the standards. Flat 5 would comply with Policy DMD9 of the DMD in relation to the minimum private amenity space for individual dwellings with access to communal amenity space. To my mind, flat 5 would not clearly have access to a functional area of amenity communal space because of the location of flat 5's entrance and proposed boundary treatment. Given that this is a two-bedroom, four-person flat, and the extent of the shortfall, the proposed private outdoor amenity space would not be acceptable.
17. The Council has also raised concern in relation to flat 1 and 2's garden. The proposed drawings show that these private amenity spaces would be enclosed by a fence, as well as a low wall with railings and hedge. I observed on my site visit that Perry Mead is a quiet street with low vehicle and pedestrian movement. It would be possible to look into the private amenity spaces. Nonetheless, given the characteristics of the road and size of the private amenity spaces, I do not consider them to be unacceptable to warrant planning permission being refused in this regard.

18. The appellant highlights that the proposed site layout shows the areas of defensible space around the site in the form of a hedgerow with additional front and rear garden spaces. Given the small distance between the ground floor windows, serving the living/dining/kitchenette, of the ground floor units, and the edge of the footway there would be a lack of privacy for occupiers of these rooms. If a higher boundary treatment was used, then this would result in a poor outlook from the windows.
19. There would be a very small gap between proposed flat 2 bedrooms windows and boundary treatment shared with No 33. The bedrooms are not served by any other windows. Therefore, the outlook from these rooms would be unacceptable.
20. For these reasons, the proposed development would result in poor quality accommodation and would not provide acceptable living conditions for future occupants, with regard to the provision of internal space and private amenity space, privacy and outlook. Consequently, it would conflict with Policies CP4 and CP30 of the CS, Policies DMD6, DMD8, DMD9 and DMD37 of the DMD and Policy D6 of the LP. These policies seek, amongst other matters, to ensure that new development provides a high standard of accommodation and good quality private amenity space. It would also conflict with the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Living conditions- existing occupants

21. The proposed building would project beyond the rear elevation of No 33. The appellant highlights that the building has been positioned so that it complies with the BRE document site layout planning for daylight and sunlight: a guide to good practice (BR209). No clear evidence has been provided to demonstrate this is the case, but the drawings indicate that the proposal would comply with the 45-degree rule.
22. To my mind, given the proposed height and length of the projection, as well as the obscure glazed screening and orientation of the sun, the proposed development would result in a loss of light to the rear elevation and garden of No 33. In addition, for these reasons the outlook of the occupiers of No 33 would be adversely affected and the proposal would result in an increase sense of enclosure.
23. Therefore, the proposed development would have an unacceptable effect on the living conditions of the occupants of No 33, with regard to outlook and light. Consequently, it would conflict with the general aims of Policies DMD8 and DMD11 of the DMD and Policy D3 of the LP. These policies seek, amongst other matters, to ensure development preserves amenity in terms of daylight, sunlight and outlook. It would also conflict with the Framework which seeks to ensure developments create places with a high standard of amenity for existing and future users.

Highway safety

24. As stated above, the appeal site is located on a corner plot. The proposed development shows three parking spaces. The Council state that no visibility splays are shown for vehicles egressing from the site and they are concerned

that drivers would have little or no visibility when reversing onto the highway, due to the bend and boundary treatments.

25. I observed on my site visit that there is an existing parking space in a similar location as that proposed towards the south of the site. The two parking spaces, adjacent to 31 Perry Mead, are not dissimilar to parking arrangements elsewhere in Perry Mead. The proposal includes reducing the height of the hedgerow to improve visibility splays.
26. The visibility (in both directions of vehicles and pedestrians) from the parking areas would not be unacceptable and would be similar to existing parking arrangements within the locality. Perry Mead is a residential street with low levels of vehicle and pedestrian movement. Furthermore, as the site is located close to a bend, vehicles naturally need to slow down. Having considered the existing parking space and characteristics of the area, I am satisfied that the proposed development would not have an unacceptable impact on highway and pedestrian safety. An appropriately worded planning condition could ensure the boundary treatment is of an appropriate height to ensure that it does not harmfully restrict visibility.
27. Consequently, the proposed development would accord with the general aims of Policy DMD 47 of the DMD and Policies T6 and T6.1 of the LP. These seek, amongst other matters, to ensure vehicular access serving new development is appropriate and there is no adverse impact on highway safety. It would also comply with the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Drainage/flooding

28. The site is subject to site specific surface water flooding, and the Council's drainage officer objected to the proposal as the proposed SuDS strategy does not meet the requirements relating to quantity, quality and functionality.
29. A Sustainable Urban Drainage Pro-Forma and a Sustainable Urban Drainage Assessment was submitted with the planning application. The appellant states that the proposed SuDS solution demonstrates that the development will store for 100% of the 1 in 100year+40% for the full site, and also demonstrates storage on-site in line with the London Plan Drainage Hierarchy.
30. It is not clear how the proposal meets the matters highlighted by the Council's drainage officer. Nevertheless, based on the evidence submitted, I am satisfied that a planning condition would satisfactorily address this matter.
31. For these reasons, subject to an appropriately worded planning condition, the proposed development would be acceptable in terms of drainage and flooding. Consequently, the proposal would comply with the general aims of Policies CP21 and CP28 of the CS, Policies DMD59, DMD60, DMD61 and DMD62 of the DMD as well as Policies SI 12 and SI 13 of the LP. These seek, amongst other matters, to ensure new development avoids and reduces the risk of flooding, and not increase the risks elsewhere. It would also comply with the Framework which states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.
32. Repeated requests were made to the Council to provide a copy of the Enfield Strategic Flood Risk Assessment (2008), and a copy has not been provided. As

the document is publicly available, I have looked at the document online. I am satisfied that the proposal would meet the general aims of the Enfield Strategic Flood Risk Assessment.

Cycle storage

33. The proposed layout shows cycle storage. The Council's traffic and transportation officer state that the long-stay store is not sufficient. They consider that the wall-mounted hoops shown do not enable locking of both wheel and frame. Furthermore, the hoops would also lead to short-stay cycles blocking the access path. I am satisfied that a planning condition would adequately address this reason for refusal.
34. For these reasons, subject to an appropriately worded planning condition, the proposed development would provide adequate cycle storage. Therefore, it would comply with Policy CP25 of the CS, Policies DMD45, DMD47 and DMD48 of the DMD and Policy T5 of the LP. These policies seek, amongst other matters, to ensure developments provide cycle parking which is fit for purpose, secure and well-located.

Other Matters

35. The appellant considers that a high degree of sustainability is being sought for the site including through the provision of solar arrays, and bat and bird boxes are proposed to support local ecology.
36. Both main parties agree that paragraph 11(d)(ii) is engaged because the Council's Housing Delivery Test indicates that they have failed to achieve 75% housing delivery over the previous three years. I acknowledge that there would be benefits associated with the proposal, including housing supply and economic benefits. The benefits associated with the appeal scheme would carry limited weight given the small scale of the development.
37. It appears that the Council has assessed and registered the application as a full planning permission and not the second half of the Permission in Principle process. Having said that, any decision must be made in accordance with relevant policies in the development plan unless there are material considerations, such as the Framework, that indicate otherwise. Therefore, even if the Council had registered the application correctly, I cannot see why the overall outcome would have been different. Furthermore, as previously stated, in considering the effects of the proposed development, I have taken into account the Permission in Principle approval.

Planning Balance and Conclusion

38. Having regard to the conflicts identified above, I conclude that the proposal would be contrary to the CS, DMD and LP, as a whole. Given the Council's housing delivery position, the relevant policies of the development plan, should not be considered up to date, having regard to paragraph 11(d) of the Framework and, on the basis of the evidence before me, paragraph 11(d)(ii) is engaged.
39. Nonetheless, weight may still be afforded to policies depending on their consistency with the Framework. The most relevant policies are consistent with the aims of the Framework regarding the need to achieve well-designed places which are sympathetic to local character and create places with a high standard

of amenity for existing and future users. There is nothing within the Framework to suggest that those requirements of all development should be lessened on account of the shortfall in housing delivery. In that context, I attach significant weight to the conflict with the development plan.

40. Paragraph 11(d)(ii) of the Framework is engaged, and I must determine whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
41. For the reasons given above, the proposed development would cause harm to the character and appearance of the surrounding area, would not provide acceptable living conditions for future occupants and would have an unacceptable effect on the living conditions of the occupants of No 33. The benefits associated with the appeal scheme carry limited weight. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
42. The proposal would be contrary to Policies CP4 and CP30 of the CS, Policies DMD6, DMD8, DMD9, DMD11 and DMD37 of the DMD and Policies D3, D4 and D6 of the LP, and I afford this conflict with the relevant policies of the development plan significant weight.
43. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR