



Appeal Decision

Site visit made on 13 September 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/Q5300/W/21/3283304

Bush Hill Park Bowls Tennis and Social Club, Abbey Road, Enfield, EN1 2QP

- 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 Davidian of 2DD against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/01895/FUL, dated 20 June 2020, was refused by notice dated 12 August 2021.
 - The development proposed is removal of surplus tennis courts for subdivision of site into 4 plots, erection of a terrace block comprising of residential dwelling flats.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Davidian of 2DD against the Council of the London Borough of Enfield. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - (a) Whether the development would preserve or enhance the character or appearance of the Bush Hill Park Conservation Area;
 - (b) Whether the development would result in the unjustified loss of sports facilities; and
 - (c) The effect of the development on the living conditions of neighbouring occupiers with regard to outlook.

Reasons

4. It is acknowledged that the Housing Delivery Test indicates that the delivery of housing in Enfield has been substantially below (less than 75% of) the housing requirement over the previous three years. In these circumstances, Paragraph 11 of the National Planning Policy Framework ('the Framework') states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I return to this matter in my Overall Balance and Conclusion, below.

Conservation area

5. The appeal site is within the Bush Hill Park Conservation Area, which encompasses a historic area of townscape that dates mainly to the late 19th and early 20th centuries. It is characterised by attractive period properties, street trees and greenery, and a spacious feel to the area. Its significance stems from the large number of well-preserved buildings and spaces that reflect the development of the area as a high quality planned suburban estate.
6. The appeal site fronts onto Abbey Road, which is characterised by traditional semi-detached dwellings set at a regular pattern and rhythm, with some variation in their style and design. The site comprises an open break in an otherwise continuous built frontage and has a somewhat anomalous appearance within the street. Tall metal fencing runs across its frontage, which has an unsympathetic appearance, and the site does not contribute positively to the character of the conservation area at present.
7. The development would be designed in a traditional style that would replicate some of the architectural features of neighbouring period properties. The proposed design would be sympathetic to the character of the street in terms of its height, style and design and would not appear out of keeping in my view. Whilst there would be a gap between the proposed buildings, the spacing along Abbey Road is not entirely uniform. Moreover, the proposed rear dormers would be traditional in appearance and would be similar to those on nearby properties. They would also have limited visibility from public vantage points.
8. It is asserted that the introduction of apartment development would be harmful to the character of the conservation area. However, the development would be a relatively low density apartment scheme and it would have the appearance of 2 pairs of semi-detached dwellings when viewed from the road. The proposed garden spaces and ground floor rear projections would also have limited visibility in the surrounding area. Accordingly, and given the current appearance of the site, I do not consider that any harm would arise to the character of the conservation area in this regard.
9. For the above reasons, I conclude that the development would preserve the character and appearance of the Bush Hill Park Conservation Area. It would therefore accord with Policies D4 and HC1 of the London Plan (2021), Policy CP30 of the Enfield Core Strategy (2010), Policies DMD 37 and DMD 44 of the Enfield Development Management Document (2014), and guidance in the Framework relating to designated heritage assets.

Sports facilities

10. The appeal site forms part of the Bush Hill Park Bowls Tennis and Social Club and currently comprises 2 shale tennis courts. The development would involve the loss of these courts from sporting use. In this regard, Policy S5 of the London Plan (2021), Policy DMD 74 of the Enfield Development Management Document (2014), and guidance in the Framework, seek to prevent the loss of sports facilities unless certain criteria are met.
11. In this case, the appellant has provided a detailed justification for the loss of the existing shale courts and a list of improvements to Club facilities that the development would fund. In this regard, Sport England state that the reinvestment of the funds to improve the rest of the site aligns with the spirit

of its 'enhance' planning objective, and they do not object to the development. The Lawn Tennis Association has also not objected to the development.

12. A planning obligation has been submitted that purports to secure the proposed improvements to the Club facilities. However, this document is flawed in a number of respects and contains a series of errors. In this regard, it states that the Club is to receive a 'lump sum', which is defined as a payment made by 'the Agent' (given as '1DD Limited'). However, 'the Agent' is not a party to the obligation and so I cannot be assured that payment of the lump sum will be made. Moreover, if an agreement were reached with another developer, then the Club would not be subject to the obligation's requirements. It also does not specify a timescale for the owner to carry out any of the proposed works once the lump sum is received, and so this could be indefinitely delayed. Nor is there any indication of how much money would be secured from 'income generated from the flat' ('the flat' is also not defined). Furthermore, some of the language used is vague and imprecise e.g., "*with a view to undertaking the following works ...*" and "*potential development of areas to the north of courts 4&5 to provide additional sports facilities*" (my emphasis). This raises significant doubt as to whether there would be any requirement to implement the 'obligations of the owner', or whether these would be enforceable.
13. In addition, the obligation describes itself both as a unilateral undertaking, and as a planning agreement between Bush Hill Park Bowls Tennis and Social Club and the London Borough of Enfield. If it is the latter (it cannot be both), then it has not been executed as the Council has not signed the document. Part of paragraph 1.11 is also missing, and no red line plan is appended. Moreover, there are 2 paragraphs labelled as 6.1 and there are no page numbers, so it is unclear whether the document is in the correct order. Overall, I consider that the flaws within the planning obligation are so significant that I can place little reliance on it in my determination of this appeal.
14. In the absence of an adequate planning obligation, the development would result in the unjustified loss of sports facilities. It would therefore be contrary to Policy S5 of the London Plan (2021), Policy DMD 74 of the Enfield Development Management Document (2014), and guidance in the Framework relating to sports and recreational buildings and land.

Living conditions – neighbouring occupiers

15. The development would be positioned in close proximity to the side elevations of the adjacent properties at Nos 23 and 35 Abbey Road. The submitted plans indicate that the gap would be just over 2 metres in width on either side.
16. The northern elevation of No 23 contains a number of windows at both ground and first floor level. Whilst most of these are either secondary windows, are obscurely glazed, or serve non-habitable rooms, a window serving a ground floor kitchen/diner would face onto the development at close quarters. This room is long and narrow in shape, and the dining area is served by this window. Whilst the kitchen area has a separate rear-facing window, that is some distance away from the dining area window, which is positioned centrally within the side elevation. During my site visit, this area appeared to be well used and contained a dining table and seating. The development would introduce a high brick wall just over 2 metres away that would enclose the outlook from this window to an unacceptable degree in my view.

17. For the above reasons, I conclude that the development would significantly harm the living conditions of No 23 Abbey Road with regard to outlook. It would be contrary to guidance in the Framework in this regard, which seeks to ensure a high standard of amenity for existing and future users.

Overall Balance and Conclusion

18. As set out above, the development would result in the unjustified loss of sports facilities and would significantly harm the living conditions of neighbouring occupiers. It would be contrary to the development plan in these respects.
19. Set against this, the development would make a modest contribution towards the supply of housing, on a brownfield site and in a relatively accessible location. It would also generate CIL receipts to the Council and would result in some economic benefits during the construction phase and through local expenditure by future residents. In view of the current shortfall in housing delivery, I give these considerations moderate weight. However, in the absence of an adequate planning obligation I attach little weight to the purported improvements to the wider Club.
20. On balance, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
21. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR