



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: 21 November 2022

Appeal Ref: APP/Q5300/W/22/3295376

Jubilee Cottage, Enfield Road, Enfield EN2 7HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Green Oaks Day Nursery Ltd against the Council of the London Borough of Enfield.
 - The application Ref 21/01670/FUL, is dated 27 April 2021.
 - The development proposed was originally described as demolition of existing buildings and erection of a day nursery/crèche (Class E) with associated hard and soft landscaping, parking facilities and bin store.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of a two-storey building to provide a day nursery/ creche (Class E) with associated landscaping, parking and refuse storage at Jubilee Cottage, Enfield Road, Enfield EN2 7HU in accordance with the terms of the application Ref 21/01670/FUL, dated 27 April 2021, subject to the attached schedule of conditions.

Preliminary Matters

2. The description of development in the formal decision above has been taken from the Council's validation letter and the appeal form. This is because it is a more accurate reflection of the development for which permission is sought than that given on the application form.
3. The appeal is against the non-determination of a planning application. The Council's submission sets out that they would have refused planning permission for reasons relating to safety of vehicular traffic and pedestrian movement, and the loss of an existing residential unit has not been justified.
4. Repeated requests were made to the Council to provide a copy of Policy DMD45, and a copy has not been provided. As the policy is publicly available, I have looked at the policy online.

Main Issues

5. The appeal site is located within the Green Belt. The scheme would not be inappropriate development in the Green Belt because it would represent redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development in line with paragraph 149 g) of the National Planning Policy Framework (the Framework). This position is agreed by the main parties.

6. The main issues are therefore:

- The effect of the proposed development on highway and pedestrian safety; and
- Whether or not the loss of an existing residential unit has been satisfactorily justified.

Reasons

7. The proposal follows previously refused planning applications, and seeks to address the reasons for refusal. The appeal site comprises a detached dwelling situated within a spacious plot with a detached pair of double garages. The proposals would provide day care facility for up to 50 pre-school children at full capacity, along with 6 full time staff and 2 part time staff.

Highway safety

8. Local residents have raised concerns in relation to the access, parking provision, public transport provision and increase in traffic. They also highlight that there are often road works on Enfield Road and there have been accidents.
9. The revised scheme shows that the entrance gate would be set back 5m from the footway. This would ensure vehicles waiting for the gate to be opened would not block the footway/ cycle path. The gate would remain open throughout the day, to avoid vehicles blocking back onto Enfield Road. It would only be the first car in and the last car out that would have to stop at the gate. In addition, a separate pedestrian access has been provided, along with a segregated pedestrian path.
10. The transportation officer provided comments on the application setting out their concerns with the proposed widening of the vehicle access and the potential for this to reduce the quality of the pedestrian and cyclist experience and requested further plans to be submitted. I understand that this further information was sent to the Council. However, it appears that the transportation officer did not comment on this additional information.
11. The site is situated on Enfield Road, which is a busy, principal road. Although there are no residential properties adjacent to the appeal site, it cannot reasonably be described as remote due to the short distance to the built-up areas towards the east and west.
12. The site has a low PTAL rating of 1b, but the appellant has highlighted that it is close to a PTAL rating of 3. Figure 2 of the Transport Statement shows the 1.2km catchment, which is considered a reasonable walking distance, and public transport connections in relation to the appeal site. There are bus routes, with a good frequency, within walking distance of the site. The bus routes also connect to Oakwood station and Enfield Chase station.
13. The closest residential properties are towards the south-west of the appeal site. There are also residential properties to the east. There is a footway, and cycle lane, which connects the appeal site with the nearby residential areas, bus stops and Oakwood Station. Users of the nursery are less likely to use Enfield Chase station due to the distance between the appeal site and the station.
14. I observed on my site visit that this part of Enfield Road has a speed limit of 40mph and there are street lights. A toucan crossing is present near the built-

up area towards the west of the site to allow users to cross Enfield Road. It is not a particularly pleasant walk next to Enfield Road due to the frequency and speed of vehicles. Nonetheless, to my mind, that would not discourage users using the footway and cycle lane. This was evident whilst carrying out my site visit as I saw pedestrians using the footway. The multimodal survey (presented in the Transport Statement), which was carried out in the winter, also demonstrates that pedestrians and cyclists use the footway and cycleway.

15. Residents have highlighted that the multimodal survey was carried out during the COVID-19 national lockdown. The Transport Statement states that Department for Transport national data has been used to uplift the surveyed movements to the more typical levels expected after the COVID-19 restrictions end. The Council, including the transportation officer, have not disputed this approach.
16. Although the appeal site is not located in a local or town centre, it is accessible by walking, cycling and public transport. This is due to the distance to nearby residential areas, bus stops and Oakwood Station. Parents/guardians with buggies would be able to access the site without being reliant on a private vehicle, even in winter months due to the street lighting.
17. The drawings show 5 car parking spaces for visitor pick-up and drop-off, which includes one accessible space, as well as cycle and scooter spaces and 2 staff car parking spaces. The appellant's Transport Statement shows vehicle swept paths and detailed arrangements for the site access (which is reflected in the layout of the proposed site plan). The drawings show a two-way vehicular access, with a separate pedestrian access.
18. There would clearly be insufficient space to accommodate vehicles for all the children and staff at the same time. However, not all the children would arrive and leave at the same time and users of the nursery (including staff) would not be reliant on a vehicle, for the reasons set out above. Furthermore, the transportation officer did not question the level of parking or the swept paths. The appellant has also highlighted that the level of parking provision was not raised as an issue by the transportation officer in earlier applications.
19. The Transport Statement sets out that, although not a requirement of the application to prepare a Travel Plan, they intend to promote the use of non-car modes of access to its staff and customers. The appellant sets out that a Travel Plan could be conditioned, and there is no clear evidence before me to suggest that this would not be acceptable.
20. For these reasons, on the basis of the information before me and no robust evidence has been submitted to dispute the findings of the Transport Statement, the proposal would not result in queues forming outside the appeal site or unacceptably reduce the quality of the pedestrian and cyclist experience. Accordingly, it would not disrupt the free flow and safety of traffic on Enfield Road or result in unsafe pedestrian movement.
21. Therefore, the proposed development would not have an unacceptable impact on highway and pedestrian safety. Consequently, it would comply with Policies CP24 and CP25 of the Council's Core Strategy 2010-2025 (2010), Policies DMD45, DMD47 and DMD48 of the Council's Development Management Document (2014) (DMD) and Policies D4, D11 and T4 of The London Plan (2021) (LP). These policies seek, amongst other matters, to ensure

developments provide safe, convenient, and accessible routes for pedestrians, cyclists and other non-motorised modes. In addition, new development will only be permitted if the access and road junction which serves the development is appropriately sited and is of an appropriate scale and configuration and there is no adverse impact on highway safety and the free flow of traffic.

Loss of existing residential unit

22. Policy DMD4 of the DMD sets out that development involving the loss of existing residential units, particularly family homes, that can still be used, with or without adaptation, will only be permitted if it complies with specified circumstances. This includes that it is to provide a community facility, where a specific need has been identified, and no alternative locations are available.
23. Policy DMD16 of the DMD sets out that new community facilities will be supported where the proposed development is easily accessible to the community it is intended to serve by walking, cycling and public transport to reduce dependence upon private car transport. Furthermore, development should be located in local centres and town centres or edge of centres where appropriate.
24. Although the appeal site is not located in a local or town centre, the previous section provides reasons as to why the appeal site is accessible by walking, cycling and public transport. The appeal site falls within the Highlands ward, and covers the western side of Enfield Town and the north-eastern edge of Oakwood. The appellant has provided extracts from the Council's Childcare Sufficiency Assessment to demonstrate that a need exists in the Highlands ward and that new dwellings are set to be constructed in the ward which could result in the need for new facilities. Furthermore, the Council's Early Years Service supports the application because there is a need for childcare in the Oakwood area, and the site is appropriate to convert to a day-care.
25. A support statement on location was submitted during the application process. This sets out the catchment area and accessibility of the appeal site. It also provides reasoning to demonstrate that both expanding existing day nurseries and alternative sites are not suitable. Furthermore, the statement highlights that there are no suitable allocated sites for nursery use in the local plan within 1.2km of the site. The report concludes that there are no preferable alternative locations that are currently available, suitable and viable for the proposed development. The Council has not provided evidence to dispute these findings.
26. I am satisfied that the appellant has demonstrated a need for the nursery, no alternative locations are available, the site is an accessible and suitable location. Therefore, the loss of the family home has been justified. Consequently, the proposed development would comply with the aims of Policies DMD4 and DMD16 of the DMD and Policy H8 of the LP.

Other Matters

27. In addition to concerns relating to the main issues, residents have raised other matters. These relate to impact on character and appearance of the area, nearby derelict land, ownership, ecology, increase in pollution, strain on community facilities, disruption during construction, construction started and residential ambience.

28. The Council's submission does not raise concerns in relation to these matters. Having regard to the evidence before me, I am satisfied that the proposed development would not have a harmful impact on the matters raised. Consequently, subject to appropriate conditions, there is no credible evidence before me that would lead me to an alternative conclusion to the Council on the other matters raised or that could justify the dismissal of the appeal on these grounds.

Conditions

29. The Council did not provide a list of suggested conditions. The appellant and Council were given the opportunity to comment on the conditions I consider should be imposed. Both agreed with my suggested conditions (including the pre-commencement conditions).
30. It is necessary to attach a condition specifying the approved plans as this provides certainty. Conditions relating to materials as well as hard and soft landscaping are necessary in the interest of visual amenity of the area. In the interest of highway safety, conditions relating to a construction method statement, the parking, manoeuvring and access areas are necessary. In addition, conditions relating to the bicycle and scooter parking areas and a travel plan are necessary to ensure sustainable travel options are promoted and maximised.
31. A condition relating to trees is necessary to preserve and protect existing trees. To ensure satisfactory drainage, a condition relating to sustainable drainage system is necessary. To provide sufficient enhancements of the development site for bats, a condition relating to the recommendations set out in the bat emergence and re-entry surveys is necessary. A condition relating to the Sustainable Design and Construction Statement is necessary in order to comply with local planning policy relating to sustainable design and construction.

Conclusion

32. For the reasons given above, having considered the development plan as a whole, and all other material considerations, the appeal is allowed subject to the attached conditions.

L Wilson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans: SLP 100 rev C (site location plan), PL 100 rev P6 (proposed site plan- roof plan), PL 101 rev P5 (proposed ground floor GA plan), PL 102 rev P4 (proposed first floor GA plan), PL 200 rev P1 (proposed south-east elevation), PL 201 rev P1 (proposed north-west elevation), PL 202 rev P1 (proposed north-east elevation), PL 203 rev P1 (proposed south-west elevation) and PL 204 rev P1 (existing and proposed site section).
3. No development shall commence until details/ samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/ samples.
4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; wheel washing facilities; measures to control the emission of dust and dirt during construction; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
5. No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: boundary treatment[s]; hard surfacing materials; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities; an implementation programme. The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use in accordance with the agreed implementation programme. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and

approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

7. The development shall not be brought into use until the areas shown on the approved plans for parking and manoeuvring of vehicles, and access for vehicles, pedestrians and cyclists (shown on drawing PL 100 rev P6 (proposed site plan- roof plan) and figure 4: proposed site access arrangements (contained within the Transport Statement Report, produced by TTHC Ltd and dated April 2021)) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.
8. The development shall not be brought into use until space has been laid out within the site in accordance with drawing PL 100 rev P6 (proposed site plan- roof plan) for bicycles and scooters to be parked and that space shall thereafter be kept available for the parking of bicycles and scooters.
9. The development shall not be brought into use until the measures detailed within the Sustainable Design and Construction Statement (produced by Eb7, dated June 2019) are installed and operational prior to the occupation of the development and thereafter maintained.
10. No building hereby permitted shall be occupied until the sustainable drainage system for the site shall have been completed in accordance with the submitted details provided in the SuDS Strategy Report (produced by Eb7, dated September 2019). The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
11. At least 3 months prior to the first use of the approved development a Travel Plan Statement for the site shall be submitted to and approved in writing by the local planning authority in consultation with the Highways Authority. The approved Travel Plan Statement shall be implemented in accordance with the timetable and target contained therein and shall continue to be implemented as long as any part of the development is occupied.
12. The development shall be carried out in accordance with the recommendations set out in the bat emergence and re-entry surveys (produced by Arbtech Consulting Limited, dated September 2019) prior to the first occupation of the building and retained thereafter.