



Appeal Decision

Site visit made on 9 November 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/Q5300/W/22/3303135

1A Conway Road, Enfield, Southgate N14 7BB

- 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 Michael McGuinness against the decision of the Council of the London Borough of Enfield.
 - The application Ref 22/00621/FUL, dated 9 February 2022, was refused by notice dated 9 May 2022.
 - The development proposed is the redevelopment of site to provide one detached single-family dwelling, with amenity space, new crossover, parking for one car, cycle and refuse storage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are: (i) whether the proposal would preserve or enhance the character or appearance of the Lakes Estate Conservation Area; (ii) the effect of the proposal on trees; (iii) and the effect of the proposal on highway safety; (iv) the effect of the proposal on the living conditions of neighbouring occupiers, with regard to privacy and outlook; (v) the effect of the proposal on the living conditions of future occupiers, with regards to privacy and light; and (vi) whether adequate sustainable urban drainage arrangements are proposed.

Reasons

Conservation Area

3. The site is a builder's storage space with workshop and shed, which previously formed part of the rear garden of No. 1A Conway Road. It is located within the Lakes Estate Conservation Area (the CA), the immediate section of which is defined by tight knit traditional dwellings set back from the footpath in sizeable plots. While these properties share an Edwardian character, they differ in precise design. Properties immediately to the west on this side of the road fall outside of the CA boundary and are more modern in character. The site is largely screened within the immediate area and sits independent of the surrounding residential uses such that overall I find it makes a neutral contribution to the significance of the CA.
4. The proposal would be a comparable height and scale to immediately surrounding properties, constructed from materials that would largely assimilate in the CA. While it would lack some of the more intricate Edwardian detailing, I find that it would replicate the form of neighbouring properties.

5. The sloped roofscape and symmetrical gable features, including the recessed central bay and dormer, would pick up on elements present at surrounding dwellings. In this sense, the proposal would reflect and incorporate structural features that contribute to the character of the street and overall significance of the CA. Even acknowledging that it would inevitably be of a more modern design than the Edwardian era dwellings, this detailing would ensure that the proposal not appear out of place but rather would assimilate in the street as a sympathetic later addition. While it would not be subordinate to the property at No. 1A Conway Road, it would be experienced as a standalone dwelling within a separate plot, such that this alone would not result in visual harm. Although the Council raises further issue with the limited rear space at No. 1A, based on my observations the appeal site is already subdivided from No. 1A such that the proposal would not result in change in this regard.
6. Nevertheless, the dwelling would fail to respect the uniformity of the surrounding spatial character. It would be within a smaller plot with little space to the front and rear. While its proximity to the side boundaries would not be out of place among the surrounding tight grain, the limited depth of the site would be at odds with the predominantly long rear gardens of the CA. In this context, the proposal would read as excessive built form cramped in the site, failing to respect the established pattern of development.
7. The proposal would also sit notably closer to the footpath than other dwellings, positioned forward of the largely consistent front building line in the street, upsetting the rhythm and continuity present. This would further distinguish the site from its neighbours, failing to reflect the surrounding character. While the appellant has suggested a condition that works would not commence until external details have been approved, this would not address the failure of the proposal to replicate the immediate spatial character.
8. For these reasons, the proposal would be a visually intrusive feature. It would cause visual harm to the site and the contribution it makes to the surrounding character and appearance. As such, it would neither preserve nor enhance the character or appearance of the CA. Its effect would be localised and experienced alongside a range of development designs. As such, it would equate to 'less than substantial' harm. Nevertheless, the Framework makes it clear that great weight should be given to the conservation of heritage assets.
9. Paragraph 202 of the National Planning Policy Framework (the Framework) specifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against public benefits of the proposal. I am mindful that the current use of the site makes a limited contribution to the character and appearance of the CA, which the proposal seeks to address. I further acknowledge that the proposal would make use of previously developed land and would contribute to the local housing supply. Nevertheless, I do not consider that these benefits would outweigh the harm identified to the heritage asset, particularly given the limited contribution the proposal would make to housing supply.
10. For the reasons given above I find that the development would fail to preserve or enhance the character or appearance of the CA. As such, it would fail to accord with Policies CP30 and CP31 of the Enfield Plan Core Strategy 2010-2025 (the CS), Policies D1, D3, D4, D8, and HC1 of the London Plan 2021 (the London Plan), and Policies DMD6, DMD7 and DMD8, DMD37 and DMD44 of the

Enfield Development Management Document 2014 (the DMD) insofar as they seek to ensure good design and protect heritage assets, in addition to the provisions of the Framework insofar as they seek to protect designated heritage assets. While reference is also made to Policy GG6 of the London Plan, this primarily relates to increasing efficiency and resilience.

Trees

11. A regularly spaced arrangement of trees lines both sides of Conway Road and the nearby Ulleswater Road, making an important visual contribution to this section of the CA. An Arboricultural Impact Assessment (AIA) was provided, which concluded that no tree removal would be required by the proposal.
12. However, this lacks certain information. The AIA classifies the trees along Conway Road as Category C but provides limited justification for this, particularly given the collective visual contribution these trees make. A tree close to the eastern front boundary of the site was also omitted from the AIA without justification.
13. An offsite hedge is present along the rear boundary of the site. The AIA accepts that this would need to be reduced, but claims without explanation that this would not harm the hedge and fails to address the possibility that future residents may seek to further prune this. The Council raises further issues with the AIA, including the precise size and shape of the root protection areas for retained planting.
14. I have found that the trees on Conway Road contribute to the significance of the CA, such that they should be retained for this purpose. The AIA sets out measures that would be taken to protect these trees and those at the site during construction, in accordance with the relevant British Standards. However, numerous concerns have been raised by the Council in this regard. In particular, the Council has queried whether the no-dig approach would be possible when constructing the proposed access, which has not been fully assessed within the AIA. These concerns have not been addressed by the appellant. As such, I have insufficient information before to conclude on the overall robustness of the AIA and the likelihood of the proposed mitigation measures to adequately address any likely harm to the trees.
15. The appellant has suggested a condition seeking further clarifications on the AIA. However, based on the limited information within the AIA and the numerous concerns raised by the Council I cannot be certain at this stage that the proposal could be successfully implemented without significant harm to trees or that this could be adequately addressed by a condition.
16. For the reasons given, I have insufficient information to conclude that the proposal would not cause significant harm to trees. As such, it would fail to comply with Policies G1, G7 and HC1 of the London Plan, Policy CP31 of the CS and Policies DMD80 and DMD81 of the DMD insofar as they seek to protect trees and the contribution made to the surrounding environment.

Highway Safety

17. Policy DMD46 of the DMD is clear that vehicle crossovers and dropped kerbs will only be permitted where, among other things there is no adverse impact on road safety. The proposal would create a vehicular access from Conway Road at the eastern end of the site via dropped kerb, which the main parties

agree would not conflict with street furniture or trees and would benefit from adequate visibility splays for oncoming vehicles.

18. Nevertheless, due to the positioning of the proposed parking space, visibility of the footpath to the east would be restricted for vehicle users when exiting the site. This is due to the proximity of the parking space to the neighbouring boundary wall of No. 1A, which extends to directly abut the pavement and would obstruct clear views of oncoming pedestrians in this direction. As a result, there would be a risk of collision associated with the use of the parking space, to the detriment of the safety of pedestrians.
19. In this sense, the Council raises concerns that the proposal would not provide the required 2m pedestrian visibility splays measured from the back of footway, contrary to the guidance of the Enfield Council Revised Technical Standards for Footway Crossovers. While this is guidance rather than policy, it remains a material consideration and, based on the information before me, I consider that adequate visibility splays would not be provided in this regard. While I have considered the possibility of moving the access further from the boundary, I have no information of the effect this would have on the overall site layout, such that I cannot take this possibility into account.
20. For the reasons given, I find that the proposal would have a significant adverse effect on highway safety. As such, it would fail to comply with Policies T4 and T6.1 of the London Plan, Policy CP25 of the CS and Policies DMD45, DMD46 and DMD47 of the DMD insofar as they seek to protect highway safety.

Living Conditions – Neighbouring Occupiers

21. Policy DMD10 of the DMD states that, for new development, a minimum distance of 11 metres should be kept between windows and side boundaries unless it can be demonstrated that it would not result in inadequate privacy for the proposed or surrounding development.
22. The Council states that the proposed dwelling would be 16.6 metres from No. 1A Conway Road, and 8.34 metres from this shared boundary. However, the proposal would not result in inadequate privacy for neighbouring occupiers. While full length patio doors would be located on the ground floor, fencing would ensure that there would be no overlooking of No. 1A from these doors or from the garden of the proposal. In addition, the elevation facing No. 1A would have no glazing on the first or second floors.
23. With regards to Nos. 1-7 Conway Road, the Council states that the west-facing ground floor flank fenestrations of the proposal fail to meet the minimum 11m separation from this boundary. However, there are no flank windows proposed on this facing elevation, such that there would be no undue overlooking of the neighbouring dwellings or gardens at Nos. 1-7. Boundary fencing would also ensure no overlooking in this direction from the proposed amenity space.
24. While east and west rooflights are proposed, due to their oblique angle, any views towards neighbouring properties or gardens in these directions would be neither clear nor direct. The appellant further states that these rooflights would be opaque glazed which could be secured by a condition. Overall, the proposal would not result in a loss of privacy to neighbouring occupiers.
25. The proposal would be sited close to the boundary with Nos. 1-7. However, it would be positioned forward of the building line such that views of it from the

side facing windows of Nos. 1-7 would be minimal. Although views of it would be possible from the front elevation windows when looking towards the site, the main outlook towards Conway Road would remain largely unchanged.

26. The proposal would also be set back from the main front garden at Nos. 1-7. Although it would be adjacent to the vehicular access, it would be partially screened by planting. In addition, this external space largely acts as the link between the front and rear areas rather than being a principal part of the outdoor space for these properties, such that the harm to living conditions would be limited. Overall, the proposal would not appear overbearing to the residents of these properties or create an undue sense of enclosure
27. For the reasons given above, I find that the development would not have a significant adverse effect on the living conditions of neighbouring occupiers with regards to privacy and outlook. As such, it would comply with Policies DMD7, DMD8 and DMD10 of DMD insofar as they seek to ensure adequate levels of residential amenity.

Living Conditions – Future Occupiers

28. The positioning of windows at the proposal would ensure no undue overlooking of habitable rooms by the residents of No. 1A. Ground floor patio doors are proposed on the eastern elevation, which would be screened from the ground floor and garden of No. 1A by boundary fencing. While first and second floor windows exist on the facing elevation of No. 1A, due to their positioning relative to the proposal, these would not offer direct or clear views through the proposed patio doors. However, despite their setback, these windows would offer residents of No. 1A clear and direct views of the proposed amenity space.
29. Although this can be a feature of built up residential areas, such direct views of neighbouring gardens are not common in the immediate vicinity. It would result in a level of actual and perceived overlooking that would be harmful to the living conditions of future occupiers of the proposal, reducing the privacy of the outdoor space and impacting upon the enjoyment of this area.
30. The Officer's Report further states that the proposed amenity space would experience limited levels of light. I acknowledge that certain parts of this space would be narrow. However, the dimensions of the amenity area at the eastern end of the site are such that, even acknowledging the scale of the proposed dwelling, it would be open and setback enough from built form to receive adequate levels of light.
31. For the reasons given above I find that the development would not have an adverse effect on the living conditions of future occupiers with regards to light. However, I find that it would have an adverse effect on these living conditions with regards to privacy. As such, it would fail to comply with DMD7, DMD8, DMD9 and DMD10 of DMD insofar as they seek to ensure adequate levels of residential amenity.

Drainage

32. Policy DM61 of the DMD requires the submission of a Drainage Strategy and states development should maximise the use of sustainable drainage systems that meet a range of requirements. Planning Practice Guidance (PPG) advises that for development that includes a sustainable drainage system the Council

will want to be satisfied that the proposed minimum standards of operation are appropriate and that there are arrangements for ongoing maintenance.

33. A Drainage Strategy has been provided, showing the location of proposed surface and foul water drains and an attenuation tank. It explains that the car parking and front circulation areas will be a permeable surface and that a new connection would be needed in the Thames Water public foul water sewer. However, limited further information is provided to assess the proposal against the provisions of Policy DMD61 or the PPG.
34. Nevertheless, given the limited scale of the development, if all other aspects of the proposal were acceptable this information could be secured through an appropriately worded pre-commencement condition. This would ensure no development would occur until sufficient drainage information was provided to and approved by the Council to assess if adequate sustainable urban drainage arrangements are proposed.
35. For the reasons given, subject to the imposition of the condition referred to above, adequate sustainable urban drainage systems would be proposed. As such, the proposal would comply with Policies SI 12 and SI 13 of the London Plan, Policy CP21 of the CS and Policy DMD 61 the DMD insofar as they seek to ensure sustainable drainage. It would also comply with the provisions of the Framework in this regard.

Other Matters

36. I acknowledge that the proposal would represent efficient and effective use of previously developed land that would contribute to the local housing supply. However, given its single dwelling nature, this benefit would be limited.
37. The appellant's frustrations with the Council are noted. However, these have no bearing on the planning matters of this appeal.

Planning Balance and Conclusion

38. I have found that the proposal would be acceptable in terms of its effect on the living conditions of surrounding occupiers with regards to outlook and privacy and the living conditions of future occupiers with regards to light. I have also found that, subject to the imposition of a condition, it would propose adequate sustainable urban drainage systems. Furthermore, I note the limited benefit of the proposal in using previously developed land to contribute to housing supply. Nevertheless, even taken together, these do not outweigh the significant harm caused by the failure of the proposal to preserve or enhance the character or appearance of the CA or by the harm caused to highway safety, trees and the living conditions of future occupiers with regards to privacy.
39. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR