



Appeal Decision

Site visit made on 22 December 2022

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/Q5300/W/22/3300548

98 Halstead Road & 118A Ridge Road, London N21 3DS

- 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 Mr & Mrs J Strong against the Council of the London Borough of Enfield.
 - The application Ref 21/02521/FUL, is dated 28 June 2021.
 - The development proposed is the sub-division of the site and erection of 2 x single storey dwelling houses with associated parking.
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Decision

1. The appeal is dismissed and planning permission for the sub-division of the site and erection of 2 x single storey dwelling houses with associated parking is refused.

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. As a result, there is no formal decision on the application. However, the Council provided a statement setting out the reasons why the Council would have refused planning permission had it been empowered to do so which included putative reasons for refusal. I have taken this, along with other evidence before me, to inform the main issues.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the safety of pedestrians, cyclists and other road users;
 - the adequacy of refuse disposal arrangements;
 - accessibility, permeability and movement; and
 - the risk of localised surface water flooding at the appeal property and at neighbouring properties.

Reasons

Pedestrian and road user safety

4. The appeal site is located in an established residential suburb and comprises the front gardens of a pair of modern semi-detached bungalows located in a backland enclave surrounded by older terraced housing. Access is provided to the two existing bungalows down long private gated drives from Halstead Road

and Ridge Road respectively. Vehicular access to the proposed dwellings, and to 118A Ridge Road, would be taken from Ridge Road. The appellant indicates that this drive would be modified and resurfaced.

5. Swept path analysis presented by the appellant shows how service and other vehicles can access the driveway and manoeuvre to leave the area in a forward gear. However, the whole of those manoeuvres are shown as taking place on land beyond the appeal site as defined by the red line on the plans. In any event, I am not convinced that the suggested arrangements whereby vehicles exiting the site would give way to vehicles entering the site in accordance with informal signage would always work in practice. Furthermore, I have not been provided with plans showing the proposed arrangement for a modified drive as suggested by the appellant, and it is not clear from the information before me whether the appellant would have the necessary control over land that may be needed to undertake any such modifications.
6. It is recognised in evidence that additional vehicular movements would be created along the access drive. However, the appellant's evidence indicates that the drive, even if it were modified, could still only accommodate one vehicle at a time. The proposed development therefore creates a greater possibility of a vehicle entering the site meeting one leaving the site on the drive. Depending upon the position reached along the drive by both vehicles, given its length, this would result in circumstances where vehicles, particularly larger ones, would be likely to reverse into Ridge Road.
7. The possibility of such dangerous vehicle reversing movements happening is increased by the presence of access gates which are positioned a good distance back from the entrance to Ridge Road. The appellant indicates these will remain in place, possibly with an altered opening mechanism. However, no further information has been provided regarding the gates, which lie outside the application site, and I have nothing before me to demonstrate that the appellant has control over the gates such that alterations to their opening mechanism could be secured. In their current position, once closed, the gates would be a disincentive to a driver leaving the appeal site who may otherwise be expected to reverse back towards the site. While this scenario may only arise occasionally, it does nevertheless leave the possibility of a significant hazard to pedestrians, cyclists and other highway users being created by drivers reversing into Ridge Road because of the proposed development.
8. On this main issue I find that the proposed development would fail to ensure the safety of pedestrians, cyclists and other road users. Accordingly, it would conflict with Policy T4 of The London Plan (March 2021) ('The London Plan'), Core Policy 25 of the Enfield Plan Core Strategy 2010 – 2025 (November 2010) ('the Core Strategy'), and Policy DMD 47 of the Improving Enfield Development Management Document (November 2014) ('the DMD') because it would increase road danger due to the configuration of the access and would fail to provide safe routes for walking, cycling and other non-motorised modes of travel.

Refuse disposal

9. The appellant presents three options for the collection or disposal of refuse from the proposed dwellings: future occupiers would pull wheelie bins to the highway, as happens with the existing bungalows; a refuse truck could enter the access drive to collect the bins, with vehicle tracking drawings

demonstrating how vehicles could turn and leave in a forward gear; or a private refuse removal arrangement could be put in place using smaller vehicles. However, the space available for vehicle manoeuvring shown on the plans lies outside the application site and I have nothing before me to demonstrate the appellant would have control over the use of that land.

10. The information available to me indicates that residents at No 118A and at 98 Halstead Road already pull their wheelie bins to the back edge of the highway. The appellant suggests that, because this arrangement already exists, future occupiers could do the same. However, I do not find that a convincing argument. The bins would need to be pulled some considerable distance, gates would need to be negotiated, and the possibility arises that several wheelie bins may remain unretrieved for some period of time leading to obstructions in the highway. There is no allocated location shown on the highway or on land within the control of the appellant to facilitate the storage of bins prior to their retrieval. This would be likely, on occasion, to create an avoidable obstruction causing danger to pedestrians, cyclists and drivers.
11. The matter of future refuse collection from the proposed dwellings remains unresolved, and it is a matter of concern to the Council. It would be necessary to resolve this matter prior to development being permitted if that were to have been the outcome of the appeal. It would not be appropriate in these circumstances, where the proposed development is so distant from the highway, to deal with the matter through planning conditions which, in any event would be unlikely to be enforceable in respect of requiring private means of disposal, or the provision of storage space on land not within the appellant's control. Without a clear proposal before me I find there to be insufficient information to resolve this matter.
12. On this main issue I find that the proposal does not demonstrate adequate refuse disposal arrangements. Accordingly, it conflicts with Policy DMD 47 of the DMD which requires new development to have adequate, safe, and functional provision for refuse collection.

Accessibility, permeability and movement

13. The proposal includes the retention, potentially in a modified form, of gates across the access drive. This would have the effect of significantly restricting permeability for pedestrians and would prevent and dissuade easy access to the proposed dwellings thereby creating a limitation on movement. In considering this matter I have had due regard to the Public Sector Equality Duty set out in section 149 of the Equality Act 2010. I have nothing before me to demonstrate the appellant has control of the land on which the gates are located, or of the gates themselves. Planning conditions could therefore not be used to control their operation. The gates are likely to be closed for long periods and, even if access controls were installed, pedestrians, cyclists, or drivers would be required to spend undue time and effort in using the controls.
14. The appellant indicates that gates are provided currently to prevent fly-tipping. However, I have nothing before me that demonstrates the foundation for these concerns. Whilst I note the views expressed in the appellant's Crime Prevention Statement, the proposal would include unjustified barriers to movement and would therefore not represent inclusive design.

15. On this main issue I find the proposed development would be harmful to accessibility, permeability, and movement. Accordingly, it conflicts with Policies D5 and T2 of The London Plan, and Policies DMD 37 and DMD 47 of the DMD which collectively and in summary require development to achieve the highest standards of accessible and inclusive design; be convenient and welcoming with no disabling barriers, providing independent access without additional undue effort; ensure that development is permeable by foot and cycle being easy to get to; and that provision is made for attractive, safe, clearly defined and convenient routes and accesses for pedestrians, including those with disabilities.

Surface water flooding

16. A comprehensive Surface Water Drainage Strategy ('the SWDS') dated 18 May 2021 has been provided by the appellant. This demonstrates relevant site constraints in respect of surface water drainage. Based on Environment Agency data the site is identified as being at low risk of flooding from fluvial or tidal sources or from surface water. There is limited potential for flooding from groundwater sources based on data from the British Geological Survey.
17. A detailed Sustainable Drainage Systems ('SuDS') options assessment is included in the SWDS, along with implementation and management proposals for a SuDS scheme. I have had regard to the correspondence provided on this matter between the Council and the appellant. This correspondence is framed in a way that suggests that a SuDS scheme that is acceptable to the Council could be created at the site. From the information available to me I consider that to be an achievable outcome.
18. Notwithstanding the concerns about flooding raised in representations, given that there appears to be little difference between the main parties on matters concerning the design of a suitable SuDS scheme, I am satisfied that those remaining matters could have been addressed through planning conditions had I been minded to allow the appeal.
19. On this last main issue, I find that an appropriate SuDS scheme would be achievable at the appeal site. Therefore, the risk of localised surface water flooding at the appeal property and at neighbouring properties could be adequately controlled. The proposal would therefore accord with Policy SI 13 of the London Plan, Core Policies 21 and 28 of the Core Strategy, and Policies DMD59, DMD60, DMD61 and DMD62 of the DMD. The Council's suggested reason for refusal refers to the Enfield Strategic Flood Risk Assessment (2008) but I have not been provided with a copy of that document.

Other Matters

20. The appellant indicates that the proposal offers no measurable impact on surrounding amenity. I note various representations expressing concerns about the effect the proposal would have on neighbours' living conditions. However, based on the Council's statement of case this is not a matter in dispute between the main parties. I have found harm in respect of other effects, and I need not consider this matter further.
21. Concerns are expressed in representations about the potential for damage to the access drive during construction and from delivery vehicles. This would be

a private matter between the parties involved and, given the appeal is dismissed for other reasons, this is not a matter I need to consider further.

Planning Balance

22. The Council's statement of case states that '*...the Council is subject to the presumption in favour of sustainable development assessment and must accord with paragraph 11 of the NPPF and application of a "tilted balance" in its decision making*'. While no further information is provided on this matter, I take it to mean that the Council cannot demonstrate a five-year supply of deliverable housing sites, or they have failed to meet the Housing Delivery Test established in the National Planning Policy Framework ('the Framework'). In these circumstances, having regard to paragraph 11 d) of the Framework, the policies which are most important for determining the appeal are therefore presumed out-of-date. The Framework therefore requires that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The provision of two additional dwellings would be a benefit in contributing to the need to provide additional housing in the area. While this would represent only a small contribution towards meeting those needs, I nevertheless attribute moderate weight to this benefit. The Framework encourages the effective use of land in meeting the need for homes, including providing a variety of housing types. The proposal would meet this objective and accordingly I attribute moderate weight to this benefit. I also recognise that benefits would arise from the proposed SuDS scheme in respect of local ecology. These benefits would be relatively minor, according to the appellant, and I give this matter limited weight.
24. The harm I have identified to the safety of pedestrians, cyclists and other road users; the lack of adequate refuse disposal arrangements; and the harm that would arise in regard to pedestrian accessibility, permeability and movement to the site would be significant. As a result, the social objective of sustainable development described in the Framework of fostering well-designed places, would not be achieved. Accordingly, the harm I have identified that would arise from the proposed development would significantly and demonstrably outweigh those benefits I have noted above.

Conclusion

25. For the reasons given above, the proposed development would not comply with the development plan when taken as a whole. Further, I have found that the identified harm would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework taken as a whole. As a result, the scheme would not represent sustainable development as described by the Framework. There are no material considerations to support a decision other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David English

INSPECTOR