



Appeal Decision

Site visit made on 27 February 2023

by David English BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/Q5300/W/22/3303168

Land rear of 379 High Street, Enfield EN3 4DH

- 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 Cuma Toprak of Toprak Decorations Ltd against the Council of the London Borough of Enfield.
 - The application Ref 22/00284/FUL is dated 4 February 2022.
 - The development proposed is construction of building for the use of garage and office for construction industry.
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Decision

1. The appeal is dismissed and planning permission for construction of building for the use of garage and office for construction industry is refused.

Preliminary Matters

2. The appeal is made against the Council's failure to issue a decision. The Council's evidence, taken as a whole, confirms that had they been in a position to determine the application they would have refused planning permission on the grounds that the proposal would be out of character with the prevailing pattern of development in the surrounding area, and by virtue of its location, and its commercial use, the proposal would be incongruous and inappropriate. I have taken this into account in my decision.

Main Issues

3. Given the above, the main issues are the effect of the proposed development on:
 - the living conditions of the occupiers of nearby dwellings in respect of noise and disturbance; and
 - the character and appearance of the area.

Reasons

Noise and disturbance

4. The appeal site comprises an area of land adjoining the bottom of the rear garden of 379 High Street. Access to the site is taken from The Ride along a gated private track which appears to serve the rear of dwellings on High Street and several detached garages of varying size, many of which appeared to be associated with the use of those dwellings. There is a significant level of vehicle movements along High Street, and intermittent vehicular and pedestrian

activity associated with a nearby builders' merchant, schools and The College of Haringey, Enfield and North East London. However, the generally long rear gardens of the dwellings along High Street provide relatively quiet, peaceful outdoor spaces for their occupiers. The area beyond High Street is generally quiet and exhibits a distinctly suburban residential feeling.

5. I saw several cars parked along the private track serving the appeal site. However, whilst I acknowledge the comments made by the appellant, I saw no evidence of there being commercial uses in the existing garages which are accessed from the track. The proposal would introduce a commercial storage and office use associated with the construction industry where currently there appears to be no other such uses. The introduction of the proposal would be very likely to bring with it an increase in vehicular movements along the private track, and regular periods of activity involving loading and unloading of materials and equipment. While the use of the proposed building for office activities may generate less noise than movements associated with the commercial storage use, the proposal as a whole would introduce a degree of noise and disturbance that has the potential to be substantially greater than that which could reasonably be expected in this relatively quiet residential area.
6. The appellant indicates that the proposed building will be used when needed, and not as a premises to run a business. However, the proposal is described in terms that confirm the building would be used for commercial purposes, and the evidence before me shows that the proposal would result in the creation of a stand-alone commercial activity, unrelated to any adjoining residential property. If planning permission were granted, it would run with the land. I have nothing before me to suggest that it may be appropriate in this case to impose a condition to create a personal permission for the appellant as a means of limiting noise and disturbance. In any event, mindful of advice in the Planning Practice Guidance and the National Planning Policy Framework (the Framework), such an approach is rarely appropriate, is unlikely to meet the tests for planning conditions, and I am not satisfied this would address the concerns I have about the proposal.
7. The potential for noise and disturbance arising through the use of the proposed building would differ markedly from the type and duration of noise associated with nearby schools. While I accept that schools can cause noise from children during breaktimes, and often attract periods of intense activity prior to and at the end of the school day, these are short-lived periods and occur during term time. Although planning conditions could limit the hours of activity at the proposed building, it would be unreasonable to restrict activity other than to a normal working week. For the construction industry, in my experience, this would typically run throughout weekdays and on Saturday mornings. I am not satisfied that, even with such a condition in place, the proposal would not cause unacceptable noise and disturbance to neighbouring residents from vehicular movement, loading and unloading and other general activity that would be associated with the commercial use of the proposed building.
8. I conclude that the proposed development would have an unacceptably harmful effect on the living conditions of the occupiers of nearby dwellings in respect of noise and disturbance. Accordingly, the proposal would conflict with Policy DMD 37 of the Improving Enfield Development Management Document (November 2014) (the DMD) which seeks to resist development that is inappropriate to its context, or which fails to have appropriate regard to its

surroundings. The proposal would also conflict with the social objectives of the planning system set out in the Framework in respect of supporting communities' health and well-being; and the Framework's requirement of ensuring safe and healthy living conditions.

Character and appearance

9. While other educational and business uses are present in the vicinity of the appeal site, the area is primarily residential in character comprising streets and cul-de-sacs of mostly traditional two-storey terraced or semi-detached houses, with those close to the appeal site having generous rear gardens. The proposal would involve the construction of a substantial pitched roof building with a ridge height of around 4.5 metres. The appellant suggests that the scale of the proposed building would be similar to a garage next door. I saw that there was a large flat-roofed garage adjoining the appeal site which looked relatively new. However, that building appeared to me to be lower than the proposal, and I have no information before me to confirm the planning status of that garage.
10. Apart from that garage adjoining the appeal site, the other garages alongside the private track, and others I saw in gardens in the vicinity are of a domestic scale and appearance and are substantially smaller than the appeal proposal. The proposal would appear prominent and clearly visible from adjacent rear gardens and from windows in the rear elevations of houses in High Street. Views of the proposal would be possible from The Ride, including through the steel palisade gates to the private track. While there are boundary fences, trees, shrubs and hedges in nearby gardens these are not intrusive features, and they are not out of place in such an established residential area. In contrast, the proposal would appear as an overly prominent and bulky structure covering a much greater area than the nearby small garages and of a significantly greater height than them. The proposal would therefore appear overly large, intrusive and out of place in this context.
11. I therefore conclude that, as a result of its size, height, and commercial use the proposed development would have an unacceptably harmful effect on the character and appearance of the area. Accordingly, the proposal would conflict with Policy DMD 37 of the DMD which seeks to resist development that is inappropriate to its context, or which fails to have appropriate regard to its surroundings. The proposal would also conflict with the social objectives of the planning system set out in the Framework in respect of fostering well-designed, beautiful places.

Other Matters

12. The reasons for objecting to the proposal given by the Council include their concern that the scheme would not be supported by Policy DMD 7 of the DMD. That policy refers only to the development of garden land. From what I saw during my site visit it was clear to me that the appeal site does not form part of a garden. There is a tall fence separating the site from the back garden of No 379 and there is no means of access between the two areas. Accordingly, Policy DMD 7 is not a relevant development plan policy in the determination of this appeal.
13. The Council refers to Policy D4 of The London Plan (March 2021) which they say does not support the proposal. However, that policy concerns the process of design assessment rather than the principles or elements of good design and

is therefore not a relevant development plan policy in the determination of this appeal.

14. The Council also refer to Core Policy 30 of The Enfield Plan Core Strategy 2010 – 2025 (November 2010). However, that policy appears to relate only to development and interventions in the public realm and therefore is not a relevant development plan policy in the determination of this appeal.

Conclusion

15. For the reasons given above, the proposal would conflict with the development plan when read as a whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

David English

INSPECTOR