



Appeal Decision

Site visit made on 3 May 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2023

Appeal Ref: APP/Q5300/W/22/3308556

259 Haselbury Road, London N9 9TL

- 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 Mehmet Goztas against the decision of the Council of the London Borough of Enfield.
 - The application Ref 22/00815/FUL, dated 7 March 2022, was refused by notice dated 9 June 2022.
 - The development proposed is sub division of site and erection of 1-bedroom residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. Although the appellant acknowledges the Council changed the description and the wording was the Council's agreement to the change, it is not clear if this means the appellant agreed to this. Accordingly, I have used the one given in the original application.

Main Issues

3. The main issues are:
 - the effect of the proposed development upon the character and appearance of the area;
 - whether the proposed development would provide suitable living conditions for future occupants in respect of outlook and daylight;
 - whether the proposed development would provide adequate garden space;
 - whether the proposed development would provide adequate sustainable drainage measures;
 - whether the proposed development would achieve a suitable level of sustainable construction; and
 - the effect of the proposed development upon ecology and biodiversity, and whether the proposed development demonstrates satisfactory ecological enhancements.

Reasons

Character and appearance

4. The appeal site consists of a parcel of land at the rear of No 259 Haselbury Road, a two-storey property with a commercial use at ground floor. The character of Haselbury Road is mixed, but the site has a boundary with the residential road of Deansway. The primary relationship would be with this road as the proposed development would face and be accessed from it. The site also has a boundary with an overgrown pathway, beyond which is the flank wall of No 2 Deansway.
5. Deansway properties are predominantly two storey, hipped roof semi-detached houses. They are laid out in a regular pattern with similar dwelling to plot ratios, heights and spacing between each other and to the road. The overall consistent pattern of development, particularly set behind front garden areas contributes to the character and visual appearance of the area. The appeal site forms a space which marks the beginning of this layout, clearly separating the site from the rear of the buildings and associated land which front Haselbury Road.
6. In marked contrast to this layout of buildings on Deansway, the proposal would project in front of the established and regular building line and would be the only property with a minimal front garden area. The proposal would be close to the pedestrian footway and road. Although it would be single storey and stepped down in height between properties incorporating a hipped roof, the overall width and the height would add a significant amount of built development uncharacteristically closer to the footway and road. As such the layout of the development would be incongruous in its immediate context and the proposal would be highly visible and dominant.
7. Also, unlike properties on Deansway, the built development would occupy most of the plot and not provide significant space at the rear. Therefore, the dwelling to plot ratio would not reflect the density of the surrounding area. Moreover, due to this and its proximity to its side boundaries, the development would appear cramped within its plot and the wider streetscene.
8. As the development would fill much of the site, it would erode the existing space to the rear of No 259 which contributes to the setting and layout of the regularly designed and spaced dwellings on Deansway. Consequently, the proposal would fail to assimilate successfully with the established spatial pattern of development in this part of the street and would have a negative visual impact.
9. Although not in a conservation area or near a listed building, the proposal would result in significant harm to the character and appearance of the area. It would therefore conflict with policy CP30 of the Core Strategy 2010 (the CS) and Policies DMD6, DMD8 and DMD37 of the Development Management Document 2014 (DMD) and Policy D5 of the London Plan 2021 (the London Plan). Amongst other things, these expect developments to be of a density that is in keeping with the character of the area and reflect or enhance its overall character, appearance and setting. The proposal would be contrary to paragraph 130 of the Framework where it states development should have a high standard of amenity for existing and future users.

Living conditions

10. The property would meet the nationally described space standards, and the proposed living room is of a generous size. However, the living room would only have openings on one wall and would only be served by a single glazed door and narrow window. These would be very small in comparison to the room size and shape. The glazed door and window would also be in very close proximity to the 1.8m high timber boundary fence, which would present a blank oppressive feature so close to this area of key living accommodation, where future occupiers are likely to spend a significant amount of time.
11. Similarly, although the window serving the smaller bedroom is more generous and there is a greater distance to the fence, this is by no means a large distance and it would still feel enclosed by the proximity of the surrounding high site boundaries. Furthermore, there are semi-mature trees and vegetation within the path on Deansway to the side of the site, which would increasingly affect the bedroom window from shadow as they mature, noting they are not proposed for removal and are outside the appellant's land.
12. In the absence of substantive evidence to the contrary, I conclude that these factors would result in a gloomy living conditions and an enclosed outlook from the proposed rear living room. Thus, inadequate living conditions would be provided for future occupiers.
13. Consequently, the development conflicts with CS Policy CP4, DMD Policies DMD6, DMD8 and DMD37 Combined these policies seek to achieve good design and a high standard of accommodation. There would also be conflict with paragraph 130 of the Framework where it states development should have a high standard of amenity for existing and future users.

Garden space

14. From my observation, the front garden spaces on Deansway did not appear to be regularly used for sitting out or hanging washing, many front garden areas were only used for parking. The supporting text for DMD Policy DMD9 states that space to the front of the dwelling is not considered as private amenity space. In such close proximity to the busy mixed use Haselbury Road the space at the front would be closer to additional noise from traffic, and activity. It would not be private as pedestrians would also be walking past to access the nearby shops and services. While some planting appears to be shown on the plans, I do not have landscape species details and as such it is not clear if there would be screening from the public footway as the proposed fencing would be low. The lack of privacy and nearby activity would make it less likely to be used.
15. The paved area around the remainder of the dwelling consists of narrow strips to the side and rear. The limited dimensions, narrow shape and proximity to boundary and external features would in this instance restrict the overall practicality and value of the outdoor space to the future occupiers. Little more than a pathway width, it would not provide a meaningful space for typical domestic activities such as sitting out, drying washing and gardening. Hemmed in by high boundary fences and vegetation it would be unlikely to receive much direct sunlight.

16. Users of the proposed amenity space would therefore experience an oppressively enclosed environment or lack of privacy. Even if the proposed garden space is not substandard in size, and exceeds minimum requirements, it would be poor in quality and useability which would be harmful to the living conditions of future occupiers. The proposal would therefore not provide satisfactory living conditions for future occupiers in respect of garden space.
17. The development therefore conflicts with CS Policy CP4, DMD Policies DMD7, DMD8 and DMD9 and Policy D4 of the London Plan. Combined these policies seek to achieve good design and housing quality including external amenity space. The proposal would also be contrary to paragraph 130 of the Framework where it states development should have a high standard of amenity for existing and future users promoting health and well-being.

Sustainable drainage

18. A requirement to achieve greenfield run-off rates and sustainable drainage measures (SuDS) is referred to by the Council, and underpinned by several policies within the CS, DMD and the London Plan. A drainage strategy is required, but no details of this or proposed drainage arrangements have been provided, other than the plans showing the provision of permeable block paving and landscape. However, there is nothing before me to indicate the site is within a flood risk area. Noting the absence of objection from the Council's SuDS consultee, evidenced in the Council's officer report and statement and given the limited scale of the proposals I consider this could be suitably dealt with by a planning condition.
19. As such, subject to conditions the proposal would be able to accord with Core Strategy Policies CP4, CP21, CP28, CP29, DMD Policies DMD49 and DMD59 and London Plan Policy SI13. Together these seek to ensure proposals incorporate sustainable drainage measures to manage flood risk. The proposal would accord with the requirements within paragraph 167 of the Framework which requires sustainable drainage systems to be incorporated within new development.
20. It is not clear how Policy CP24 (The Road Network), DMD45 (Parking Standards and Layout), DMD46 (Vehicle Crossovers and Dropped Kerbs) and DMD47 (Access, New Roads and Servicing) are relevant to this issue. As such it has not been demonstrated that there would be a conflict with them.

Sustainable construction

21. Policy DMD49 of the DMD sets out that all new development must achieve the highest sustainable design and construction standards and that all planning applications must be accompanied by a Sustainable Design and Construction Statement which demonstrates compliance with CS policies, and those of the London Plan.
22. The appellant has not submitted a statement as required by the policy, nor have any details been provided which would indicate how the proposed dwelling would meet the criteria set out within them. Based upon the evidence before me, it would be necessary to address such measures to ensure policy compliance. However, if I was to allow the proposal, I have no evidence why such measures could not be adequately secured by a suitably worded planning condition.

23. Consequently, subject to a suitably worded condition the proposal would accord with CS Policies CP20 and CP21 and Policies DMD49, DMD50, DMD51, DMD53, DMD55 and DMD79 of the DMD which seek to secure developments which demonstrate high sustainable design and construction standards through a range of measures.
24. Although referred to in the reasons for refusal, I do not find CS Policies CP31 and CP36 which relate to heritage and the Councils overarching objectives in relation to biodiversity to be particularly relevant. Nor is CP22 which relates to waste management. There is no discussion from the Council on these, and as such a conflict with these policies has not been evidenced.

Ecology enhancements

25. Notwithstanding the presence of a storage container on the site, and although the garden is vacant and subject to fly tipping, in the absence of any assessment it is not possible to understand whether the site would be capable of supporting habitats. Therefore, it is also not possible, to understand whether there would be no adverse impacts on biodiversity. Nor am I able to determine whether the landscape details proposed would equate to satisfactory ecological enhancements.
26. The proposal would therefore conflict with Policies DMD49 and DMD79 of the DMD which states amongst other things that the Council will seek sustainable design and to protect, enhance, restore or add to biodiversity interests within the Borough. There would also be conflict with Policy G6 of the London Plan which amongst other things states that development proposals should manage impacts on biodiversity and aim to secure net biodiversity gain. It states that this should be informed by the best available ecological information and addressed from the start of the development process.
27. Policy CP3 of the CS has been referred to in the reason for refusal. I have not referred to it above as it relates to affordable housing and is not directly relevant to this main issue.

Other Matters

28. The proposal seeks to provide ground floor accommodation for elderly parents of the appellant, resulting in accessible and adaptable accommodation. Therefore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010.
29. Whilst I appreciate that level access single storey accommodation would undoubtedly offer benefits for elderly relatives and people with mobility issues, I do not have any other evidence that this is the only means of providing suitable accommodation for them. Therefore, it has not been shown to be necessary to allow the appeal in order to eliminate discrimination or promote equality of opportunity between those who display protected characteristics and those who do not. Therefore, I attribute limited weight to this matter.
30. The proposal would provide a self-build plot for the appellant. There is support for the provision of such units in national policy and this could weigh in favour of the scheme. However, there is no mechanism before me to secure this, so I attribute no weight to it.

31. The proposal would provide car free housing and make efficient use of a small site that could be delivered quickly and, in doing, so could make a rapid contribution to the Borough's housing stock. The site is in an accessible location. While there would be social and economic benefits from additional housing and its occupation and some support from the Council's policies and Framework in this regard, given the scale of the development, the weight attributable to these matters is limited.
32. The appeal decisions from the references¹ provided by the appellant demonstrate that in certain circumstances development which would form a granny annexe can be incorporated on specific sites. However, a granny annexe is a different form of development to that proposed and reliant on a host dwelling. I have also not been provided with any further information in relation to the justification for these, the site context or the scale of the development. Although it is understood this proposal would be for the appellants parents it has not been articulated how they or the application², which I have no other details for, is comparable to this proposal for an independent residential use which is clearly separate from No 259. Consequently, I attach limited weight to these other examples, and I have determined this appeal on its own merits.
33. There is no dispute between the parties with regards to the principle of development; or whether the proposed materials, access, highway effects, effect on trees, cycle/refuse storage and effects on the occupiers of neighbouring buildings would be appropriate. In addition, all properties meet space standards. I also note compliance with the various other policies the Council has also referred to. However, these would only represent neutral factors and would not weigh in favour of the proposal.
34. It may well be that tidying the site up would make it less likely to attract fly-tipping or vermin, but there is no substantive evidence that this is a significant problem that can only be resolved by development of the site.

Conclusion

35. There might be compliance with the Framework in respect of the delivery of housing in an accessible location and some of the neutral matters. I also did not find harm in respect of sustainable drainage and construction. I do not consider that the very modest benefits of the proposal, including providing suitable accommodation for elderly persons, would outweigh the harm that would be caused to the character and appearance of the area, living conditions of future occupiers and the absence of measure to address biodiversity and ecological enhancements, and would result in overall conflict with the Framework as a whole.
36. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and other relevant considerations of sufficient weight do not indicate that a decision contrary to the development plan should be reached.

¹ APP/Q5300/D/18/3219506, APP/Q5300/X/17/3181362, APP/Q5300/D/18/3199844, APP/Q5300/D/18/3199791
² 19/01856/HOU

37. I therefore conclude that it is necessary to dismiss the appeal.

K Williams

INSPECTOR