



Appeal Decision

Site visit made on 4 April 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/Q5300/W/22/3312078

26 Cecil Road, Enfield EN2 6TG

- 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 Peter Petrou of 11 Alston LTD against the decision of the Council of the London Borough of Enfield.
 - The application Ref 22/03012/FUL, is dated 30 August 2022.
 - The development proposed is redevelopment of site involving demolition of existing building and erection of part 3, part 4 storey residential block consisting of 8 units with secured access from Cecil Road and associated landscaping works with provision for refuse store, cycle spaces and an accessible visitor parking space.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. A revised plan showing changes to the front and rear of the proposed building including alterations to landscaping and, cycle and bin storage, and a revised drainage strategy¹, were submitted with the appellant's final comments. Applying the Wheatcroft principles², it is important that the proposal I consider is essentially that which has been considered by the Council and on which interested parties' views have been sought. In this case, the Council did not make a decision on the planning application. However, in order to not prejudice the interests of the Council, third parties and consultees who have not been consulted on the changes, I have made my decision on the basis of the plans and documents submitted prior to the appeal being made. Accordingly, I have not taken the revised plan or drainage strategy into account.

Main Issues

3. The appeal is against the failure of the Council to determine the planning application. The Council have produced putative reasons for refusal and from those I consider that the main issues are:
 - The effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Enfield Town Conservation Area (CA), and its effect on the significance of Enfield Library, which is a locally listed building;

¹ Proposed SuDS strategy for the proposed re-development of 26 Cecil Road, Enfield EN2 6TG, Innervision design, October 2021.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- the effect of the proposal on the living conditions of future occupiers of the units with regard to outlook, daylight and sunlight and outdoor space;
- the effect of the proposal on flood risk with regard to surface water drainage;
- whether the cycle parking proposed would be appropriate; and
- whether the proposal would provide satisfactory parking arrangements and promote the use of sustainable transport.

Reasons

Character and appearance and heritage assets

4. The appeal site is a detached, two-storey house located on Cecil Road. It has trees and hard landscaping at the front where there is space for the parking of vehicles. The house is located between a former dwelling at No 24, now used for commercial purposes, and a telephone exchange building. To the rear of the site is a multi-storey car park, which is part of the adjoining shopping centre. Opposite the site are semi-detached Edwardian dwellings. The CA covers the historic core and commercial centre of the town and surrounding areas including several open green spaces. The centre features a high proportion of civic and Victorian commercial buildings. Cecil Road is close to the commercial centre and was originally laid out in the 1850s as a cul-de-sac with substantial villas. It was extended in 1900 and is now a busy through road.
5. The site is identified within Character Area 1 of the CA in the Enfield Town Conservation Area Character Appraisal which sets out that this area is at the heart of the CA. Cecil Road, which curves around the bottom of this area, and borders the Town Park, provides an almost seamless transition between the adjoining residential areas and the town. Although this road is described by the appellants as a back land service area for the town centre, the character of Cecil Road, with residential buildings, interspersed with civic buildings, changes in the approach to the site. The street trees are an important element, softening and defining the road, particularly as the road curves towards the site. I therefore consider that the special interest and significance of the conservation area as a whole stems in part from the richness, quality and architectural variety of the buildings within it and its open spaces.
6. Nos 24 and 26 are reputed to date to the 1920s. Whilst they are identified as neutral sites within the Character Appraisal, they are the last surviving houses on the north side of Cecil Road. Furthermore, they provide a link with the residential housing opposite and other housing that existed in this area prior to the construction of the shopping centre and later office developments. They also provide evidence of building during the inter-war period, together with the locally listed Baptist Church, dating to 1925, which leads to the telephone exchange building, next to the appeal site, which is a well-proportioned, symmetrically designed building. Overall, I consider that No 26 adds to the rich and varied townscape within the CA, and thus makes a positive, albeit modest, contribution to the character and appearance of the CA as a whole.
7. The appeal site is near to Enfield Library, built in 1912, and a locally listed building, which I consider is a non-designated heritage asset (NDHA). It derives significance in part from its features of architectural and historic interest, including its ornate doorway, decorative mouldings and traditional

sash windows, in association with a park to the front, which was once part of the grounds of one of the larger houses in the vicinity. The site is located within the setting of this building, being a short distance from it on the same side of Cecil Road. No 26 is set back from the road and is a building of a position, scale and materials such that it is recessive to the library within the streetscene, and thus it enables the qualities of the library to be appreciated. In this respect No 26 contributes modestly to the setting of the NDHA.

8. The proposal would replace the house with 8 residential units in a part 3 and part 4 storey block, with a mansard style roof. The building would be constructed in a textured red brick to match adjoining buildings, with brick detailing and inset panels to the side elevations. The position, size and number of windows would dominate the front and rear elevations which emphasises the height of the building. The different style of window openings on the ground floor, would, moreover, appear incompatible with the openings above them. The mansard roof's anthracite coloured cladding material is not a material evident in the CA and therefore would not be sympathetic to the appearance of the area. Although the design of the proposal has sought to reflect the telephone exchange next to the site, which has a similar roof style, this is finished in tiles with dormer windows barely protruding from the roof profile, as opposed to the prominent square dormer windows on the appeal site.
9. Whilst the building would be located further into the site than the existing house, and the trees would be retained at the front, the building would appear cramped. This is because of its size and that it would extend up to the site's boundaries. It would therefore appear overly dominant in this location. In comparison, the telephone exchange is on a much larger site than the proposal and thus has relief between it and the adjacent building. Conversely, despite the proposed 4th floor being set back and the scheme being below the height of the adjacent telephone exchange, it would be immediately adjacent to and much taller than No 24 and thus overwhelm that neighbouring building. This would also result in No 24 appearing isolated, being the only traditional residential style property left on this side of Cecil Road. The proposal would, therefore, appear incongruous in this location and harm the character and appearance of the CA.
10. A significant number of the windows would have Juliet balconies. The appellant has provided several examples where Juliet balconies have been used within Enfield, as well as some from within the CA. However, the examples within this CA do not appear directly comparable to the appeal scheme in terms of their surroundings and being not narrowly constrained by adjoining buildings. This does not lead me to alter my findings.
11. In terms of the effect on Enfield Library, paragraph 203 of Framework requires the effect of an application on the significance of a NDHA to be taken into account in determining the application. The proposal is within the setting of the library and in this sensitive location, the scale and design of the proposal would detract from the library's architectural features. This would result in a limited amount of harm to the setting of this building.
12. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 199 of the Framework states that when considering the impact of a

proposed development on the significance of a designated heritage asset, in this case the CA, great weight should be given to the asset's conservation.

13. For the above reasons, I consider that the proposal would harm and thus fail to preserve or enhance the character or appearance of the CA. It would therefore conflict with section 72(1) of the Act. Furthermore, the scale, form and design of the building would harm the character and appearance of the area more widely.
14. Having regard to the nature of the proposal and the impacts on the significance of the CA, the harm would be 'less than substantial' in the terms of the Framework. In such circumstances, paragraph 202 of the Framework requires this harm to be weighed against the public benefits of the proposal.
15. The proposal would provide 8 residential units and thus significant public benefits through increasing housing supply, particularly given that the scheme would make use of previously developed land in an accessible location and the Council's latest Housing Delivery Test result confirms that only 67% of the homes required in the borough were delivered across the test period. Moreover, I note that the Framework's objective is to boost the supply of housing and that small sites like this can make an important contribution to meeting housing requirements. There would also be modest, short-term economic benefits associated with the construction of the building. However, the sum of the public benefits is insufficient to outweigh the great weight that even less than substantial harm to a designated heritage asset carries.
16. Therefore, the proposal would not accord with Policies DMD 6, DMD 8 and DMD 37 of Enfield's Development Management Document (DMD), 2014, which collectively requires development to be of an appropriate scale, bulk and massing, and appropriate to the existing pattern of development or setting, with inappropriate development being refused.
17. Furthermore, it would not accord with Policy DMD 44 of the DMD and CP Policy 31 of The Enfield Plan Core Strategy 2010-2025 (CS) which requires heritage assets to be conserved and enhanced. Lastly, it would not accord with CS Policy CP 30 which requires development to improve the quality of the built environment, and chapters 12 and 16 of the Framework.

Living conditions

18. Policy DMD 9 of the DMD requires the provision of good quality amenity space and sets out minimum private amenity space size requirements, which differ depending on whether dwellings would have access to communal amenity space that meets specified criteria. The ground floor units would have access to separate rear gardens, with the units on the 1st and 2nd floors having balconies to the rear, and the 3rd floor having both front and rear balconies. The Council only raised concerns regarding units 3 and 5, which would each have two bedrooms, could accommodate four people, and would have one rear balcony. These balconies would provide around half of the minimum private amenity space required by the policy. Therefore, the proposal would provide an unacceptable level of outdoor space for these units.
19. The appellant contends that the lack of outdoor space within the site is offset as it is close to the entrance to a park and that the Housing Supplementary Planning Guidance (SPG) provides support for such an approach. However, the

proposal would nevertheless conflict with Policy DMD9, and the SPG makes clear that its guidance is subject to meeting planning policy requirements.

20. As the proposed building would be located close to the rear of the site, the rear balconies would face the retaining wall of the shopping centre and adjoining raised car park. This would create a tight space between the buildings and a very poor outlook for the occupiers of these units. Moreover, for these reasons, good quality private amenity space would not be provided.
21. Although all the dwellings in the building would be dual aspect, the habitable rooms within the building are single aspect. The appellant contends that the scheme's design would maximise light receipt to each unit, however, the light source for the living, dining and kitchen rooms in the ground floor units would only come from a small window and a partially glazed door on the front, apart from a narrow window overlooking the 'study' of unit 1. Furthermore, units with balconies sited on the rear elevations would, because of their siting adjacent to a retaining wall, also reduce light levels into the bedrooms that face these.
22. In summary, units 3 and 5 would have an unacceptable level of outdoor garden space and their living conditions would be harmed in this regard. In addition to units 3 and 5, units 4 and 6 with their rear balconies, would have a very poor outlook. Whilst units 3-8 would have an appropriate level of daylight and sunlight, this would be compromised for the ground floor units, 1 and 2, where daylight and sunlight to living, dining and kitchen rooms at the front of the building would be limited.
23. Therefore, the proposal would not accord with London Plan (LP) policies D3, D4 and D6, CS Policy CP 30 and DMD policies DMD 6, DMD 8 and DMD 9. Collectively, these policies require development to deliver good design, housing quality and standards with appropriate outlook, daylight, sunlight, privacy and amenity.

Sustainable drainage strategy

24. LP Policy DMD 61 requires the management of surface water to be as close to its source as possible and to follow the hierarchy in the LP with the use of SuDS maximised. Cecil Road is identified in the Council's Strategic Flood Risk Assessment (FRA), 2008, as being prone to surface water flooding with the document highlighting that any development has the potential to increase the risk of flooding further down the catchment. The Council considered that the sustainable drainage system (SuDS) details submitted as part of the planning application were inadequate.
25. Notwithstanding this, I am satisfied that appropriate changes to the landscaping and materials, including natural planting, the use of permeable paving and rainwater harvesting would provide the appropriate management of surface water on the site. This could be achieved through a condition requiring the submission of details including a revised SuDS strategy. This would ensure that the proposal would provide appropriate surface water drainage which would not increase flood risk elsewhere.
26. Consequently, the proposal would accord with CS Policy CP21 and CP28, DMD Policies 59, 60, 61 and 62 which together require the management of flood risk

from development, the management of surface water and delivering sustainable water supply, drainage and sewerage infrastructure.

Cycle provision

27. The LP requires secure and covered cycle spaces in new development and in this proposal required 16 cycle spaces. Whilst an inadequate number of cycle spaces were provided in the application, there is space at the front of the site to provide a secure cycle store which would have easy access from the street. An appropriate cycle store arrangement could be ensured by a planning condition.
28. Therefore, the proposal would accord with LP Policy T5, CS Policy CP25 and DMD Policies DMD45, DMD47 and DMD48. Collectively these policies seek to promote cycling as a realistic travel choice by providing safe, convenient and accessible routes for cyclists and appropriate provision within new development. It would also accord with LP Policy T5 which seeks to provide appropriate levels of cycle parking which should be fit for purpose, secure and well-located.

Parking and sustainable transport

29. The LP has an overall aim to create a resilient public transport network and reduce reliance on cars. Policy T6 of the LP states that car free development should be the starting point where proposals are well-connected by public transport, with developments elsewhere required to provide the minimum necessary parking. Notwithstanding this, appropriate disabled persons parking should be provided. One disabled parking bay is located to the front of the property which the Council's highway officer considers is acceptable. I have no reason to dispute this.
30. The site is located in a Controlled Parking Zone (CPZ), and a Public Transport Accessibility Level (PTAL) 5 area. In such areas, the LP requires development to be car free. Furthermore, the Council has stated that a planning obligation should be secured to prevent parking permit ownership. The appellant contends that the Council has not justified this purported requirement. Nonetheless, a Unilateral Undertaking (UU) has been provided, which would ensure that only those owners or occupiers who have a disabled persons badge can be granted a CPZ parking permit.
31. I have not been provided with evidence which indicates that there are parking issues within the CPZ to the extent that the issuing of permits for the prospective occupiers of the development would result in unacceptable parking and congestion impacts. However, the scheme would clearly undermine the objectives of the LP if the development would result in increased car use in an area that should feature car free development. The UU would discourage further car ownership and promote the use of alternative, more sustainable modes of transport. Therefore, I am satisfied that the UU is necessary, and accords with the requirements for obligations set out by paragraph 57 of the Framework.
32. Therefore, subject to the UU, the proposal would provide satisfactory parking arrangements and promote the use of sustainable transport. It would accord with LP Policies T6 and T6.1, CS Policy CP25 and DMD policies DMD45, DMD 47 and DMD 48 which together require assessing the transport implications of new

development with consideration for pedestrians, cyclists and public transport, and the requirements for residential parking.

Other Matters

33. The proposal would not have any windows overlooking No 24 or affect any other neighbouring properties in this regard. It would satisfy internal space standards as set out in the LP and the Nationally Described Space Standards. It would also be wheelchair accessible. As these are normal requirements of any new development in the borough, these are neutral matters in my overall balance.
34. The appellant refers to a previously withdrawn scheme on this site and that certain matters were agreed with the Council, with the only outstanding issue understood to be the appearance and the solid to void proportions of the elevations. Notwithstanding any discussions between the appellant and the Council, its putative reasons are clear, and I have determined the appeal on the evidence before me.
35. The presumption in favour of sustainable development, as set out by paragraph 11 of the Framework, is a relevant consideration due to the Council's Housing Delivery Test result. However, I have found that the proposal would conflict with the Framework's policies relating to conserving and enhancing the historic environment, due to the harm to the CA, and these policies provide a clear reason for refusing the development proposed. Consequently, the proposal does not benefit from the presumption in favour of sustainable development and, moreover, the Framework does not indicate that permission should be granted.

Conclusion

36. For the above reasons I consider that the proposal conflicts with the development plan as a whole. Whilst there are material considerations in favour of the development, these do not outweigh the proposal's conflict with the development plan. Accordingly, the appeal is dismissed.

M J Francis

INSPECTOR