



Appeal Decision

Site visit made on 14 December 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2023

Appeal Ref: APP/Q5300/W/23/3315323

185B Town Road, Edmonton N9 0HL

- 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 Tang against the decision of London Borough of Enfield.
- The application Ref 22/01693/FUL, dated 22 June 2022, was refused by notice dated 17 August 2022.
- The development proposed is Redevelopment of a site consisting of demolition of an existing warehouse/office building (light industrial class B1(c)) and creation of 7Nos. self-contained units (Class C3(a)), 1No. commercial unit (Class E(a)) on the ground floor with associated cycle storage, parking and amenity area.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the development on:
 - The character and appearance of the area;
 - The living conditions of future occupiers with particular regard to light and overlooking, and of existing occupiers of neighbouring dwellings with particular regard to overlooking;
 - Highway safety with particular regard to parking provision; and,
 - Whether the development would accord with local policies and national guidance with regard to flood risk.

Character and appearance

3. The site is located between a three-storey residential terrace with a dual pitched roof and flat elevations which appears to be of fairly recent construction, and a mid-20th century two storey building with a pitched roof, which occupies a corner plot. The immediate area has a mixed typology, but there is a predominance of modest two storey terraces, either hard onto the footway or with small front gardens.
4. The proposed four-storey development would have a bold blocky form with a flat roof, which would be significantly taller than the ridge lines of the adjacent buildings. As such it would represent a considerable increase in built form and bulk well above the adjacent rooflines. It would also have a large rear projection which would extend well beyond the rear elevations of 185 Town Road (No 185). Although the top floor would be stepped back from the lower floors at the rear, it would nonetheless appear very bulky in comparison with

No 185's pitched roof form and overall height, as well as the overall form and height of 187 Town Road.

5. There is a four-storey element to Ithaki Court on the nearby corner of Town Road and Montagu Road, but this is a feature within the overall three-storey built form and it has less impact in terms of bulk and mass than the proposals before me. Moreover, that building has a corner position which limits its impact on the street scene of Town Road. I acknowledge that the top floor of the development before me is slightly set back from the front elevation, but it remains that it would be 8-9 metres deep, and very visible and prominent in oblique views from the street.
6. Overall, the development's height, bulk and massing would overwhelm the buildings on each side and be incongruous and disproportionately prominent in the street scene. It would therefore have an adverse effect on the character and appearance of the area which would be contrary to Development Management Document (DMD) Policies DMD6 and DMD37 which require development to have a scale and form appropriate to setting or existing patterns of development, and DMD Policy DMD8 which requires development to be of an appropriate scale and massing, both amongst other considerations. These policies are reinforced by London Plan Policies D1 and D4, and CS Policy CP30 which are concerned with general design principles, and Section 12 of the National Planning Policy Framework (the Framework).
7. DMD Policies DMD11 and DMD13 are cited in this regard but these are concerned with extensions to existing development and as such weigh neither for nor against the development.

Living conditions

8. Flats 2 and 5 would have combined kitchen and living areas which would be about 9 metres deep, with a window at one end only. There is nothing before me to indicate that this arrangement would provide adequate daylight and sunlight to the rear of these rooms. This would have an adverse effect on the living conditions of future occupiers.
9. The development's projecting rear extension would afford an opportunity for overlooking between the bedroom windows of Flats 1 and 2 on the first floor and Flats 4 and 5 on the second floor. There could also be overlooking between windows on the rear elevation of the adjacent No 185 and the development's western elevation, albeit to a lesser extent.
10. Moreover, although it is unclear whether the adjoining land is used as No 185's rear amenity space, there would be direct overlooking from the development's first and second floor levels into this rear space.
11. The Council has raised a concern in relation to outlook from bedroom 1 of Flat 3 but although it would look out onto a small three sided terrace, I am satisfied that this would not have an adverse effect on living conditions.
12. Nonetheless, there would be an adverse impact on the living conditions of future occupiers with regard to light and overlooking, and existing occupiers with regard to overlooking. This would be contrary to DMD Policy DMD8 which seeks to safeguard amenity in terms of daylight, sunlight, privacy and overlooking. This policy is reinforced by Policy DMD6 which requires a high standard of accommodation, CS Policy CP30 which is concerned with the

general quality of the built environment and Paragraph 130 of the Framework which requires a high standard of amenity for existing and future users, as well as London Plan Policy D4 which is a general policy requiring good design.

13. The Council has also cited CS Policies CP4 and CP5, and London Plan H1, GG2, H9 and H10 which taken together are concerned with general housing quality, making best use of land and housing types, amongst other considerations. However, it is unclear how these relate to concerns around living conditions. The Council has also cited DMD Policy DMD6 which supports high quality design but is not concerned specifically with living conditions, and guidance regarding national space standards and the London Plan's Housing SPD. However, no specific concerns have been raised with regard to these documents. As such, the aforementioned policies and guidance weigh neither for nor against the appeal.

Highway Safety

14. Four parking bays would be provided to the rear of the site, and two parking bays would be at the front of the building, parallel to the kerb and the footway.
15. The tracking shows that the front parking bays would need to be accessed by vehicles manoeuvring over the footway and outside the designated crossing areas. Moreover, if one car was parked the other would have to reverse to access the highway. This could post a safety risk for pedestrians as well as other traffic.
16. As such the development would have an adverse effect on highway safety. This would be contrary to DMD Policy DMD46 which requires vehicles to enter or exit the crossover in forward gear, as well as DMD Policy DMD45 which requires parking layouts to provide adequate sight lines and meet all manoeuvring requirements. There would also be conflict with DMD Policy DMD47 which is also concerned with road safety.
17. These policies are supported by CS Policies CP24 and CP25, and London Plan Policies T2, T4, and T5 which are concerned with improvements to the transport infrastructure, and the safety of pedestrians and cyclists, as well as London Plan Policy T6 which is concerned with the restriction of car parking provision, all amongst other considerations. There would also be conflict with Section 9 of the Framework which is concerned with sustainable transport and road safety.
18. The highway authority notes that four parking spaces to the rear would be acceptable and suggested that amended plans be submitted that omitted the front parking bays. However, there is nothing before me to indicate that amended plans were submitted in this regard and I have to determine the appeal before me.

Flood risk

19. The site is located within Flood Zone 3a and with regard to the proposed residential use, the Framework sets out that a Sequential Test should be undertaken. The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites with a lower risk of flooding. There is nothing before me to indicate that a Sequential Test has been carried out.

20. The Flood Risk Assessment (FRA) states that by providing office use on the ground floor and residential accommodation above, the development would comply with CS Policy CP28. However, this policy sets out that notwithstanding that there would be support for sites that contribute to the strategic objectives for change in the Upper Lea Valley, the Sequential Test still needs to be undertaken on a site specific basis.
21. It is not in dispute that the ground floor level would be around a metre lower than the 1 per cent flood event plus climate change level. The residential uses would be above this level, as they would be at first floor level or above. Nonetheless, future occupiers would be unable to access or exit the development should this flood event occur.
22. Moreover, although demountable flood barriers are proposed these would only be some 700mm high. The resilient measures to be deployed in the construction are designed to mitigate the effects of water ingress on the building rather than to delay water entry. Stating that residents would be able to stay dry in the event of a 1 per cent flood event does not constitute a satisfactory emergency flood plan, or address the issues of access and egress, as residents may need food and other supplies, or medical attention.
23. The existing building has a mix of warehousing and office space at ground level. The proposed ground floor would also be largely open plan and although it appears that there would be tanking, the overall footprint would be smaller than the current building. As such, I conclude that it would not increase flood risk elsewhere. However, the current building does not have residential use and as set out above, although I acknowledge that the upper floors would be dry, this does not necessarily equate to safety.
24. The development would therefore fail to accord with local plans with regard to flood risk as it would be contrary to CS Policy CP28 and DMD Policy DMD60 which requires evidence to show whether the Sequential Test has been met. It would also be contrary to DMD Policy DMD59 which requires development to be appropriately located to avoid flood risk.

Flood Risk balance

25. Paragraph 164 of the Framework sets out that where it is not possible for development to be located in areas with a lower risk of flooding, the FRA should demonstrate that the development would provide wider sustainability benefits to the community that outweigh the flood risk, and that the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere.
26. This is supported by DMD Policy DMD60. Although the appeal evidence does not address the requirement to demonstrate community benefits, the replacement of a derelict warehouse and offices with residential and office use would have public benefits. Moreover, this is a previously developed site within a dense urban area, and although the site's former use is not residential, it is sited within a residential area, some of which also appears to be fairly recent construction.
27. Consequently, and taking into account that residential accommodation would be above ground floor level, I conclude that the development would have local benefits which would outweigh the residual flood risk.

28. DMD Policy DMD61 is concerned with surface water management, and DMD Policy DMD62 is concerned with flood risk to third parties. There is nothing before me to indicate that the development would conflict with the Council's requirements with regard to surface water, or increase risk to third parties. Nor is there anything before me to indicate that the development would have an adverse effect on the protection of watercourses and flood defences which is the subject of DMD Policy DMD63. The Council has also cited CS Policies CP21 and CP29 which are concerned with delivering infrastructure, and London Plan SI 13 which is concerned with sustainable drainage. These issues have not been raised as concerns, and consequently these policies weigh neither for nor against the appeal.

Planning Balance and Conclusion

29. The officer's report accepts that as Enfield is unable to meet the housing delivery test the policies deemed to be the most important for the determination of the application are out of date. As such, Footnote 8 of Paragraph 11 of the Framework is engaged.
30. The redevelopment of this near derelict site would improve the street scene, and provide housing, as well as office accommodation. There would also be space for off-site parking. However, I have found harm in relation to character and appearance, living conditions and highway safety, as well as a residual risk from flooding which cannot be entirely mitigated. Moreover, although the local development plan policies that are the most important for determining this appeal are deemed to be out of date, they are not inconsistent with the Framework, and as such carry full weight.
31. Consequently, I conclude that there would be conflict with the local development plan and that in addition, the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole. There are no material considerations of such weight to lead me to conclude otherwise. The appeal is dismissed.

A Edgington

INSPECTOR