

Appeal Decision

Site visit made on 10 January 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/Q5300/W/23/3321414

59-65 Main Avenue, Enfield EN1 1DS

- 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 S Schwarz of Tagmarsh Ltd against the decision of the Council of the London Borough of Enfield.
 - The application Ref 22/03754/FUL, dated 17 November 2022, was refused by notice dated 17 March 2023.
 - The development proposed is described on the application form as “redevelopment of land at the junction of Landseer Road and Main Avenue, Enfield EN1 1DS to provide new residential accommodation (Class C3) with associated amenity space, landscaping, refuse storage, cycle and car parking provision”.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the site to provide 9 x residential accommodation (Class C3) with associated amenity space, landscaping, refuse storage, cycle and car parking provision at 59-65 Main Avenue, Enfield EN1 1DS in accordance with the terms of the application, Ref 22/03754/FUL, dated 17 November 2022, subject to the 23 conditions set out in the attached schedule.

Preliminary Matters

2. The description of development in the formal decision above is taken from the decision notice and appeal form as it is clearer and more concise.
3. A revised version of the National Planning Policy Framework (NPPF) was published on 19 December 2023. There were no substantive changes of relevance to this appeal proposal.
4. Planning permission¹ for a similar proposal was granted by the Council in October 2023. The appellant has provided a copy of plans and delegated report as part of their final comments, which I have had regard to in my decision.

Main Issues

5. The main issues are the effect of the proposed development on:
 - (a) the character and appearance of the area;
 - (b) the living conditions of future occupiers of the development with regard to the amount and quality of private outdoor space; and
 - (c) the living conditions of occupiers of neighbouring properties.

¹ 23/02123/FUL

Reasons

Character and appearance

6. Main Avenue runs westwards from the A10 Great Cambridge Road. It includes taller and grander buildings at Bush Hill Park Primary School and St Mark's Church along with more modest two storey commercial terraces all dating from the late Victorian or Edwardian periods. There are also later 20th century buildings such as the three storey post-war shopping parade with residential flats above immediately to the west of the primary school. Main Avenue is a busy thoroughfare due to the various commercial and institutional uses with a range of building types, ages, and sizes that give the road a vibrant and varied character and appearance.
7. Landseer Road is one of many side roads to the south of Main Avenue. It consists of two storey Edwardian terraced properties set back from the road by small front gardens. It has a more residential and quieter character and appearance than Main Avenue.
8. The appeal site is located on the corner of Main Avenue and Landseer Road. The site previously had a range of commercial uses including a car workshop, but it has been redundant for the last few years. The site is surrounded by a tall metal fence and contains several dilapidated single storey structures and a large area of hardstanding. It adjoins the end of terrace Edwardian property at 1 Landseer Road to the south and a two storey Victorian commercial terrace at 49-57 Main Avenue to the west. To the east are two storey semi-detached interwar properties and to the north is the primary school and the post-war shopping parade. Due to its current condition, the site has a negative effect on the character and appearance of Main Avenue and Landseer Road, exacerbated by its prominent corner position.
9. The proposed development would be four storeys tall along Main Avenue and on the corner with Landseer Road, before dropping to three storeys along to 1 Landseer Road. While this would be taller than the adjacent buildings, the top storey in each part of the development would be set back from the front elevation. In the case of Landseer Road, this would ensure that the building would only be marginally taller than the roof of the Edwardian terrace, which would provide a suitable transition from Main Avenue into the side road.
10. On Main Avenue, there would be a larger step down to the commercial terrace. However, the front elevation of the proposed development would be set back from the front elevation of the terrace by around 5 metres and the top storey would be behind a parapet. There would also be a small gap between the two buildings because of an existing alleyway. Therefore, there would be a reasonable transition from the proposed development to the terrace and it would not appear overly dominant or abrupt in the street scene, bearing in mind the taller buildings at the primary school, church, and shopping parade.
11. The scheme subject to the October 2023 planning permission has a very similar footprint and scale to the proposed development. The principal difference on the Main Avenue elevation is a greater set back at the side between the fourth storey of the new building and the terrace. However, this is a minor change and the overall scale and height of the approved scheme next to the terrace would be broadly comparable to the proposed development. Consequently, I remain satisfied that the proposed development would be appropriate.

12. Concluding on this main issue, the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, it would accord with Policy D3 of the London Plan 2021, Policy CP30 of the Enfield Core Strategy 2010 (ECS) and Policies DMD6, DMD8 and DMD37 of the Enfield Development Management Document 2014 (EDMD). Amongst other things, these policies require proposals to enhance local context and respond to the existing character of a place with high quality design having regard to matters such as scale and form.

Living conditions for future occupiers

13. EDMD Policy DMD9 requires 3 bedroom 5 person dwellings without access to communal amenity space to have a minimum of 29 square metres (sqm) private amenity space for each dwelling. London Plan Policy D6 seeks a minimum of 5sqm private outdoor space for 1-2 person dwellings and an extra 1sqm for each additional occupant, but only where there are no higher local standards in local development plan documents.
14. The appellant notes that the Council's emerging Local Plan is looking to follow the London Plan approach to private outdoor space. However, I have limited information on the progress of the emerging plan. Thus, I can give little weight to this potential revised approach even though the Council relies on other parts of the emerging plan elsewhere in the delegated report for this proposal.
15. Most of the proposed houses would have private rear gardens or courtyards with only the corner property (Unit 7) relying on upper floor terraces. The two houses on Landseer Road (Units 8 and 9) would also benefit from upper floor terraces and balconies. Nevertheless, all the houses would fall short of the required amount of private external space by between 6 to 13sqm, contrary to EDMD Policy DMD9.
16. The proposed gross internal area of each house would exceed the national space standard requirement which would either reduce the total under provision of space or result in a total over provision. However, private outdoor space serves a different purpose to internal space in terms of providing access to the open air and leisure opportunities. Therefore, this approach does not adequately compensate for the shortfall, particularly as some houses would still have an overall under provision.
17. While there would be a conflict with EDMD Policy DMD9 in terms of the amount of private outdoor space provided, I note that the Council considered the under provision of private outdoor space for the previous application² at this site to be acceptable. Moreover, the Council did not apply the local space requirements to the Powys Lane scheme³ and only relied on the Publication London Plan. The reasons for this are not clear in either case, but it demonstrates that the requirements have been applied flexibly. For this site, I also note the proximity of public open space such as Bush Hill Park, which would provide alternative options for future occupants. Therefore, I only attach moderate weight to the policy conflict and consider that the proposed development would provide a reasonable and usable amount of private outdoor space.
18. The splitting of external space across gardens, courtyards, terraces and balconies for Units 7-9 would provide greater flexibility for future occupiers and

² 21/02495/FUL

³ 20/04195/FUL

would not diminish the quality of these spaces. The approved October 2023 scheme has a similar split for these three properties. Therefore, this element of the proposal is acceptable.

19. The rear gardens/courtyards would be next to the internal parking area. The Council's decision notice indicates that this would represent a poor relationship, particularly in relation to Unit 9 whose courtyard would immediately adjoin two car parking spaces. The delegated report refers to the added noise disturbance to the already substandard sized courtyard.
20. The approved October 2023 scheme has an almost identical alignment of parking spaces to rear gardens for Units 1-6 and 8 and so it is difficult to find fault with that aspect of this proposal. The approved scheme incorporates a small low level planting buffer between the two parking spaces and the courtyard for Unit 9 along with more space within the courtyard. However, in both the approved and proposed schemes, the courtyard would likely be enclosed by a 1.8m tall fence with scope for landscaping. The buffer would make minimal difference to noise levels in a location where the amount of vehicle movements is likely to be low based on the limited number of houses. Therefore, the quality of the proposed outdoor spaces is acceptable.
21. Concluding on this main issue, despite the conflict with EDMD Policy DMD9 in terms of the amount of private outdoor space, the proposed development would have an acceptable effect on the living conditions of future occupiers. Therefore, it would accord with London Plan Policy D3, ECS Policy CP4 and EDMD Policies DMD8 and DMD9. Amongst other things, these policies seek high quality design and sustainability for all new homes including good quality private amenity space.

Living conditions of neighbouring occupiers

22. The ground floor bay window on the front elevation of 1 Landseer Road has glazing in the side return facing the site. The window appears to serve a habitable room. The proposed bay window for the ground floor kitchen at Unit 9 would have a small area of glazing facing directly onto the side return at No 1. While the indicated kitchen units would restrict the angle of view, there could be direct overlooking between the two properties which would harm the living conditions of neighbouring occupiers at No 1. However, this could be overcome by omitting the window from the list of approved plans.
23. The position of Unit 9 immediately to the north of No 1 means that it would have minimal effect on light levels to No 1 and there would be no direct overlooking of its rear garden. As noted above, there would be limited noise effects arising from the internal car parking while the use of the private outdoor spaces would be no different to existing housing nearby. There would be sufficient separation distance across Landseer Road to avoid any unacceptable effects on privacy and outlook for occupiers of the semi-detached properties on the opposite side of the road.
24. In conclusion, the proposed development would have an acceptable effect on the living conditions of occupiers of neighbouring properties. Therefore, it would accord with London Plan Policy D3, ECS Policy CP30 and EDMD Policies DMD8 and DMD37. Amongst other things, these policies seek to deliver appropriate outlook, privacy and amenity.

Other matters

25. Other than yellow lines around junctions and past the primary school, there are limited controls on parking in Main Avenue and Landseer Road. At the time of my early afternoon site visit, I observed high levels of on-street parking which while only a snapshot indicates the parking stress noted by the Council. The proposed development would provide 7 parking spaces at a ratio of 0.78 spaces per dwelling, which is broadly similar to the car ownership rate in the local area. There are regular bus services along Main Avenue and from Great Cambridge Road and nearby shops and facilities. The proposed development would also provide cycle parking for each dwelling. Therefore, it would have an acceptable effect on parking provision.
26. The levels of traffic movement generated by this development are unlikely to be significant and so would not have a noticeable effect on congestion or air pollution. Noise and disturbance relating to the construction stage can be mitigated through a suitably worded condition.

Planning balance

27. As of February 2023, the Council can only demonstrate a 3.8 year supply of deliverable housing sites, while the latest housing delivery test results indicate that the delivery of housing is below 75% of the housing requirement over the previous three years. On either or both measures, this means that the policies which are most important for determining the proposal are deemed to be out of date according to NPPF paragraph 11(d). Consequently, planning permission should be granted unless one of two exceptions applies. The first exception in NPPF paragraph 11(d)(i) is not engaged.
28. There is some conflict with the development plan in terms of the under provision of private outdoor space. However, for the reasons given above, I only afford moderate weight to the policy conflict and the under provision. No other adverse impacts have been demonstrated.
29. The delivery of 9 houses would help to address the housing shortfall, while the scheme would regenerate a visually poor site. These represent significant benefits. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, which means that the second exception in NPPF paragraph 11(d)(ii) is not engaged either. The presumption in favour of sustainable development would apply and the proposed development would accord with the development plan taken as a whole. This indicates that planning permission should be granted.

Conditions

30. In the absence of any suggested conditions from the Council (despite my request on more than one occasion), I have based the conditions on those set out in the delegated report for the approved October 2023 scheme with some amendments as required. Conditions 1 and 2 are necessary for clarity and compliance. It is necessary to omit from the approved plans the south facing kitchen window on the ground floor of Unit 9 to safeguard the living conditions of neighbouring occupiers.
31. Conditions 3 to 7 are pre-commencement conditions as they concern elements that need to be assessed and approved before works begin on site. Condition 3 is necessary in the interests of highway safety and the living conditions of

neighbouring occupiers. Condition 4 is necessary to ensure that proper regard is had to the level of surrounding development, gradients and surface water drainage. Condition 5 is necessary to ensure the sustainable management of water and to minimise flood risk. Condition 6 is necessary to safeguard potential heritage assets of archaeological interest. Conditions 7 and 8 on contaminated land are necessary in the interests of public health.

32. Condition 9 is necessary given the proximity of underground sewerage utility infrastructure. Condition 10 is needed to safeguard the local environment and the living conditions of neighbouring occupiers. I have not imposed the requirement for an acoustic report as I can see no mechanical plant on the plans. Conditions 11 and 12 are necessary to enhance on-site biodiversity, while Conditions 12, 13 and 14 are necessary in the interests of character and appearance along with highway safety considerations.
33. Condition 15 is necessary to ensure accessible and adaptable dwellings and Condition 16 is necessary to ensure adequate privacy and enclosure. Conditions 17 and 18 are necessary in the interests of energy efficiency, while Condition 19 is necessary to ensure water efficiency. Condition 20 ensures the provision of sufficient cycle parking and Condition 21 secures the appropriate provision of waste and recycling facilities. Condition 22 is necessary in the interests of public safety and living conditions, while Condition 23 is necessary to safeguard the street tree adjacent to the site on Landseer Road.

Conclusion

34. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR

Schedule of Conditions (23)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LR_P_050 P01, LR_P_060 P02, LR_P_100 P06, LR_P_110 P06, LR_P_120 P05, LR_P_130 P05, LR_P_140 P03, LR_P_150 P04, LR_P_151 P03, LR_P_152 P02, LR_P_153 P02, LR_P_200 P02, LR_P_201 P02, LR_P_300 P04, LR_P_301 P04, LR_P_302 P04, LR_P_303 P03, LR_P_304 P03, LR_P_305 P03, LR_P_306 P03, LR_P_350 P04, LR_P_351 P04, except in respect of the south facing kitchen side window on the ground floor of Unit 9 shown on plans LR_P_100 P06 and LR_P_306 P03.
- 3) Prior to commencement of any development, a construction management plan shall be submitted to and approved by the Local Planning Authority. The construction management plan shall be written in accordance with London Best Practice Guidance and contain:

- (a) A photographic condition survey of the public roads, footways and verges leading to the site;
- (b) Details of construction access and associated traffic management;
- (c) Arrangements for the loading, unloading and turning of delivery, construction and service vehicles;
- (d) Arrangements for the parking of contractors' vehicles;
- (e) Arrangements for wheel cleaning;
- (f) Arrangements for the storage of materials;
- (g) Hours of work;
- (h) The storage and removal of excavation material;
- (i) Measures to reduce danger to cyclists;
- (j) Dust mitigation measures; and
- (k) Membership of the Considerate Contractors Scheme.

The development shall be carried out in accordance with the approved construction management plan.

- 4) The development shall not commence until plans detailing the existing and proposed ground levels including the levels of any proposed buildings, roads and/or hard surfaced areas have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 5) The development shall not commence until a Revised Sustainable Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority. The details shall be based on the disposal of surface water by means of a sustainable drainage system in accordance with the principles as set out in the Technical Guidance to the National Planning Policy Framework and should be in line with the DMD Policy SuDS Requirements and:
 - (a) Shall be designed to a 1 in 1 and 1 in 100 year storm event with the allowance for climate change;
 - (b) Follow the London Plan Drainage Hierarchy and provide supporting evidence for the SuDS measures utilised (e.g. onsite infiltration testing);
 - (c) Follow the SuDS management train by providing source control SuDS measures for roof and hardstanding runoff;
 - (d) Should maximise opportunities for sustainable development, improve water quality, biodiversity, local amenity and recreation value;
 - (e) The system must be designed to allow for flows that exceed the design capacity to be stored on site or conveyed off-site with minimum impact;
 - (f) Clear ownership, management and maintenance arrangements must be established; and
 - (g) The details submitted shall include levels, sizing, cross sections and specifications for all drainage features.

The development shall be carried out in accordance with the approved strategy.

- 6) No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved in writing by the Local Planning Authority. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1, then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved in writing by the Local Planning Authority. For land that is included within the stage 2 WSI, no demolition or development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- (a) The statement of significance and research objectives, the programme and methodology of site investigation and recording, and the nomination of a competent person(s) or organisation to undertake the agreed works;
 - (b) Where appropriate, details of a programme for delivering related positive public benefits; and
 - (c) The programme for post-investigation assessment and subsequent analysis, publication, dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.
- 7) The development shall not commence until a scheme to deal with the contamination of the site including an investigation and assessment of the extent of contamination and the measures to be taken to avoid risk to health and the environment has been submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved scheme and the Local Planning Authority provided with a written warranty by the appointed specialist to confirm implementation prior to the commencement of development.
- 8) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority for an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 9) No piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

- 10) All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the Local Planning Authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>
- 11) Prior to the commencement of above ground works (excluding demolition), details of on-site ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority following guidance by a suitable qualified ecologist. The details shall include the exact location, specification and design of the habitats. Any boxes/bricks shall be installed within the development prior to the first occupation of the building to which they form part or the first use of the space in which they are contained. The development shall be carried out in accordance with the details so approved and maintained as such thereafter.
- 12) Prior to first occupation of the development, details of soft landscaping to be planted at the site shall be submitted to and approved in writing by the Local Planning Authority. The planting scheme shall be carried out in accordance with the approved details in the first planting season after completion or occupation of the development, whichever is sooner. Any planting which dies or becomes severely damaged or diseased within five years of planting shall be replaced with new planting in accordance with the approved details.
- 13) The development (excluding demolition and groundwork) shall not commence until details of the external finishing materials including the brick and cladding materials and details of the windows, balconies or winter gardens to be used, have been submitted to and approved in writing by the Local Planning Authority. This should include specific details including 1:20 details (with 1:5 sections) of windows, doors and balconies. The development shall be constructed in accordance with the approved details.
- 14) Prior to commencement of above ground works, details of the surfacing materials to be used within the development including footpaths, access, parking areas, and road markings must be submitted to and approved in writing by the Local Planning Authority.
- 15) Prior to commencement of above ground works, details of how the development will comply with the provisions of the Building Regulations (2010) Access to and Use of Buildings, Volume 1: Dwellings, Section M4(2) Category 2: Accessible and Adaptable Dwellings (as amended), shall be submitted to and approved in writing by the Local Planning Authority. Further to this, details of a wall or detailing between the level parking and the drop at the front of the entrance should be submitted to the Local Planning Authority for approval in writing and the entrance and bin store should be level with the path/pedestrian route into the building.

- The development shall be constructed in accordance with the approved details.
- 16) Prior to commencement of above ground works, the means of site enclosure, inclusive of the rear private gardens, must be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to first occupation.
 - 17) Prior to commencement of above ground works, an Energy Statement demonstrating a Target Emission Rate improvement (35%) on Part L of the Building Regulations 2013 (inclusive of design, size, siting, technical specification and elevational details for any renewable technologies considered feasible) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved and maintained as such thereafter.
 - 18) Following practical completion of works, a final Energy Performance Certificate shall be submitted to and approved in writing by the Local Planning Authority. Where applicable, a Display Energy Certificate shall be submitted within 18 months following first occupation.
 - 19) Prior to first occupation of the development, details of the internal consumption of potable water shall be submitted to and approved in writing by the Local Planning Authority. Submitted details will demonstrate reduced water consumption through the use of water efficient fittings, appliances and recycling systems to show consumption equal to or less than 105 litres per person per day. The development shall be carried out in accordance with the details so approved and maintained as such thereafter.
 - 20) The development shall not be occupied until details of the siting, number and design of 18 secure and covered cycle parking spaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before it is first occupied.
 - 21) The waste and recycling facilities hereby approved shall be provided and retained in accordance with the approved details before the development is first occupied.
 - 22) The development (excluding demolition and groundwork) shall not commence until details to demonstrate that such building or such part of a building can achieve full Secured by Design Accreditation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 23) The development hereby approved shall be constructed in accordance with details in the tree protection measures contained in the submitted Arboricultural Impact Assessment dated September 2022. The Tree identified as Tree 1 in the Arboricultural Impact Assessment shall be retained.