



Appeal Decision

Site visit made on 9 January 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/Q5300/W/23/3328114

75 Blakesware Gardens, Edmonton, Enfield N9 9HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement, or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Domenico Padalino against the decision of the Council of the London Borough of Enfield.
 - The application Ref 23/00750/CND, dated 2 March 2023, sought approval of details pursuant to condition Nos 7 and 10 of a planning permission Ref 22/01795/FUL, granted on 25 July 2022.
 - The application was refused by notice dated 2 May 2023.
 - The development proposed is subdivision of site and conversion of property into 2 single family dwellings involving part single and two storey side extension, part single and two storey rear extension.
 - The details for which approval is sought are in respect of surface water drainage details and the means of enclosure of the site.
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Decision

1. The appeal is dismissed insofar as it related to the surface water drainage details. The appeal is allowed insofar as it related to the means of enclosure at 75 Blakesware Gardens, London, N9 9HX in accordance with the terms of the application, Ref 23/00750/CND, dated 2 March 2023, and the plans submitted with it, so far as relevant to that part of the development hereby permitted.

Applications for Costs

2. An application for an award of costs was made by Mr Domenico Padalino against the decision of the Council of the London Borough of Enfield. This application will be the subject of a separate decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) came into force on the 19 December 2023 with a further change published on 20 December. The revised Framework is a material consideration which should be taken into account from the day of publication. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Background and Main Issue

4. Planning permission 22/01795/FUL, for subdivision of the site and conversion of the property into two single family dwellings, involving part single and two

storey side extension, part single and two storey rear extension, was approved on the 25 July 2022, subject to a number of conditions including the two conditions subject of this appeal.

5. A previous application¹ for approval of the details required by condition 7 was refused by the Council on the 31 January 2023. I have been provided with details of both the original planning permission and this previous refusal of the surface water drainage details as part of the background for the appeal before me.
6. From the evidence before me there is no dispute between the parties as to the acceptability of the details submitted for condition 10, the means of enclosure, and I see no reason to disagree with their position. The two parts of this proposal are clearly severable, and I shall, therefore, confine my detailed considerations to the surface water drainage details.
7. Given the above, the main issue is whether the proposal would provide adequate means of surface water drainage.

Reasons

8. Policy CP28 of the Enfield Plan Core Strategy, adopted 2010 (CS) requires all developments, irrespective of the flood risk at individual development sites, to be submitted with Sustainable Urban Drainage Systems (SUDS).
9. Policy DMD 61 of the Enfield Council Development Management Document, adopted 2014 (DMD) requires a drainage strategy for all developments to demonstrate how proposed measures manage surface water as close to its source as possible, and require developments to follow the drainage hierarchy in the London Plan. DMD 61 also requires, amongst other matters all developments to maximise the use of SUDS and seeks to achieve greenfield run off rates.
10. Policy SI 12 of The London Plan, The Spatial Development Strategy for Greater London, 2021 (LonP) seeks to ensure that flood risk is minimised and mitigated. Policy SI 13 of the LonP advises that Lead Local Flood Authorities (LLFA) should identify areas where there are particular surface water management issues and aim to reduce these risks. Policy SI 13 also requires development to aim to achieve greenfield run-off rates, ensure surface water is managed as close to its source as possible and provides a drainage hierarchy.
11. The appeal site comprises the host dwelling, No 75 Blakesware Gardens (No 75) and its side garden. At the time of my visit the approved development was under construction. However, from the appellant's submitted SUDS Strategy² I note that the site was previously part of No 75 and included a garage, hardstanding and grass with the existing surface water draining directly to the public sewer.
12. The appeal site lies within Flood Zone 1. However, the Council's evidence indicates that the site is at risk of fluvial flooding in a 1 in 100 year (plus 17% climate change) event. Moreover, as required by Policies CP28 and DMD 61 SUDS is required, irrespective of the flood risk.

¹ Council reference 22/04058/CND

² Aaron Rio Planning Consultants SuDS Strategy, dated November 2022

13. The appellant has provided a copy of Policy DM 59 of the DMD within their statement of case. Although, this policy was not referred to in the reasons for refusal the policy requires developments to ensure no net loss of flood storage on site, in addition to preventing the loss of permeable surfaces and maximising the use of green infrastructure as potential sources of flood storage. Both main parties agree that the development will result in an increase in the area of impermeable surfacing, and I have no reason to disagree.
14. The appellant's submitted plans show an attenuation pond and storage tank, along with rainwater butts. Although these features will help to store rainwater, I do not have any details of how the appellant will maintain space within the features to allow for surface water flood risk or how the features connect to each other or the public drainage system.
15. A pipe route is shown from the attenuation pond to the storage tank on the layout plan. However, this pipe is not shown on the cross section and there is no information on levels to indicate at what level the water would flow between the two features.
16. Moreover, although there is an indicative route shown for the surface water from the storage tank this appears to be overland to existing highway drains. There are no details of the levels or size of any pipes to connect the storage tank to the mains drainage system. The submitted SUDS implies that the discharge rate would be limited to one litre per second (1 l/s) which would be in accordance with the LonP drainage hierarchy. However, whilst this could be achieved prior to the first filling of the storage tank, discharge would thereafter be overland without any control over the discharge rate and the proposal does not include any details of the means of emptying the storage tank once it is full.
17. The details provided do not show that the system would achieve greenfield run-off rates, or that the system is designed to allow for flows that exceed the design capacity to be stored on the site or conveyed off-site with minimum impact, as required by Policy DMD 61. The information provided is insufficient to show that the development and the surface water drainage proposals would not increase flood risk elsewhere. I am, therefore, not convinced, that the development of the site would manage the surface water as close to the source as possible.
18. The development is minor in nature, however the adopted policies, when taken together, do not suggest an extremely low level of risk from the proposed development, as asserted by the appellant. Further technical details are required to ensure that the development meets the requirements of the development plan.
19. The appellant has offered to further increase the size of the storage tank. However, I am not convinced that there is a requirement for a larger tank, given the details in the SUDS Strategy and the advice from the Council Drainage Engineer. That the storage tank now provides more storage space than would be required would not overcome the short comings in the submitted information.
20. For the above reasons, I find that the proposal would not provide adequate means of surface water drainage contrary to the requirements of Policy CP28 of

the CS, Policy DMD 61 of the DMD and Policies SI 12 and SI 13 of the LonP, as set out above.

21. For the same reasons, the proposal would not comply with the advice set out in the National Planning Policy Framework which requires, amongst other matters, that development does not increase flood risk and, in areas at risk of flooding it can be demonstrated that the development incorporates sustainable drainage systems.

Other Matters

22. The appellant contends that the Council is failing significantly on its housing targets and housing delivery, and I have no substantive evidence from the Council to counter this claim.
23. Paragraph 11d of the Framework sets out the presumption in favour of sustainable development. This includes, in summary, that where the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The policies referred to in this part of the Framework are set out in footnote 7 and include areas at risk of flooding.
24. In this case, the appeal site is within an area at risk of flooding, and I have found that insufficient information has been provided to show that the proposal would provide adequate means of surface water drainage. Consequently, there is a clear reason for dismissing the appeal and, therefore, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework does not apply in this case.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part. The appeal should be allowed insofar as it relates to the means of enclosure for the site, and dismissed insofar as it relates to the means of surface water drainage.

K Townsend

INSPECTOR