



Appeal Decision

Site visit made on 23 April 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th May 2024

Appeal Ref: APP/Q5300/W/23/3327167

56 Orchard Road, Enfield, EN3 4PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Yucel Denli against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 23/01575/FUL.
 - The development proposed is the subdivision of site to create 1 x 3 bed for 6 people and 1 x 1 bed for two people flat with conservatory extension to rear and creation of 5m long drop kerb from side to provide car access to existing outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for the sub-division and conversion of property into 1 x single family dwelling and 1 x self-contained flat, involving single storey rear extension to self-contained unit and vehicular access at the side/rear at 56 Orchard Road, Enfield, EN3 4PJ in accordance with the terms of the application, Ref 23/01575/FUL, subject to the schedule of conditions attached at the end of this decision.

Preliminary Matters

2. In my decision above, I have used the description of development stated on the Council's notice of decision in the interests of clarity, however I have removed reference to the 'existing outbuilding' as I saw on my site inspection that it has not been constructed. I have also deleted reference to the proposal being 'part retrospective', as this is not an act of development. Moreover, from my site observations, and based on the appellant's declaration on the application form, I am not aware that the proposed development has begun.
3. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
4. The Council has stated that the roof of the side extension has not been constructed in accordance with earlier approved plans¹, with its roof pitch said to be too shallow. It is understood that both the existing and proposed plans before me, show the side extension as approved and not 'as built', I have assessed the proposal on this basis. Compliance with the already approved

¹ Ref. 22/02061/HOU

plans would be a separate enforcement matter for the Council and does not relate to the planning merits of this appeal proposal.

Main Issues

5. The main issues are:

- The effect of the proposed development upon the character and appearance of the area;
- Access and parking; and,
- Drainage.

Reasons

Character and appearance

6. The appeal property is a two-storey end terraced property that has been extended to its side and rear, it occupies a corner plot, with its side elevation facing onto Church Road. It is understood its single storey side extension, which extends the full length of the property was constructed recently following an earlier approval. Within its relatively long rear garden, are the excavated foundations of an outbuilding, said to be granted a Certificate of Lawfulness in 2022. An access track is located beyond the rear boundary of the site, with a locked gate at its entrance point from Church Road.
7. The proposed subdivision of the property would involve an internal reconfiguration, including a porch with access doors to the proposed flat and dwelling behind the main front door. These internal works would not be readily discernible from outside of the appeal property.
8. It is acknowledged that part of the proposed conservatory would be visible above the existing tall, concrete fence on the side boundary, but given its limited size and that it would be attached to the existing building I concur with the Council that it would not be harmful to the character and appearance of the area.
9. The proposed subdivision of the rear garden to create private amenity space for both the proposed flat and dwelling would not be visible from public vantage points, again due to the tall boundary fence on the side and rear of the appeal property. However, I do accept that an additional refuse storage area to the front of the appeal property would be visible from both Orchard Road and Church Road. However the front forecourt area is considerably wide and the proposed two separate refuse areas would be at either side of it, subject to appropriate screening, which could be conditioned, the proposed refuse facilities would not be harmful to the character and appearance of the streetscene.
10. I acknowledge that a single storey property would be at odds with the predominantly two storey properties in the area. Nevertheless, the single storey side extension already exists, and the proposed extension to it is limited. From my assessment above I found that it would not be readily obvious from public vantage points that the property was subdivided into two flats. In view of this, I am not persuaded that the proposed development would appear much different to the existing situation, and for the same reasons the

subdivision of the residential accommodation would not be harmful to the character and appearance of the area.

11. In view of my findings above, I conclude that the proposed development would relate well to the character and appearance of the area and comply with the requirements of Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (the LP) and Policy 30 of The Enfield Plan, Core Strategy 2010-2025, adopted November 2010 (CS), and Policies DMD6, DMD7, DMD8 and DMD37 of Enfield's Development Management Document, adopted November 2014 (DMD), insofar as they seek to ensure high quality new development, that delivers an appropriate density, reflects the distinctive pattern and scale of existing buildings, and that the development of garden land does not harm the character and appearance of the area. In addition, the proposal would also comply with paragraph 135 of the Framework that requires development to add to the overall quality of the area, and be sympathetic to local character, including the surrounding built environment.

Access and parking

12. The appeal site is located within an area with a PTAL rating of 3, although it is not within a Controlled Parking Zone (CPZ). According to Policies T6 and T6.1 of the LP, in areas with a PTAL rating of 3 in outer London, maximum parking standards should be applied, requiring a 1-bedroom unit to have a 0.75 parking space, and a 3-bedroom unit to have 1 space, making a maximum of 1.75 spaces in total for the proposed development.
13. The appellant's proposal is for 2 no. parking spaces to be provided within a re-purposed outbuilding (said to have been granted as part of a Certificate of Lawfulness), the foundations of which have already been excavated. To achieve this, the provision of a double crossover on Church Road, adjoining an existing crossover serving an access track to the rear of the appeal site, is required. I observed that along Church Road there are multiple crossovers, some serving a continuous number of properties, offering little in the way of on-street parking between them. In this case, the enlarged crossover would likely reduce the amount of on-street parking, however, it would provide 2 no. off-street parking spaces, the benefit of which would outweigh the loss of on-street parking and it would not be dissimilar to the existing crossovers along Church Road. Moreover, I observed on my site inspection, which I accept is only a snapshot in time, that there were available parking spaces along Church Road near to the appeal site.
14. Whilst the Council have said that such large crossovers would not generally be permitted, they have not substantiated how the operation of the proposed crossover and parking areas would be harmful to highway safety, only saying that it would reduce on-street parking which is not an unqualified right.
15. It is noted that the precise details of the access and parking areas are limited, including no specific details of how the outbuilding would be re-purposed to have garage doors. However, in light of my findings above, these details could be the subject of a suitably worded condition for these details to be agreed prior to occupation of the proposed development. In addition, providing suitable pedestrian visibility splays are provided for the proposed parking area, which could also be conditioned, I am satisfied that there would be no unacceptable highway safety effects upon pedestrian safety.

16. It is acknowledged that the proposed parking provision would have some conflict with Policies T6 and T6.1 of the LP, by providing 0.25 spaces above the maximum of 1.75 spaces. However, in this case, providing a double crossover to serve less than 2 spaces, would result in on-street parking being lost for a gain of only one full off-street parking space. Consequently, the provision of 2 off-street parking spaces represents the optimum approach to parking in this case, ensuring the loss of on-street parking spaces is adequately off-set by off-street parking.
17. The Council has suggested that access to the garage could be provided from the rear access track, instead of from Church Road, which would not necessitate the large crossover. From my site observations there was a locked gate at the entrance to the access track, and its limited width would likely make movements into and out of the outbuilding quite difficult, particularly for 2 no. parking spaces. I am also unclear as to whether the appellant has any legal ownership or right of access across the track. Consequently, I am unable to attach weight to this as a viable alternative for providing access and parking for the proposed new flats.
18. The appeal property's front forecourt appears from the submitted documentation to have been used for parking, although at my site inspection, no cars were parked on it. In addition, it was observed that there is no crossover serving the front forecourt, and whilst the Council have stated that they can take measures to prevent parking in this area, this is a separate matter to this appeal proposal, which does not propose to use this area for parking.
19. I therefore conclude, subject to a condition, suitable access and parking facilities can be provided at the appeal property to serve the proposed development, and the proposal would comply with the requirements of Policies DMD8, DMD45 and DMD47 of the DMD, which amongst other things collectively seek to ensure adequate access and parking facilities are provided for new development and that there would be no adverse effects upon highway safety or the free flow of traffic. Whilst there would be some conflict with Policies T6 and T6.1 of the LP in terms of 2 no. parking spaces being provided above the maximum of 1.75 spaces required, due to the particular circumstances in this case, the provision of the additional 0.25 space would help to off-set the loss of on-street parking and be broadly consistent with the objective of these policies by ensuring an overall restricted level of parking for new development. In addition, I did not find the proposal to conflict with paragraph 115 of the Framework that states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
20. The Council referred to the proposed development conflicting with Policy CP24 of the CS. That policy is focussed on the Council's broader objectives towards its road networks, including highway improvements and how it sets its standards, I did not find it to be directly determinative on this main issue.

Drainage

21. The proposal involves a new conservatory, paths and hardstanding to the rear of the property, but the proposal mostly relates to internal reconfiguration of the existing property, as such the level of external works is limited. I have not been made aware that the appeal site is located within an area known to be at

an increased risk of flooding from any particular sources or that it is within a critical drainage area. I do note the submitted documentation refers to concerns about whether the ground conditions are suitable for infiltration, although the Council consider some of the hardstanding areas could be drained using this method. It is understood the site currently drains to a sewer.

22. Policy DMD 61 of the DMD requires a drainage strategy to be submitted for new development. The appellant's intention to positively drain part of the building with a sedum roof, the use of water butts, proposed new permeable surfaces, and the use of a flow restriction so water entering the sewer would be restricted from its current rate of discharge, would appear to be a broad drainage strategy. This approach would also appear to be mainly consistent with the drainage hierarchy stated within Policy S1 13 of the LP, through the use of on-site features such as a green roof, and water butts, and using a restrictive flow into the sewer. Although there is some information lacking in respect of the hardstanding areas, whether storage could be provided in some of the landscaped features, and the submitted drainage plan is not clear regarding those areas shown on the plan's legend.
23. The Council have not raised significant in-principle objections regarding the appellant's broad surface water drainage approach, their concerns mainly relate to the limited details of how it would work. Some of the details requested by the Council, such as exceedance flows and spot levels, do not appear proportionate to this limited scale of development, in an area with no known increased risk of flooding. The appellant's suggestion to restrict the outfall into the sewer to 1 litre a second is noted, however, it is unclear whether this would acceptably reduce the flow. In the circumstances, and in view of my findings above, it is considered that the precise details of the surface water drainage of the appeal site, based on the appellant's broad strategy, including the exact flow restriction, can be the subject of a suitably worded condition.
24. I therefore conclude, subject to a condition, that the proposed development can be suitably drained and the proposal would comply with the requirements of Policy SI 13 of the LP, and Policies DMD 59, DMD 60, and DMD 61, that amongst other things seek to ensure the site is sustainably drained according to the drainage hierarchy, address surface water drainage as close to the source as possible, reduce run off, and reduce flood risk. In addition, the proposal would comply with paragraph 157 of the Framework that requires full account should be taken of flood risk.
25. The Council referred to the proposal conflicting with Policy CP28 and Policy DMD 60 of the DMD, these policies are concerned with development in areas of high flood risk. On the information before me I am not aware that the appeal site falls into that category as such these policies were not directly determinative on this main issue.

Conditions

26. I have imposed a standard implementation condition, along with a condition listing the approved plans to provide certainty over what has been approved. Conditions regarding external materials, and details of the screening/structures to accommodate refuse facilities are also necessary to protect the appearance of the area.

27. To protect the living conditions of the occupiers of the 3 -bedroom flat, a condition preventing any openings on the side of the proposed conservatory facing No. 56 is necessary. To comply with the requirements of Policy SI 13 of the LP and to promote sustainable use of water, I have imposed a condition restricting potable water consumption on the flats hereby approved. Although I was not provided with sufficient policy justification to impose a condition requiring an energy statement be provided.
28. As the proposal seeks to re-purpose an outbuilding that is yet to be fully constructed for parking, a condition is necessary to ensure it is constructed with garage door openings, it is available to provide 2 no. parking spaces, and suitable crossover details, pedestrian visibility splays, and access arrangements are provided in the interests of highway safety.
29. Although some boundary details have been provided these have not adequately demonstrated where the new fences would be located for both new flats, consequently a boundary treatment condition is necessary in this regard to safeguard the living conditions of future occupiers of the flats.
30. In order to ensure the proposed development can be satisfactorily drained, permeable paving is used where possible, and appropriate flow control mechanisms and technical specifications are provided, a surface water drainage condition is necessary. The information submitted by the appellant in this respect was not sufficient. A separate condition regarding new ground surfacing materials to the rear of the building is not necessary as its permeability can be agreed as part of the surface water drainage condition.
31. To promote sustainable travel opportunities, a condition requiring the secure cycle storage areas shown on the proposed site plan are made available for use prior to the first occupation of the development is also imposed.

Conclusion

32. For the reasons given above, considering the development plan as a whole and all relevant material considerations, the appeal is allowed.

A Hunter

INSPECTOR

Schedule of Conditions

- 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 submitted plans: drawing no's SAL-09-PL02; SAL-04-PL04A; SAL-04-PL06A; SAL-04-PL07; and site location plan.
- 3) The external finishing materials shall be those specified on the application form and match those used on the exterior of the existing building.

4) Prior to first occupation of the subdivided flat and dwelling hereby approved, precise details of all boundary treatment around the rear sides of the approved new flat and dwelling shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for their implementation. Thereafter the development shall be undertaken in accordance with the agreed details and timetable.

5) Prior to the first occupation of the subdivided flat and dwelling hereby approved, precise details of the internal consumption of potable water shall have been submitted to and approved in writing by the Local Planning Authority, these details shall 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 strictly in accordance with the approved details and maintained as such thereafter.

6) Prior to the first occupation of the subdivided flat and dwelling hereby approved, the outbuilding in the rear garden granted by reference 22/01478/CEA shall be fully constructed and available for use as a double garage to provide 2 no. parking spaces, in accordance with precise details that shall be submitted to and approved in writing by the Local Planning Authority, the details shall include, , the external changes to the outbuilding including new garage doors, pedestrian visibility splays, access and crossover arrangements, and a parking layout plan. Thereafter the development shall be undertaken in accordance with the approved details and the parking spaces shall permanently be available for their intended purpose and not used for any other purpose and the approved visibility splay shall be maintained in perpetuity.

7) Prior to the first occupation of the subdivided flat and dwelling hereby approved, all the secure cycle storage facilities shown on drawing no. SAL-04-PL06A shall be constructed and available for use. Thereafter these facilities shall be retained in perpetuity and not used for any other purpose.

8) Notwithstanding the plans hereby approved, the side elevation of the proposed conservatory directly facing towards the rear garden of the 3-bedroom dwelling shall be constructed of matching brickwork to the existing property and have no openings within that side elevation.

9) Notwithstanding the submitted information and prior to the first occupation of the subdivided flat and dwelling hereby approved, precise details of the measures to drain surface water from the site, including source control mechanisms, flow control details and specifications of all new pipes, storage and attenuation areas (including the sedum roof), details of down pipes and their discharge point(s), and details all new hard surfaced areas including their permeability and storage capacity shall be submitted to and approved in writing by the Local Planning Authority together with a timetable for their implementation. The development shall thereafter be undertaken in accordance with the approved details and timetable, and maintained as such thereafter.

10) Prior to the first occupation of the subdivided flat and dwelling hereby approved, refuse storage facilities shall be provided in accordance with precise details, including screening, that shall first have been submitted to and approved in writing by the Local Planning Authority. Thereafter those refuse storage facilities shall be retained in perpetuity for their intended purpose.