



Appeal Decision

Site visit made on 24 June 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/Q5300/W/23/3329603

33-52 Bridle Close, Enfield EN3 6EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Jon Hunt, Hunt Developments against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 22/02315/PRA.
 - The development proposed is upward extension of existing detached block of flats from its current overall height of 11.108m to an overall height of 16.424m with new window positions to replicate the existing and all external materials to match the existing.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The address on the application form referred solely to '33 Brindle Close'. Given the appeal site area covers 33-52 Brindle Close, I have taken the address in the banner above from the appellant's appeal form and the Council's decision notice.
3. Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ("Class A" of "the GPDO") permits development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats. This is subject to several limitations where development is not permitted, listed under paragraph A.1, and subject to compliance with conditions, set out under paragraph A.2.
4. I have had regard to the National Planning Policy Framework (the Framework) insofar as it is relevant to the subject matters for which prior approval is sought. I have also had regard to the policies of the development plan so far as they are material to the prior approval matters.
5. The appellant has submitted an amended proposed floor plan which removes the two-bedroom units and replaces them with one-bedroom units. An amended proposed location and block plan has also been submitted which extends the red-line boundary to include the land surrounding the appeal site. This land was previously not included within the red-line boundary. These amended plans have been submitted to address the first, third and fourth reasons for refusal.

6. 'The Procedural Guide: Planning appeals – England' states that the appeal process should not be used to evolve proposals and it is important that what is considered by the Inspector is essentially what was considered by the Council, and by interested parties. The amended plans would materially alter the proposed development. Were I to take these amended plans into account, prejudice could occur to interested parties who have not had an opportunity to comment. I have therefore determined the appeal on the basis of the plans that were before the Council when it made its decision and on which parties were consulted.
7. A Daylight and Sunlight Assessment¹ has also been submitted with the appeal to address the fifth reason for refusal. The findings from this assessment would not fundamentally alter the proposal and therefore the acceptance of this document would not unfairly prejudice any party. I have therefore taken this assessment into consideration.
8. In the Council delegated report, it is stated that the proposal would not constitute permitted development. However, this is not referenced in the decision notice. The Council went on to consider the proposal against the conditions set out under paragraph A.2 which formed the reasons for refusal. I have dealt with the appeal in the same way.

Main Issues

9. The main issues are:

- the transport and highways impacts of the development concerning, parking, highway safety, cycle storage and waste facilities,
- the size of the proposed flats and the compliance with the Nationally Described Space Standards (the NDSS); and,
- the impact on the amenity of the neighbouring premises including outlook and the loss of light.

Reasons

Transport and highway impacts

10. 33–52 Brindle Close is a four storey detached block of flats. The proposal would provide 10 extra flats through the addition of the fourth and fifth floors. The appeal building is located at the end of a cul-de-sac which serves several residential properties. Part of the cul-de-sac is controlled by double-yellow lines but allows for on-street parking on either side of the road and outside of the building within the turning area. The cul-de-sac is not within a controlled parking zone.
11. The appeal site has a Public Transport Accessibility Level (PTAL) score of 2 which is relatively low indicating poor access to public transport. Although there is a bus stop nearby, the nearest train station is about a 10-minute walk. Whilst just a snapshot in time, at my early afternoon site visit, there were very few vacant on-street parking spaces available in the cul-de-sac with vehicles parked on both sides of the road. This indicates a high demand for on-street parking.

¹ Daylight and Sunlight Assessment for the Development at 33-52 Brindle Close, Enfield, Middlesex, EN3 6EA – September 2023

12. No additional parking spaces are proposed. The application is not supported by a parking survey or detailed evidence to indicate the cul-de-sac is not subject to high on-street parking demand and that there is spare parking capacity in the area for additional vehicles. Notwithstanding the aims of the Enfield Transport Plan 2019 in managing the demand for on-street parking, given the number of residential units proposed, the proposal has the potential to generate additional parking demand and traffic.
13. Any overflow on-street parking resulting from the proposal would increase the competition for on-street parking spaces, in an area where the availability of such spaces is limited. This has the potential to increase traffic congestion as drivers search for spaces. Increased demand would also increase parking stress and could give rise to illegal or unsafe parking causing obstructions for emergency vehicles and an increased risk of collisions if cars were poorly parked. This would cause harm to the safety of road users and pedestrians.
14. I have had regard to the appellant's assertion to make the scheme a 'traffic free' development to comply with the London Plan 2021 (the LP) and the aims of the Mayor's Transport Strategy 2018, and their willingness to accept a planning condition or enter into a legal agreement. However, no conditions have been proposed and no legal agreement has been submitted as evidence to demonstrate how future occupiers would be precluded from owning cars. As such, I have no mechanism to ensure the proposal would be car-free.
15. The originally submitted proposed plans include no cycle parking provision. This would not be conducive to removing barriers to cycling. Given the low PTAL score, failure to provide cycle parking provision would not reduce car dependency and could therefore result in parking overspill into the cul-de-sac, further increasing the demand for on-street parking.
16. As no details of the waste storage have been provided on the originally submitted proposed plans, it has not been demonstrated that the facilities would be accessible.
17. Drawing this all together, I conclude that the transport and highway impacts of the development would not be acceptable, and the proposal would therefore not satisfy the condition set out at paragraph A.2(1)(a). It would also conflict with the Framework in respect of promoting sustainable transport.
18. Insofar as they are relevant to the transport and highway impacts of the development, the proposal would conflict with Policies T2, T4, T5, T6.1 and T7 of the LP, Core Policy 25 of The Enfield Plan Core Strategy 2010 (the CS) and Policies DMD 45, DMD 47 and DMD 48 of the Development Management Document (DMD) 2014 (the Development Management Document).
19. The reason for refusal refers to Policy T3 of the LP. As this is focused on transport capacity and projects it is not relevant.

Size of the proposed flats

20. Paragraph 9(A) of Article 3 states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse that does not comply with the NDSS.
21. The Council consider that the internal floor area of the proposed two-bedroom units shown on the originally submitted proposed floor plans would be below

the minimum floor area of 61 square meters for a two-bedroom, three-person unit and the double bedroom size would not meet the minimum floor area of 11.5 square meters, as required by the NDSS. There is no substantive evidence before me to dispute this. The size of the proposed flats would therefore not comply with the NDSS. Consequently, the proposal would not be in accordance with Article 3.

Amenity of neighbouring premises

22. The nearest residential properties to the appeal site are at 21–32 Brindle Close and 53–64 Brindle Close, which are three storey blocks of flats and are shorter than the appeal building. Each building is at a slight angle from the appeal building, located on each side of the cul-de-sac. Because of their layout and orientation, the appeal building can be seen from these neighbouring windows.
23. The proposed increase in the appeal building's height, bulk and mass would be at roof level. The upward extension would follow the same footprint as the lower floors and would therefore not project beyond the extent of the existing footprint of the building. When looking upwards, the extension would be visible from the neighbouring windows. However, it would not be positioned directly in front of any existing windows and its siting at roof level would not be any closer to the neighbouring windows than the existing building is. Because of this, the extension would not have an overbearing effect to such a degree that would detrimentally change the outlook experienced by neighbouring occupants.
24. The analysis from the Daylight and Sunlight Assessment, which has been prepared in line with the Building Research Establishment's (BRE) guidelines², demonstrates that the upward extension would have a negligible effect on the daylight and sunlight received in the front habitable rooms and windows at 21-32 Brindle Close and 53–64 Brindle Close. This would be within the BRE guidelines. These findings are not disputed by the Council. Based on the evidence provided, the proposal would not result in an unacceptable loss of light to the habitable rooms at 21–32 Brindle Close and 53–64 Brindle Close.
25. For these reasons, the proposal would satisfy the condition at paragraph A.2(1)(g) in relation to the impact on the amenity of the neighbouring premises. It would also comply with the Framework in providing a high standard of amenity for existing users.
26. The proposal would not conflict with Policy D3 of the LP, Core Policy 30 of the CS and Policies DMD 8 and DMD 37 of the Development Management Document, insofar as they are relevant to the impact on the amenity of the neighbouring premises.

Other Matters

27. The impact of the proposal on the character of the area and its compliance with the relevant development plan policies and the Framework in terms of design, is not relevant as the external appearance of the building is not under dispute in this appeal. In any event, the proposal must satisfy all aspects of the conditions set out under paragraph A.2.

²Site Layout Planning for Daylight and Sunlight: a good practice guide, 3rd Edition, produced by The Building Research Establishment

Conclusion

28. For the reasons given above, the proposal fails to meet the requirements of Paragraph 9(A) of Article 3 and the conditions set out under paragraph A.2 of Schedule 2, Part 20, Class A of the GPDO. Therefore, the appeal is dismissed.

L Reid

INSPECTOR