



Appeal Decision

Site visit made on 7 August 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/Q5300/W/24/3339582

Cynergy Bank, 87 -97 Chase Side, Southgate, London N14 5BU

- 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 AB, Paragraph AB.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mareo Miltiadous against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 23/03275/PRAB.
 - The development proposed is the erection of single storey to form fourth floor to provide 12 dwellings in accordance with Schedule 2, Class AB of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 20, Class AB of The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), permission is granted for new dwellinghouses on terrace buildings in commercial or mixed use, subject to limitations and conditions.
3. Paragraph AB.2(1) requires the developer to apply to the local planning authority for prior approval of the authority as to the transport and highway impacts of the development, and the impact on the amenity of neighbouring premises, amongst other matters.
4. The appellant has submitted the Proposed Site Plan¹ as part of the appeal. This is a revised version of the Site Plan², and was not submitted as part of the planning application. I note that the procedural guide³ advises that the appeal process should not be used to evolve a scheme. The only difference between the plans is how the scheme is illustrated and the annotations have been amended. Therefore, the Proposed Site Plan does not represent an evolution of the appeal proposal or a substantive change of what was before the Council. Moreover, it would not be procedurally unfair on interested parties if I considered the new plan, as the appeal proposal remains the same. In accordance with the principles established by the Holborn Studios Ltd Judgment⁴, I have considered the Proposed Site Plan when assessing the appeal proposal.

¹ Drawing No. D06 Rev. A

² Drawing No. D05 Rev. A

³ Procedural Guide: Planning appeals - England

⁴ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

5. An application⁵ for prior approval for an upward extension of the appeal property to construct 9 self-contained units was refused in May 2023, for similar reasons. The differences between the proposals includes an additional three residential units and changes to the design.
6. On 30 July 2024 the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and "National Planning Policy Framework: draft text for consultation". Also, a Written Ministerial Statement entitled "Building the homes we need" was published on the same date. The Council and the appellant were given the opportunity to comment on these publications. I have considered their responses when determining this appeal.

Main Issues

7. The main issues are:

- the effect of the proposal on the living conditions of occupiers of 7, 9, 11, 13, 15 and 17 Crown Lane (Nos 7-17), with particular regard to outlook;
- whether an acceptable planning obligation has been made to ensure that the proposal would be car-free; and,
- whether the proposal would provide acceptable cycle storage.

Reasons

Living conditions

8. The appeal property is a substantial, three-storey building. It fronts on to Chase Side, but the parking area to the rear is accessed from Crown Lane. No 7 is a bungalow sited very close to the rear of the appeal property. Nos 9, 11, 13, 15, and 17 are a terraced block of three-storey townhouses, they are also sited close to the appeal property. These neighbouring properties all have gardens to the rear, which adjoin the appeal site.
9. Given the existing scale and massing of the appeal property and limited separation, it dominates over neighbouring properties. Other than the boundary treatments, there is no intervening structures or landscaping between the appeal property and neighbouring gardens to soften its appearance.
10. The proposal would increase the height of the appeal property by an additional storey. Although the additional storey would be stepped back compared to the previously refused scheme, there would still be limited separation between the neighbouring properties and the appeal property. The appeal proposal would significantly worsen the relationship between the properties, due to the increase in scale and massing. Even when considering the urban nature of the site, the proposal would appear overbearing to occupiers of Nos 7-17 when viewed from their rear windows and gardens.
11. A planning permission⁶ for the erection of an additional floor to provide residential accommodation at 55-57 Chase Side (Nos 55-57) was granted in August 2014. That proposal resulted in less separation between Nos 55-57 and the dwellings at Bush Court, than there would be between the appeal property

⁵ Application Ref. 23/00970/PRAB

⁶ Planning permission Ref. P13-03434PLA

and Nos 7-17. However, there were several trees between Bush Court and Nos 55-57, which softened the appearance of that proposal, such that it did not appear overbearing.

12. I note that the trees were not evergreen, but their presence alone helped soften the appearance of that proposal. I also acknowledge that permission has subsequently been granted to remove those trees, subject to replacement planting. The most pertinent detail of that application is not before me. I am therefore unaware of how the effect of their removal on the outlook experienced by occupiers of Bush Court was balanced against the benefits of that proposal. I therefore cannot conclude that the development at Nos 55-57 set a precedent for the appeal proposal.
13. Another example before me is the relationship between 42-54 Chase Side and dwellings on Pickard Close. However, the relationship between these properties is materially different as the properties do not directly back on to one another.
14. Several examples of other similar nearby tall development with limited separation have been put before me. However, I have not been provided with the pertinent detail of those developments, such as whether they required planning permission. Similar to above, I cannot conclude that these developments set a precedent for the appeal proposal.
15. Policy DMD10 of the Development Management Document, November 2014 (DMD) specifies minimum separation distances to ensure adequate privacy and daylight/sunlight. The proposal does not conform with the minimum separation distances. Development plan policies are not determinative in applications for prior approval but can support an assessment on the merits of a proposal when they relate to the matters of consideration as specified within the GPDO. Notwithstanding this, it has been demonstrated by the Daylight & Sunlight Report that the proposal would not have a harmful effect on the amount of sunlight/daylight experienced by neighbouring properties. Furthermore, due to design features, such as angled windows and privacy glass, the proposal would also not result in a harmful loss of privacy for neighbouring occupiers.
16. Overall, I conclude that the proposal would have a harmful effect on the living conditions of occupiers of Nos 7-17, with particular regard to outlook. It would be contrary to paragraph 135 of the National Planning Policy Framework (the Framework) which advises that planning decisions should ensure that developments create places with a high standard of amenity.

Planning obligation

17. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 sets out the limitation on the use of planning obligations. The proposed obligation meets the three tests set out within the Regulations.
18. The Deed of Unilateral Undertaking (UU) submitted with the appeal includes conflicting dates. The front cover states 2020 and the first page states 2024. In addition, neither page states a day or a month next to the year. Furthermore, within the UU "the Property" is defined as land and buildings delineated in red on the attached plan. However, no plan was attached to the UU. In addition, the UU refers to Policy LP45 of the Local Plan, this does not relate to any of the development plan documents. For these reasons, I conclude that the proposed obligation is not legally sound.

19. I therefore conclude that an acceptable obligation has not been provided to ensure that the development would be car free. The appeal proposal would conflict with paragraph 114 of the Framework which advises that when assessing applications for development it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up.

Cycle storage

20. Whilst development plan policies are not determinative in applications for prior approval, they can provide indicative standards for what may be acceptable. Table 10.2 of The London Plan, The Spatial Development Strategy for Greater London, March 2021 (LP) requires a development of this size to provide 12 long stay cycle spaces and 2 visitor spaces.
21. The proposal would include 28 spaces in total, 20 long stay and 8 visitor spaces. These would be split between the existing office use and the proposed residential use. There would be 14 long stay spaces and 2 visitor spaces for the proposed dwellings. Moreover, the provision of cycle storage would not lead to the loss of off-street parking spaces.
22. Therefore, the proposal would provide acceptable cycle storage. The proposal would comply with DMD Policy DMD45, LP Policy T5, and Policy CP25 of The Enfield Plan, Core Strategy 2010-2025. These policies indicate that new development should make provisions for cyclist, and set minimum standards for cycle storage, amongst other matters. It would also be in accordance with paragraph 116 of the Framework where it indicates that applications for development should give priority to pedestrian and cycle movements.

Other Matters

23. The appellant has highlighted that the proposal would be supported by LP Policies SD8 and GG2. As above, development plan policies are not determinative in applications for prior approval. These policies do not relate to the matters under consideration in this application and therefore do not alter my assessment of the proposal.
24. Similarly, there would be benefits to the proposal including boosting housing land supply, increased tax receipts, increased spend through an increased local population, the reuse of a brownfield site, a more effective use of the land, and construction benefits. All of these aspects of the proposal are supported by the Framework. Nonetheless, they do not form part of matters under consideration as specified by the GPDO. As such, they do not alter my assessment of the proposal.

Conclusion

25. For the reasons given above, I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR