



Appeal Decision

Site visit made on 1 October 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/Q5300/W/24/3343645

628 Hertford Road, London EN3 5TD

- 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 Ozgun Ahmet against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 23/02712/FUL.
 - The development proposed is first and second floor extensions to provide two flats and additional windows at rear ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of their appeal submission. This includes amended first and second internal floor plans, roof plan, east and west elevation plans, AA section plan and a rear street scene plan. The changes shown on the amended plans, include details of proposed internal storage and internal floor heights within the flats, details of a proposed external access stairway leading to the new second floor flat, and roof lights proposed in the new first floor flat.
3. The amended plans do not include substantial differences to the proposed scheme, nor fundamentally change what is being proposed. They provide some clarification about elements of the proposed scheme, including with regard to access and the internal arrangements of the new flats. The Council had opportunity to comment on the proposed amended plans as part of the appeal process and I am satisfied that due to the minor nature of the changes, there would be no prejudice or unfairness caused to any interested party by not having the opportunity to comment on the amendments. Therefore, I have determined the appeal having regard to the amended plans provided.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on the living conditions of the occupants of 628A Hertford Road (No 628A), with particular regard to outlook, loss of daylight and privacy;
 - whether the proposed development would provide acceptable living conditions for the future occupants of the new flats, in particular regard to the means of access and internal space standards for the proposed

second floor flat; the internal space standards and provision of appropriate daylight, outlook and privacy for the proposed first floor flat; and provision of suitable refuse facilities for the flats;

- the effect of the proposed development on highway safety, in particular regard to on-street parking; and,
- whether the proposed development would adequately address surface water run-off in regard to flood risk management.

Reasons

Character and appearance

5. The appeal site lies within a mixed use area, with commercial premises at ground floor fronting onto Hertford Road and generally residential properties above. In this part of Hertford Road, typically, buildings include a mix of two and three storey frontage buildings, with many properties having projecting rear outriggers and extensions, some 2 and 3 stories high, but stepping down from the main ridgeline of the frontage building, and some single storey with flat roofs.
6. The proposed development would extend the height of the existing building, from a two-storey to three-storey building to create a second floor flat, in terms of the front, Hertford Road part of the appeal building. This element of the proposed scheme would be of similar scale and design to that of other buildings fronting Hertford Road and so, would not appear discordant within the street scene.
7. At the rear, the proposed first floor flat would be set away from the existing rear elevation of the main part of the building, which fronts onto Hertford Road, creating an uncharacteristic gap between the main part of No 628 and the proposed first floor flat, at first floor level. Also, due to the proposed staggering of building height from 3 stories down to single storey and back up to 2 storey, rather than the rear outrigger stepping down as it progress toward the rear of the plot, this would not following the prevailing pattern of development found at the rear of nearby surrounding properties, including the examples at 626 and 622 Hertford Road (Nos 626 and 622).
8. Even though there are nearby properties of comparable or taller height than the proposed first floor flat, and examples of 2 and 3 storey high rear outriggers at nearby properties fronting Hertford Road, these are generally attached to the main host building at both the ground and upper floor level. Therefore, they appear as a composite part of, yet subservient to, the main building. However, in comparison, the proposed first floor flat would appear as an unsympathetic, separate dis-jointed element to the main building, due to the intervening gap that would remain at first floor level. This would not be in keeping with the surrounding pattern of development.
9. The nearby apartment development at Indigo Court towards the corner of Hertford Road and Turkey Street is a separate larger apartment block building, with a different scale and design to that of the appeal proposal. Furthermore, it has a different site context, as it fronts onto Turkey Street, rather than being set behind frontage buildings, as per the proposed first floor flat. Therefore, this example is not comparable to the appeal proposal, in terms of its siting, form, and design, and so, I have considered the proposal having regard to its individual merits.

10. Despite that the proposed first floor flat would not be overly prominent within the main street scene along Hertford Road, there would be some glimpsed views of it from a public car park at the rear and from neighbouring properties. Furthermore, the lack of public visibility and the proposed use of matching materials and fenestration detail, would not overcome the harm caused with regard to the form, scale, and siting of the proposed first floor flat.
11. In view of the above, the proposed development would have a harmful effect on the character and appearance of the surrounding area, in conflict with Policies D3 and D4 of the London Plan (March 2021) (LP), Policy CP30 of the Enfield Core Strategy (ECS) (November 2010) and Policies DMD6, DMD8 and DMD37 of the Development Management Document (DMD) (November 2014), which generally promote and/or require new development, to be of good or high quality design that responds to the existing context or character of the surrounding area.

Living conditions of No 628A

12. The proposed first floor flat would be located directly in front of the rear facing windows of No 628A, a short distance away across an open flat roof area. This flat roof area would provide shared access to the proposed two new flats in addition to maintaining access to No 628A. Also, as shown on the proposed amended floor plans, the external access stairwell leading up to the new second floor flat, would be located adjacent to the side boundary with No 626. This, together with the balcony landing area leading from the stairway to the front door of the proposed second floor flat, would overhang the main rear facing window of No 628A.
13. The proposed floor plans of the new first floor flat indicate that there would be openings and that, the main access to this flat would be directly opposite No 628A. Additionally, the proposed amended plans show that the access stairwell to the new second floor flat would be very close to the main window of No 628A.
14. Policy DMD 10 of the DMD sets out that in order to demonstrate proposed development would not result in housing with inadequate daylight or privacy for the proposed and surrounding development, a minimum separation distance between rear facing windows for 1-1 storeys in facing buildings should be 22 metres. The evidence provided does not demonstrate this minimum separation distance would be achieved between the proposed first floor flat and No 628A. Therefore, there would be undue overlooking and loss of privacy caused to the occupants of No 628A. While the current occupants of No 628A have net curtains and any future occupants of the proposed flat could also use such, this does not present a suitable solution to overcome the policy conflict, in order to prevent overlooking into No 628A.
15. In addition, due to the combination of the existing rear outrigger projection at No 626, the proposed close proximity of the first floor flat to No 628A and the proposed overhanging access stairway and landing area to the proposed second floor flat, this would create quite an enclosed feel and oppressive outlook from the rear of No 628A.
16. While the submitted Daylight and Sunlight (DS) Report prepared by Daylight and Sunlight Consulting, dated 30 April 2024 has been undertaken inline with the Building Research Establishment (BRE) guidelines and concludes that the

expectations of the BRE guidelines would be met by the proposed development. This assessment does not appear to have accounted for the proposed external stairwell and small landing area to the proposed second floor flat, which would be overhang the main rear window of No 628A. Also, it is unclear from the evidence provided, whether or not the 25 degree line taken from the existing windows of No 628A would be contravened by the proposed development, as these details are not shown on the proposed plans or within the DS report.

17. Therefore, notwithstanding the conclusions of the submitted DS Report, having regard to the site context and close relationship of the proposal to No 628A, and proposed amended plans, I consider there would be some reduction in daylight received by the main large rear window of No 628A which would, on balance, unacceptably reduce the amount of daylight experienced by the occupants of No 628A.
18. Having regard to the above, the proposed development would have a harmful effect on the living conditions of the occupants of No 628A, with particular regard to outlook, loss of daylight and privacy. Therefore, the proposal would conflict with Policy D3 of the LP and Policy DMD8 of the DMD, which require, amongst other matters, that development protects amenity in terms of outlook, privacy, and daylight. Also, there would be conflict with Policy DMD 10 of the DMD, which requires new development to maintain appropriate distance separations between buildings to protect daylight or privacy.
19. In terms of this main issue, the proposal would not directly conflict with Policy D4 of the LP, Policy CP30 of the ECS and Policy DMD37 of the DMD, as they do not refer to living conditions. However, I acknowledge these policies encourage and/or promote new development to be of a high quality design, of which amenity is an important consideration.

Living conditions of future occupants

20. As I have found above, there would not be sufficient distance separation between the proposed openings in the first floor flat and the existing rear window of No 628A, in order to meet the required minimum separation distances, set out in Policy DMD10 of the DMD. Therefore, this would not ensure suitable privacy would be provided for the future occupants of the new first floor flat.
21. In terms of daylight to and outlook from the proposed kitchen/living/dining room space of the proposed first floor flat, the proposed plans show there would be openings serving this room on more than one elevation. This includes proposed windows in the side elevation facing towards No 630, in the front elevation facing No 628A, in addition to 4 No. roof lights. This number of openings would likely provide sufficient daylight within the flat for its future occupants.
22. In respect of outlook from the proposed first floor flat. While this would rely on overlooking the rear flat roof areas of No 630 in respect of the proposed side facing windows, overall, the proposed one-bedroom flat would have a good level of outlook. This is due to the proposed total number of openings in the flat, including the proposed rear facing bedroom windows, which would not be impeded by neighbouring land ownership or buildings.

23. The proposed amended internal floor plans show that the new first floor flat and second floor flat would have dedicated built-in storage spaces within the proposed kitchen/living/dining rooms of each of the flats. Although measurements of these storage spaces are not noted on the proposed plans, it adequately demonstrates that the required standard of 1.5 sqm for a 1 bedroom 2 person dwelling and 1sqm for a 1 bedroom, 1 person flat, as set out in Policy D6 of the LP could be achieved.
24. The amended cross section plan for the proposed flats shows the new second floor flat would have an internal floor to ceiling height of 2.3 metres at the lowest end of the flat. Despite the appellant's assertion that the proposed floor to ceiling heights would meet relevant standards and, even though the cross section plans shows the ceiling height slopes up from 2.3m, the evidence provided does not unequivocally demonstrate that the second floor flat would have a minimum floor to ceiling height of 2.5m for at least 75 percent of the Gross Internal Areas of the dwelling, as required by part 8) of Policy D6 of the LP. Therefore, in regard to internal floor to ceiling heights the proposal would not provide adequate living conditions for the future occupants of the proposed second floor flat.
25. The details shown on the proposed amended plans, demonstrate that there would be an appropriate means of access to the proposed second floor via an external staircase from the existing flat roof area at the rear of No 628A. Therefore, the proposal would be acceptable in this regard.
26. Policy DMD47 of the DMD requires, amongst other matters, that new development will only be permitted where adequate, safe, and functional provision is made for refuse collection. As the proposal does not include any substantive details of how the refuse from the proposed dwellings would be managed, the requirements of Policy DMD47 have not been satisfied.
27. In view of the above, while I find the proposed flats would have suitable means of access and internal storage space and, the occupants of the new first floor flat would have sufficient daylight and outlook. The proposed development would not provide acceptable living conditions for the future occupants of the new flats, in particular regard to internal space standards for floor to ceilings heights in respect of the second floor flat, the provision of appropriate privacy for the proposed first floor flat, and in regard to the provision of suitable refuse facilities for the proposed flats. For such reasons, the proposal would conflict with Policy DMD10 of the DMD and Policy D6 of the LP. Also, in respect of my findings on refuse facilities, the proposal would conflict with Policy DMD47 and Policies D3 and T7 of the LP, which require, amongst other matters, that development facilitates efficient servicing.
28. However, I find the proposal would not be in direct conflict with Policies CP4 and CP30 of the ECS and Policies DMD8 and DMD37 of the DMD, as the policies do not refer to living conditions. Although, I acknowledge that the provision of inadequate living conditions for future occupants would not encompass high quality design, as generally required by such policies.

Off-street parking

29. From the evidence provided, the proposed development would not have dedicated space for off street parking. Policy DMD 45 of the DMD sets out that car parking will be considered against the standards of the London Plan and

other criteria. Policy T6.1 of the LP sets out maximum parking standards for new residential development, which should not be exceeded. As asserted by the Council, the appeal site is located within the PTAL 3 area of London, where the maximum parking standard set out in table 10.3 of Policy T6.1 of the LP is up to 0.25 spaces per dwelling. Therefore, the proposed development would require a maximum of 0.5 spaces.

30. The proposal is for a car-free development in a location where there is it is asserted by the Council to have moderate accessibility for public transport. Having regard to the submitted evidence and my site observations, there are nearby bus routes, with bus stops along Hertford Road and an underground station nearby further down Turkey Street. Notwithstanding that a car parking survey has not been provided by the appellant, Policy T6 B of the LP sets out that car-free development should be a starting point for all development proposals that are well-connected by public transport. Also, at the time of my site visit, I observed that there were on-street parking spaces available along Turkey Street, in addition to a public car park, with spaces available, at the rear of the appeal site, which is accessed via Turkey Street.
31. Therefore, while the proposal will intensify the amount of living accommodation within the appeal site, I have not been provided with any substantive evidence to demonstrate that the demand for on-street parking would cause harm to highway safety or the free flow of traffic in the local area.
32. In view of the above, the proposed development would not harmfully effect highway safety and so, there would be no conflict with Policies T6.1 of the LP and Policy DMD45 of the DMD in respect of required parking standards. Also, there would be no conflict with Policy CP24 of the ECS, which amongst other matters encourages sustainable travel choices, nor Policy T4 of the LP, which requires development proposals to not increase road danger.
33. While referred to in the reason for refusal, Policy CP25 of the ECS is not directly relevant to this main issue, as it relates to pedestrians and cycling, rather than highway safety and car parking.

Flood risk

34. From the evidence provided, the site does not lie within an area with particular surface water management issues. However, Part B of Policy SI 13 of the LP sets out that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. Also, the supporting text of Policy SI 13 sets out that London is at particular risk from surface water flooding, mainly due to the large extent of impermeable surfaces.
35. The appellant asserts the proposal would not increase the amount of hardstanding or impermeable surfaces across the site and that, there would be no increase in the amount of water run-off from the appeal site. They also set out the proposed two flats would be designed to not exceed the standard water usage of 105 litres per person per day and that the proposal would include gutters with proposed surface water run-off to a suitable drain. However, a detailed drainage strategy has not been provided for the proposed development, in order to demonstrate how surface water run-off would be managed to avoid flooding, in accordance with the requirements of Policy DMD61 of the DMD.

36. In view of the above, it has not been demonstrated that the proposed development would adequately address surface water run-off in regard to flood risk management. For such reasons, the proposal would conflict with Policy DMD61 of the DMD and Policies SI 12 and SI 13 of the LP. Also, the proposal would conflict with Policies DMD59 and DMD60 of the DMD, which respectively require new development to avoid flood risk and reduce the risk of flooding and that the requirements of Policy DMD61 are met. Additionally, there would be conflict with Core Policy 28 of the ECS which requires a risk based approach to development and flood risk, including that Sustainable Drainage Systems (SUDS) should be provided for all developments, irrespective of the flood risk at individual development sites.

Conclusion

37. While I have not found harm in relation to highway safety with regard to on-street parking and in regard to some aspects of the living conditions of the proposed flats, the harm I have found in relation to the other main issues is sufficient to justify dismissing the appeal. For such reasons, as given above, the proposal would conflict with the development plan as a whole and material considerations do not indicate a decision should be made other than in accordance with it.

38. Accordingly, I conclude the appeal should be dismissed.

C Billings

INSPECTOR