



Appeal Decision

Site visit made on 18 November 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/Q5300/W/24/3347939

Land to the rear of 39 London Road, Enfield EN2 6LX

- 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 Richard Mason against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 24/00019/FUL.
 - The development proposed is erection of a block of three self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the words 'Land to the rear of' in the above site address, as used within the decision notice as this is clearer than the 'LRO' used by the appellant in their application and appeal forms.
3. The appellant has stated that their appeal seeks consideration of the suitability of the site for residential purposes and requests that my attention only be paid to refusal reasons 1 and 2. However, given that my decision could ultimately grant planning permission for the entirety of the development, I am required to consider all reasons for refusal.

Main Issues

4. Given the above, the main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area, including whether it would preserve or enhance the character and appearance of the Enfield Town Conservation Area (CA);
 - the effect on the living conditions for existing nearby occupants with particular regards to privacy and outlook; and
 - whether the proposed development would provide acceptable living conditions for future intended occupiers with particular regards to privacy, outlook, sunlight and daylight, access arrangements, and convenient and accessible facilities for waste management.

Reasons

Character and appearance and heritage asset

5. The appeal site is within a CA and, as such, the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

- applies. This requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of the area.
6. The National Planning Policy Framework (the Framework) sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to that assets conservation.
 7. The CA covers the historic core and commercial centre of the town and surrounding areas, including several open green spaces. The Town Centre features a high proportion of Civic and Victorian commercial buildings and is at the heart of the CA. Its significance is therefore defined by the commercial street pattern and distinctive spaces such as the market square and the rich variety of ages and styles in key buildings.
 8. The appeal site is set to the rear of a mix of two and three-storey buildings on London Road, Southbury Road and Genotin Road. The courtyard which is at the centre of the historic street pattern functions, in part, as a service area to the surrounding units. It also retains an openness between the rear elevations.
 9. The proposed development would infill the majority of the appeal site, extending close to the site's boundaries. The infilling in part of the courtyard would erode the sense of openness which forms part of the character of the conservation to the rear of the surrounding buildings. The proposal would therefore appear overly dominant in its context.
 10. Whilst the scale and pattern of the surrounding buildings conceal the appeal site from public view, the access road on Southbury Road provides clear views in. From this point the appeal site is clearly visible. The appellant's Proposed CGI submitted alongside the appeal shows the height of the proposed development to be similar to the rear outriggers to the surrounding buildings. Given its overall height and design, together with its position within the courtyard, it would result in the erosion of the spaciousness which currently exists when viewed from Southbury Road.
 11. The changes proposed are localised in terms of the CA as a whole and the harm to its significance would be less than substantial. Regardless of the level of harm, the Framework indicates that great weight should be attributed to the conservation of heritage assets. In such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits.
 12. Even if the proposed development has taken inspiration from architect designed buildings in the surrounding area, I have not been provided with the background relating to this and as such it is unclear whether this is directly comparable.
 13. I conclude that the proposed development would fail to preserve or enhance the character and appearance of the CA, and would harm the character and appearance of the surrounding area. Accordingly, it would not accord with the statutory duty with regard to the CA or the provisions within the Framework which seek to conserve and enhance the historic environment. There would also be conflict with Policies D3, D4 and HC1 of the London Plan 2021, Policies CP30 and CP31 of the Enfield Plan Core Strategy 2010-2025 (Core Strategy) and Policies DMD6, DMD8, DMD37 and DMD44 of the Development Management Document (DMD) 2014 which collectively seek to ensure that development is of an appropriate scale, bulk and massing, and appropriate to the existing pattern of development or setting, with inappropriate development being refused. There would also be conflict with the Enfield Town Conservation Area Management proposals (2015) and Enfield Heritage

Strategy 2019 – 2024 which seek to maintain the character and significance of the conservation areas.

Living conditions – Existing nearby occupants

14. Policy DMD10 of the DMD relates to distancing and specifies, amongst other matters, minimum distances between rear-facing windows in relation to storey heights between new development and facing buildings. The purpose of this policy is, amongst other things, to maintain a sense of privacy.
15. The window assessment undertaken as part of the planning application identifies a significant proportion of windows overlooking the appeal site to be associated with commercial uses. The evidence indicates that the upper floors of 36-37 The Town (Nos 36-37) are residential. However, these have been omitted from the appellants assessment. The separation distances between the appeal site and Nos 36-37 fall significantly below those set out in DMD10. I saw that the upper windows to Nos 36-37 were predominantly clear-glazed and several had potted plants visible inside. In the absence of any evidence to the contrary, it is likely that these windows serve habitable rooms.
16. The submitted Planning/Heritage Statement states that the site would be surrounded by a 1.8 metre high fence. I am satisfied that this together with the angle between the habitable accommodation of Nos 36-37 would limit the opportunity for future occupants of the proposed ground floor to look into its habitable accommodation. However, proposed plans show that Flat 3 would have direct views over the rear of Nos 36-37. This direct overlooking and reduced separation would result in a loss of privacy for existing occupants of Nos 36-37.
17. From observations on site, the rear of existing properties currently overlook the courtyard and the rear elevations of the buildings opposite. The existing occupants at the first floor of Nos 36-37 currently have an unrestricted outlook over the rear. The proximity of the development would significantly reduce the outlook for existing occupants and would unduly dominate views from the rear-facing windows.
18. Even though the Council do not dispute the presence of residential accommodation at 10-12 London Road¹ (Nos 10-12), it contends that its approval pre-dates the Council's current DMD. Notwithstanding this, I observed that the windows to its rear elevation look out over the roof of the low-level outbuildings and appear to have longer-range views of the rear of buildings beyond. This orientation provides its occupants with an unobstructed outlook. In contrast, the proposed development would be positioned within the courtyard and in close proximity to buildings of equal or greater height which would restrict the outlook from several habitable rooms. The outlook from the appeal site would therefore be materially different to that of Nos 10-12.
19. In light of the above, I conclude that the proposed development would fail to ensure adequate privacy and outlook for existing nearby occupants. Conflict would arise with Policies D3, D4 and D6 of the London Plan and Policy CP30 of the Core Strategy. These collectively seek, amongst other matters, to ensure development delivers appropriate outlook and amenity. There would also be conflict with Policies DMD8, DMD10 and DMD37 of the DMD, which seek amongst other matters to ensure development preserves outlook and privacy and achieve minimum distances between rear-facing windows.

¹ Planning permission reference: TP/10/1252

Living conditions – Future Intended Occupiers

Privacy

20. The proposed development would have windows serving habitable rooms to three elevations and each flat would have outdoor amenity space. As stated above, the proximity of existing habitable accommodation within Nos 36-37 would fall significantly below the distances set out in Policy DMD10. Even though the proposed development would have a fence surrounding the ground floor, given the habitable accommodation within Nos 36-37 is at the upper level, I consider its elevated position would provide opportunities for direct overlooking into the habitable rooms in the ground and first floor of the proposed development.
21. Furthermore, there could be no certainty that future occupants would be out during the working day given the high propensity for working from home. As such, I do not accept that there would be no overlooking from the commercial units. Therefore, given the number of properties which surround the appeal site and the quantum of windows which overlook the rear courtyard, there would be several opportunities to overlook the habitable accommodation of each flat
22. With regards to the private amenity space, even if the upper floors of the surrounding buildings would enable direct views into these areas, views from the upper floors into neighbouring gardens are not uncommon in built-up areas.

Outlook

23. All flats within the proposed development would have an outlook from two or more elevations. Despite this and as stated above, given the close proximity of the surrounding buildings, the outlook from the majority of the proposed flats would be significantly limited. This would result in an overbearing and enclosed outlook for future occupiers resulting in poor quality living accommodation for future occupiers.

Sunlight and daylight

24. Policy DMD10 of the DMD seeks, amongst other matters, to ensure adequate levels of sunlight are available for new and existing developments. At the time of my site visit the sky was overcast. Given the orientation, height and proximity of the surrounding buildings, it is likely that areas of the courtyard would be shaded to some degree. I have no substantive evidence from either party to quantify the impact with regards to light levels to demonstrate that habitable rooms within the development would receive adequate levels of sunlight or daylight. As such, I am not satisfied that the proposed development would provide adequate living conditions for future occupiers as per the requirements of Policy DMD8 of the DMD.

Access arrangements

25. Policy DMD47 of the DMD relates to, amongst other matters, access. It states that all developments should make provision for attractive, safe, clearly defined and convenient routes and accesses for pedestrians, including those with disabilities.
26. Access to the appeal site is via a private road between two commercial units on Southbury Road. This access is unlit and uneven, with no footway. At the time of my site visit (early afternoon on a weekday) a large portion of the appeal site was being utilised for car parking. The access point and access road were also being utilised by vehicles and pedestrians accessing and egressing to a number of

properties. I saw that there was insufficient space for pedestrians and vehicles to utilise the access at the same time.

27. Given that the access road and courtyard are utilised by several buildings and uses, the lack of lighting and footway could lead to conflict with road users resulting in unsafe conditions for walking and wheeling and especially so for those less mobile. Without any evidence to the contrary, I do not consider that the current access would provide a safe access arrangement for future occupants.

Waste management collection

28. Submitted plans identify dedicated storage for 1 x 660-litre refuse and 1 x 660-litre recycling bin within the appeal site. Whilst the appellant's Planning/Heritage Statement outlines that refuse and recycling would be collected by a private hire company, I have no such mechanism before me to demonstrate that adequate collection can be accommodated.
29. To conclude, whilst I have found that the proposed development would provide acceptable living conditions for future occupiers with regards to privacy within the proposed external amenity spaces, the proposed development would not provide adequate living conditions for future intended occupiers with regards to privacy and outlook from habitable rooms. Conflict would arise with Policies D3, D4 and D6 of the London Plan 2021 and Policy CP30 of the Core Strategy. These collectively seek, amongst other matters, to ensure development delivers appropriate outlook and amenity. There would also be conflict with Policies DMD8, DMD10 and DMD37 of the DMD which seek, amongst other matters, to ensure development is suitable for its intended function; and preserve outlook and privacy and achieve minimum distances between rear-facing windows.
30. I have also found that the proposed development has failed to demonstrate adequate living conditions for future intended occupiers with regard to sunlight and daylight, access arrangements, and waste management. Accordingly, the proposal would conflict with Policies D3, D4 and D6, T2, T3, T4, and T7 of the London Plan which collectively seek, amongst other matters, to ensure development provides sufficient daylight and sunlight to new housing that is appropriate for its context; and provides safe, convenient, and accessible routes for pedestrians.
31. There would also be conflict with Policies CP22 and CP25 of the Core Strategy. These seek, amongst other matters, to ensure provision is made for on-site waste collection throughout the lifetime of the development and provide safe, convenient, and accessible routes for pedestrians.
32. The development also conflicts with Policies DMD45 and DMD47 of the DMD. These seek, amongst other matters, for new residential development to provide adequate access; that all new developments maximise walkability through the provision of attractive and safe layouts for pedestrians; and that servicing arrangements ensure vehicles can reach the necessary loading, servicing, and parking areas. Furthermore, there would also be conflict with the Enfield Waste and Recycling Storage Planning Guidance (2020) which seeks, amongst other matters, safe collection points to protect the health and safety of collection staff when handling and loading bins.
33. The Council refer to Policy CP24 of the Core Strategy and Policy DMD48 of the DMD in its refusal. Policy CP24 relates to improvements to the road network and Policy DMD48 relates to transport implications of new development. Given the nature of

the proposed development, together with the Council not identifying any works taking place outside the appeal site, these policies are not applicable in this instance.

34. Furthermore, the Council also refer to Policy DMD30. This policy specifically relates to the re-use or refurbishment of upper floors of shops and/or commercial premises and this policy is not determinative in this instance.

Other Matters

35. Whilst I am sympathetic to the fact that the appellant's pre-application query went unanswered, I have determined this appeal on its individual planning merits and based on the information before me.

Public Benefit and Heritage Balance

36. The proposal would bring about a number of public benefits, not least the provision of three dwellings to boost the housing supply, and benefits to the local economy during its construction and subsequent occupation. The Council also consider the removal of part of the service yard to be a benefit. Whilst these benefits can be afforded a modest degree of weight in favour of the scheme, they would be limited to the scale of the proposal and, in respect of construction, time limited. However, these benefits would not outweigh the harm that the development would cause to the character or appearance of the surrounding area and the CA as a designated heritage asset.

Planning Balance and Conclusion

37. Whilst the development would provide acceptable external amenity space for future occupiers, I have found that there would be harm to the living conditions for existing and future occupiers with regard to outlook and privacy, and harm with regard to unsafe access for future occupiers. I also have not been provided with any evidence to demonstrate the quality of living accommodation for future occupiers with regard to sunlight and daylight or waste management collection. There would also be harm to the character and appearance of the CA and surrounding area and this attracts substantial weight against the granting of permission. The benefits of the scheme are limited and would not outweigh the harm identified.
38. Even if all units would meet the minimum space standards, this is neutral in the overall planning balance as this would be a likely requirement of a well-designed development.
39. For the reasons given above, the proposal conflicts with the development plan when considered as a whole and material considerations do not indicate that a decision should be made other than in accordance with the development plan.
40. I therefore conclude that the appeal should be dismissed.

L Clark

INSPECTOR