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## Appeal Decisions

Site visit made on 20 September 2016

**by G J Fort BA PGDip LLM MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 05 October 2016**

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**Appeal Ref: APP/Q5300/W/16/3154691**  
**12 Eversley Park Road, London N21 1JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr J McCaghy against the decision of the Council of the London Borough of Enfield.
  - The application Ref 15/05001/FUL, dated 1 November 2015, was refused by notice dated 23 March 2016.
  - The development proposed is conversion of a house into 2 no. S/C flats .
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### Decision

1. The appeal is allowed and planning permission is granted for conversion of a house into 2 no S/C flats at 12 Eversley Park Road, London N21 1JA in accordance with the terms of the application, Ref 15/05001/FUL, dated 1 November 2015, subject to the following 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 approved plans: Location Plan; 3358/2 "Proposed conversion of house into 2 no. S/C flats plans".

### Procedural Matter

2. Policies CP3, CP8 and CP46 of the *Enfield Core Strategy* (adopted November 2010) ("the Core Strategy"); Policy DMD2 of the *Enfield Development Management Document* (adopted November 2014) ("the DMD"); and Enfield's *Section 106 Supplementary Planning Document* (adopted November 2011) ("the S.106 SPD"), set out the requirements for affordable housing and education contributions arising from residential development proposals within the Borough. These Policies require contributions from residential developments of ten dwellings or less.
  3. The Minister for Housing and Planning issued a Written Ministerial Statement (WMS) on 28 November 2014, and subsequently altered the Government's Planning Practice Guidance (PPG), outlining national policy regarding affordable housing and tariff-style contributions arising from small-scale developments. The WMS states that "for sites of 10-units or less... affordable housing and tariff style contributions should not be sought".
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4. At the time of the original planning decision in regards to this proposal, the WMS was subject to a High Court judgement and declaration Order, the effect of which was that the policies within the WMS should not be given weight as material considerations in planning decisions. However, the Secretary of State successfully challenged the High Court's decision in the Court of Appeal, which issued its judgement on 11 May 2016. The Court of Appeal overturned the previous judgement, and consequently, the WMS is once again a material consideration in planning decisions. I have consulted the appellant and Council on the effects of this judgement, and I am thus satisfied that determining the appeal on the basis of the Court of Appeal's findings would cause no prejudice to either party.

### **Main Issues**

5. The main issues in this appeal are firstly, the effects of the development on the residential character of the area; and secondly, whether or not the appeal scheme makes adequate arrangements for the provision of education infrastructure and affordable housing.

### **Reasons**

#### *Residential Character*

6. The appeal property is a substantial semi-detached property of two and a half storeys, set back from Eversley Park Road behind a front garden used for car parking, with a deep and well-vegetated back garden. Buildings immediately surrounding the appeal property are predominantly residential, but vary between similarly substantial dwellings, some converted to flats, and purpose built apartment blocks. The appeal scheme seeks conversion of the appeal property to provide two self-contained three bedroom flats.
7. Policy DMD5 of the DMD sets out the Council's approach to assessing proposals for residential conversion. Amongst other criteria a proposed development must satisfy is that all development must "Not harm the residential character of the area or result in an excessive number or clustering of conversions. The number of conversions must not exceed 20% of all properties along any road; and only 1 out of a consecutive row of five units may be converted." In the current case both Nos 10 and 18 Eversley Park Road have been converted to flats, and thus the appeal scheme would constitute a technical breach of this aspect of the Policy in that more than one out of five units would be converted.
8. The appeal property's surrounding area, whilst residential, is mixed in character and includes purpose-built flats, conversions and houses. I saw that both Nos 10 and 18, aside from the number of doorbells in one case, and an additional side entrance in the other, were not noticeably different to the single family dwellings in the block. The appeal dwelling is large, and has a generous plot size, and thus could accommodate the uses proposed with little visible external change. Given the limited nature of the conversion, the demand for car-parking and the requirement for bin storage is likely to be similarly limited. Moreover, I saw the building's front garden could accommodate the modest additional demands in these regards comfortably.
9. Comings and goings to the appeal building would increase as a result of the proposed development. However, given that only one additional unit is proposed, I consider that this would not be to a degree that would cause

significant harm to the living conditions of adjacent occupiers through additional noise or disturbance. Thus, whilst the proposed development would conflict with the ratio given in Policy DMD5, I discern that it would cause no harm to the residential character of its surroundings.

10. Furthermore, I am conscious of part two of Policy DMD5, which states that for the conversion of existing family units into self-contained flats that compensatory provision for family accommodation should be provided within the development. In the current case the proposal would provide two family-sized units, of three bedrooms each. The creation of an additional unit of this size would help to meet the Council's strategic objective of increasing the supply of larger dwellings and consequently this is a matter that weighs in the proposed development's favour.
11. I have found conflict with criterion (b) of Policy DMD 5 of the DMD. However, the proposed development's lack of harm to the residential character of the area, which Policy DMD 5 seeks to protect, and its provision of an additional unit of family-sized housing in line with the Council's strategic objective to increase supply would be considerations that weighed considerably in favour of the proposed development and would in this case outweigh the technical variance with criterion (b).

#### *Affordable Housing and Education Contributions*

12. Policy CP3 of the Core Strategy, and Policy DMD 2 of the DMD seek to secure affordable housing contributions from residential developments. Policy CP8 sets out the requirement for education contributions arising from new development.
13. I have been supplied with no signed section 106 agreement or unilateral planning obligation that would render a contribution for affordable housing and education legally enforceable. Consequently, the lack of such a document in this instance would mean that the proposal is at variance with Policies CP3, CP8 and DMD2. However, I have had regard to the national policy expressed in the WMS and the advice of the PPG, which taken together guide that small-scale residential developments of under 10 units should not be liable for affordable housing or tariff style contributions. The WMS is the most recent expression of national planning policy in these regards, and is clear and unambiguous in its language and intent. Thus, whilst I note that the date of adoption of the DMD and that of the original publication of the WMS are similar, I attach greater weight to the national policy expressed in the WMS in my determination of this appeal.
14. The proposal, in failing to provide the education and affordable housing contributions required by the Core Strategy, the DMD and Enfield's S.106 SPD would be at variance with the development plan; however, it would not conflict with national policy as expressed in the WMS. The WMS is the most up to date expression of national planning policy on the subject of affordable housing and other contributions arising from small-scale development, and thus I attach it greater weight in the determination of this appeal than that attached to the relevant policies of the development plan and the S.106 SPD. Thus it follows that the lack of mechanisms to secure contributions for education and affordable housing would not constitute reasons to dismiss the appeal.

### **Conditions**

15. I have been supplied with no list of suggested conditions by the Council. However, I have found it necessary to attach the standard implementation condition, in order to comply with the provisions of the Town and Country Planning Act 1990 (as amended). Also, for the avoidance of doubt, I have attached a condition specifying the approved plans.

### **Conclusion**

16. Whilst the appeal scheme would conflict with some aspects of the development plan, the lack of harm to the residential character of the area caused by the scheme, its provision of an additional unit of family housing, and the national policy expressed in the WMS are material considerations that outweigh these conflicts.
17. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*G J Fort*

INSPECTOR