
Appeal Decision

Site visit made on 23 August 2016

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

Decision date: 12 October 2016

Appeal Ref: APP/B4215/C/16/3149869

23 Yew Tree Avenue, Moss Side, Manchester M14 7JP

- The appeal is made by Shahid Shahid under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/12756/15) issued by Manchester City Council on 6 April 2016.
 - The breach of planning control alleged in the notice is "the material change of use of a dwellinghouse to two self contained flats".
 - The requirement of the notice is "Cease using the property as self contained flats"
 - The period for compliance with the requirement is six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a).
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Reasons for the decision

2. The main issues in deciding whether planning permission should be granted for the use of the house as two flats are: (i) the effect on the availability of family-sized houses; (ii) the effect on the character of the neighbourhood; (iii) the effect on neighbours' amenities; (iv) whether there is enough parking space; and (v) whether the occupiers of the flats have adequate private outdoor amenity space. I have dealt with these issues in turn in the paragraphs below and then set out my overall conclusion.

The effect on the availability of family-sized houses

3. The Council state that the division of this house into flats has resulted in the loss of a family-sized house in an area of the City where they are seeking to retain and increase the availability of family housing. There is no dispute that the house is a family-sized mid-terrace house, but the appellant maintains that its conversion into two one-bedroom flats has helped to meet a growing demand for smaller affordable accommodation close to the City centre.
 4. I have no reason to doubt that there is such a demand. However, the Council's stance in this appeal is supported by the development plan. The house is in Central Manchester, as defined in the Manchester Core Strategy. Policy H 5 of the Core Strategy identifies family housing as a type of accommodation to
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which priority will be given in Central Manchester and the supporting paragraph 9.25 states that the emphasis will be on increasing the availability of family housing here.

5. I note that saved Policy DC5.2 of the Manchester Unitary Development Plan states: "There will be a general presumption in favour of flat conversions within residential areas". However, as far as Central Manchester is concerned, Policy DC5.2 has in my opinion been superseded by Policy H 5.
6. The conversion of the house into two flats would, of course, have little impact on its own on housing accommodation in Central Manchester as a whole. However, it is difficult to see how the Council could successfully fulfil the objective of Policy H 5 if flat conversions were permitted on appeal, unless material considerations indicated that a particular proposal should succeed.

The effect on the character of the neighbourhood

7. Policies DC5.1d and DC5.4 of the Manchester Unitary Development Plan are applicable to this issue. Policy DC5.1d states that, in determining planning applications to convert property to flats, the Council will have regard to the "general effects on the character of the neighbourhood, including the extent to which flat conversion schemes are a new or an established feature of the immediate area". Policy DC5.4 states that, in determining such applications, "the Council will give particularly careful consideration to situations in which the conversion of small terraced properties are proposed; and where a scheme is the first in a street of otherwise single family dwellings, the Council will give weight to the desirability of maintaining the character of the street in that respect".
8. The house is a small terraced property in a street of similar properties. The Council state that they are not aware of any other flat conversions in Yew Tree Avenue and I saw none here on my visit. The appellant states that there may be a few in the area, but he has not identified any.
9. It appears, from the information available to me, that the conversion of No 23 is the first in the street and that the other properties are all single-family dwellings. In these circumstances, the thrust of Policies DC5.1d and DC5.4 is that the character of the street as one containing only single-family dwellings should be maintained as it is.

The effect on neighbours' amenities

10. There may, as the notice maintains, be an increase in the comings and goings to and from the house as a result of its use as two flats, but I doubt whether an increase in movements will arise to an extent that will have a noticeable impact on neighbours' amenities.
11. However, one of the matters that Policy DC5.1 identifies in relation to planning applications to convert property to flats is the effect on adjoining houses of noise from flats passing through party walls (DC5.1b). In this appeal, the main concern is the disturbance caused because the first-floor flat has its living room next to a bedroom in No 21. This is a common problem in flat conversions of this type. The disturbance may be capable of being reduced to an acceptable level by implementing sound-insulation and noise-reduction measures, but

there are no proposals before me and I am therefore unable to assess whether this would be feasible.

Whether there is enough parking space

12. There is no off-street parking space at the house or at any of the other houses in the street. However, on-street parking is permitted and the Council have not stated that demand for on-street parking spaces is a problem here. The Council's comment about narrow streets in the Moss Side area is not applicable to Yew Tree Avenue, which is wide enough for two cars to pass each other even when there are cars parked next to the kerb on both sides. I am therefore not convinced that the conversion of the house into two flats will result in a demand for parking space that cannot be satisfactorily met. The criteria in Policy DC5.1c would therefore appear to be met.

Whether the occupiers of the flats have adequate private outdoor amenity space

13. This is a further matter that Policy DC5.1 identifies as an issue in determining planning applications to convert property to flats (DC5.1e). Like the other terrace houses in Yew Tree Avenue and those in the adjoining streets, No 23 has little outdoor space of any kind, this being limited to a small forecourt at the front and a particularly short rear yard.
14. The forecourt at the front is, of course, not private and although the rear yard is reasonably private it is too small to provide for the normal outdoor domestic needs of two households. It is also not readily accessible from both flats. In my opinion, the occupiers of the flats do not have private outdoor amenity space that is adequate to meet their needs.

Overall conclusion

15. My assessment of Policies H 5, DC5.1d and DC5.4 indicates that there are policy reservations in principle to granting planning permission for the use of the house as two flats. There is also a significant concern about the adequacy of private outdoor amenity space for the flats and an unresolved issue relating to disturbance caused by internally-generated noise. On the positive side, the flats will make a contribution towards meeting the demand for single-person accommodation close to the City centre and there is no apparent problem relating to parking.
16. I have considered these matters carefully and, on balance, I have concluded that the benefits are outweighed by the drawbacks. The appeal has therefore been dismissed and planning permission has been refused.

D.A.Hainsworth

INSPECTOR