

Appeal Decision

Site visit made on 30 November 2016

by John Whalley

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

Decision date: 12 December 2016

Appeal ref: APP/Q5300/C/16/3148592
133 Morton Way, London N14 7AN

- The appeal was made by Mr N Khan under Section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the London Borough of Enfield Council.
- The notice was issued on 18 March 2016.
- The breach of planning control alleged in the notice was: Without planning permission, the unauthorised material change of use of the premises into two separate units of accommodation.
- The requirements of the notice are to:
 1. Cease the use of the premises as 2 separate units of accommodation.
 2. Remove all kitchen, cooking facilities and white goods installed in each unit of the premises except one.
 3. Remove all internal doors and partitions which facilitate the separation of the premises into separate units of accommodation.
 4. Remove all gas meters except one.
 5. Remove all electricity meters except one.
 6. Remove all resulting materials from the premises.
- The period for compliance with the requirements is 3 months.
- The appeal was made on grounds (a), (d), (f) and (g). The appeal on ground (d) was not pursued.

Summary of Decision: The enforcement notice is varied and upheld. Planning permission is not granted on the application deemed to have been made

Appeal property

1. The appeal property, 133 Morton Way, London, is a semi-detached house that has been divided into two self-contained residential units, one to each of the 2 floors. Morton Way is a pleasant residential road with wide verges and footways on each side. Almost all of the houses are single family dwellings.
2. The ground floor at No. 133 was been set out as a 2 bedroom flat, having a bathroom and a kitchen/dining/lounge room with a total floor area of just over 56m². It had direct access to a shared rear garden area of 75m². The first floor flat of 42.5m² had 2 bedrooms, one of which also appeared to be used as a sitting room, a kitchen, a bathroom and a separate w.c. It had no direct access to the shared rear garden. There was space to park 2 cars off the road.

The appeal on ground (a)

3. The appeal on ground (a) asks that planning permission be granted to retain the two self-contained residential units at No. 133.

Planning policy

4. Policy DMD 5 - Residential Conversions - in Enfield's Development Management Document (DMD), adopted in November 2014, says:

Development involving the conversion of existing units into self contained flats and houses of multiple occupation (HMO) will only be permitted if the following criteria are met:

All development must:

- a. Provide a high quality form of accommodation which meets internal floor space standards in the London Plan.
 - b. 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 5 units may be converted.
 - c. Not lead to an unacceptable level of noise and disturbance for occupiers and adjoining properties.
 - d. Incorporate adequate parking and refuse storage arrangements that do not, by design or form, adversely affect the quality of the street scene.
2. For the conversion of existing family units into self contained flats:
- a. Compensatory provision for family accommodation (3 bedrooms +) is provided within the development.
5. Other policies referred to included: Core Policy 30 and Core Policy 32 of the Core Strategy; policies DMD 8 – General Standards for New Residential Development; DMD 9 – Amenity Space and DMD 68 – Noise.

Considerations

6. The Council's enforcement notice listed a number of reasons for its issue. It said the change of use to 2 flats had resulted in an over-intensive use of the property. It led to an unacceptable increase in activity, general noise and disturbance. That detracted from the residential character and amenities enjoyed by occupants of neighbouring residential properties. That was contrary to policies Core Policy 30 and Core Policy 32 of the Core Strategy. The conversion of the premises into two self-contained units of accommodation use was also in conflict with policies DMD 5 and DMD 68 of the Development Management Document. It had resulted in the loss of a residential unit that otherwise met Enfield's Strategic Housing Market Assessment's identified need for larger family sized dwellings. The conversion also resulted in an over-intensive use of the premises and gave rise to poor living conditions with a contrived and dysfunctional internal configuration.
7. For the Appellant, Mr Khan, it was pointed out that the National Planning Policy Framework did not say that the conversion of houses into flats was unacceptable. Nor did the London Plan. The Council appeared to be intent on retaining the predominance of dwellinghouses rather than flats. That was acknowledged. But no external alterations had been carried out to the front of the building. Externally, the conversion had not resulted in the building having a greater impact on the character of the area or on the amenities of neighbouring properties than the original dwellinghouse. It was disputed that the principle of flats was of any harm to the character of the area or to the way it functioned. It

was accepted that the conversion had resulted in the loss of a single dwellinghouse. But there was no policy justification for that concern. Homes with 4 bedrooms were the highest priority for housing. But the policy did not say that dwellings with 4 or more bedrooms should not be converted.

8. I note that policy DMD 5 allows for the conversion of a single family dwelling into flats. However, the appeal layout fails to meet each policy criterion. Firstly, DMD 5 requires that compensatory provision for family accommodation (3 bedrooms +) is provided within the development. The conversion of No. 133 into 2 two bedroom flats with inadequate living rooms or spaces fails that requirement.
9. Policy DMD 5 criterion a. requires the provision of a high quality form of accommodation that meets internal floor space standards in the London Plan. At present, the internal layouts of the 2 flats at No. 133 do not meet that standard. The Appellant pointed out, however, that changes could be made to satisfy that criterion. It would be difficult, however, to avoid having a living room space above a ground floor bedroom if, as proposed, the first floor flat becomes a one-roomed studio. The Appellant said noise limitation requirements had been met. But details were lacking. Any noise problems caused to those on the ground floor would be contrary to policy DMD 8 1)c. and DMD 5c..
10. Core Policy 5 – HOUSING TYPES - says that the Council will seek to ensure that new developments offer a range of housing sizes to meet housing need. Over the lifetime of the Core Strategy the Council plans for the following Borough-wide mix of housing: Market housing – 20% 1 and 2 bed flats (1-3 persons), 15% 2 bed houses (4 persons), 45% 3 bed houses, (5-6 persons), 20% 4+ bed houses (6+ persons). Policy 3.8 of the London Plan addressing housing choice and the Enfield Housing Market Assessment Final Report of 2010 emphasise the lack of suitable family housing with at least 3 bedrooms. The appeal conversion has lost a single 4 bed roomed house suitable for family occupation. That has gone against the declared intention to meeting the needs of larger families.
11. Policy DMD 5 allows for conversions by saying, at b. that the number of conversions must not exceed 20% of all properties along any road. It contains the caveat that conversions should not harm the residential character of the area. I am concerned that the pleasant residential character of Morton Way, with its predominance of single family houses, would be harmfully eroded if this and other possible conversions, that the Council might find difficult to resist up to the point where 20% of the houses might be converted to flats, might occur.
12. Finally, Core Policy 3 seeks some form of contribution towards affordable housing on all new housing sites. For developments of fewer than 10 dwellings, the Council will seek to achieve a financial contribution to deliver off-site affordable housing based on a borough-wide target of 20% affordable housing. No justification for an exception in this instance was made. Core Policy 46 also says that where Enfield Council grants planning permission for a development, the development will normally be required to make financial and in kind contributions towards infrastructure and community facilities. That was not done.
13. An appeal was dismissed in August 2013, (our ref: APP/Q5300/A13/2195708), for conversion of No. 133 Morton Way into two self-contained flats. That decision is not binding upon me. But unless material circumstances have changed, a

rehearsal of similar considerations that led to that appeal failing was unlikely to lead to a different decision. No changes of significance were pointed out.

14. The appeal on ground (a) fails. Planning permission is not granted on the application deemed to have been made for the change of use of the property at No. 133 Morton Way, London N14 7AN into 2 separate units of accommodation.

The appeal on ground (f)

15. An appeal on ground (f) says that the requirements of the enforcement notice are too onerous and that something less would be appropriate.
16. Mr Khan said that if planning permission were not granted, the property could be subsequently used as a six bedroom house in multiple occupation, (HMO). To meet such wishes, it was requested that both kitchens be allowed to remain. However, the Council pointed out that the property was subject to an Article 4 direction to remove permitted development rights from householders. That prevents owners and landlords converting properties into a house with shared facilities such as an HMO without requiring specific planning permission.
17. The planning merits of a possible alternative use of No. 133 is not a matter for me. I consider it equitable for the Council to require removal of facilities that have supported the unlawful change of use of the property to take place. In that circumstance, I consider the requirements of the notice are apt and reasonable. The appeal on ground (f) fails.

The appeal on ground (g)

18. Mr Khan wanted more time to carry out remedial works and to honour tenancy agreements. I agree that more time should be given. Although the requirement works could readily be carried out within the notice period, I accept that tenants should not be placed in unduly difficult positions. To assist in that matter, I increase the period for compliance to 6 months.

FORMAL DECISION

19. The enforcement notice is varied by the deletion of the words, "Three (3) calendar months", in line 2 of para. 6 on page 3 of the notice and the substitution therefor of the words: "Six months". Subject to that variation, the enforcement notice is upheld. Planning permission is not granted on the application deemed to have been made for the change of use of the property at No. 133 Morton Way, London N14 7AN into 2 separate units of accommodation.

John Whalley

INSPECTOR