
Appeal Decision

Site visit made on 10 January 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 18 January 2017

Appeal Ref: APP/Q5300/W/16/3157891
8 - 10 Church Street, Enfield EN2 6BE

- 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 Farcastle Limited against the decision of the Council of the London Borough of Enfield.
 - The application Ref 15/05127/FUL, dated 4 November 2015, was refused by notice dated 5 May 2016.
 - The development proposed is change of use to six flat units over retail shop units.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposal was described on the application form as “retention of six flat units over retail shop units”. However, ‘retention’ is not an act of development and the proposal is better described as a change of use. I have therefore used this in the heading. The physical development to facilitate the change of use has taken place but the flats themselves had not been occupied at the time of my site visit.
3. The Council refused the application for four reasons, with the third relating to what was seen as a lack of contributions towards affordable housing and education provision. However, in its Statement of Case, in light of the Court of Appeal’s decision in *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council*¹ and the Written Ministerial Statement of 28 November 2014 under the title “Small-scale Developers”, the Council indicated that no longer wished to pursue this reason. Therefore I will not consider this matter further.

Main Issues

4. That being the case the main issues are:
 - whether the proposal would deliver satisfactory living conditions for the occupiers of the flats;
 - the effect on the housing needs of the Borough; and
 - the effect on the Enfield Town Conservation Area (the ETCA).

¹ [2016] EWCA Civ 441

Reasons

Living conditions

5. The appeal site covers the upper three floors of a four storey terraced property with shops on the ground floor. Access is achieved by way of a service area to the rear which services not only the properties fronting Church Street, but parts of the Palace Gardens and Palace Exchange shopping centres. Once in the service area it is necessary to climb a staircase over a single storey element to the rear of the existing shops to get to the upper floors.
6. The layout has two flats on each of the three floors with a central communal staircase/entrance hall. The flats as constructed are essentially laid out as on the application drawings, although there are a couple of discrepancies as to the layouts of the bathrooms to bedroom 1 in flat 1 and to bedroom 2 in flat 3. In addition the windows in the rear elevation of bedroom 1 in flat 4 are currently fitted with obscure glazing. The 'as constructed' layouts for the two bathrooms mean that the facilities within them can be used satisfactorily. With obscure glazing the bedroom would not provide appropriate living conditions for any occupiers, but I am satisfied that this could be rectified by the installation of clear glazing before the flat was occupied, and this could be secured by a planning condition should the scheme be acceptable.
7. Policies DMD5 and DMD8 of the Enfield's Development Management Document Adopted November 2014 (the EDMD) indicate that the development and the conversion of existing units into self-contained flats will only be permitted if they provide a high quality form of accommodation meeting the internal floor space standards in the London Plan (the LP). These standards are set out in Table 3.3 of the LP which is in the explanatory text to Policy 3.5.
8. The national Planning Practice Guidance (the PPG) states² that where a local planning authority wishes to it, it may require an internal space standard, but this should only be done by reference to the nationally described space standard (the NDSS). For one and two bedroom flats the internal space standards are the same in the NDSS as in the LP. As the Written Ministerial Statement (the WMS) of 25 March 2015 made clear new homes need to be of a high quality. I give the requirement to ensure appropriate levels of internal space to the standards set out in the NDSS significant weight.
9. The NDSS categorises the size of flats by both number of bedrooms and number of persons. The parties have a dispute over the number of persons who would occupy three of the flats (flats 2, 4 and 5) with the appellant arguing that they would be occupied by a single person and the Council considering that they would be occupied by two people. The NDSS indicates that to provide two bedspaces, a double (or twin) bedroom has a floor area of at least 11.5 m². In my view in order to take an objective view as to the potential occupancy of a bedroom these standards should be used unless the shape of the room makes the layout as a double or twin bedroom impractical. This is because there is nothing which could prevent only a single occupancy.
10. The floorspaces in the NDSS also vary depending on the number of storeys over which the accommodation is provided to take account of the extra circulation space needed for stairs to upper floors. Although these flats are all

² Reference ID: 56-018-20150327

on a single storey, because they are a conversion of an existing building they are not as efficiently laid out as if they had been purpose built and there are small staircases within flats 1 to 4 to gain access to the rooms at the rear. Because of these staircases and the associated corridors I am of the view that these flats should all be slightly larger than the NDSS if they are to provide an appropriate standard of accommodation for the occupiers.

11. Having visited the rooms at the site visit, none of potential two-person bedrooms have awkward shapes. Utilising the floorspaces of the rooms on the application drawings I am of the view that flats 4 and 5 should be considered to be 1 person flats. Both of the bedrooms in flat 2 have floorspaces of less than 11.5 m² and therefore should be treated as single bedrooms. However, the NDSS does not have a space standard for 2 bedroom 2 person flats, but because of the need to take account of the internal circulation space, I consider that the space standard for a 2 bedroom 3 person flat would be appropriate.
12. The Council and appellant have provided different figures for the total floorspace of each flat. However, it is not necessary to resolve this as even using the greater figures provided by the appellant, four of the flats fall below the standard set out in the NDSS, with only flats 4 and 5 meeting the standard.
13. Of course, the NDSS should not be followed blindly and there should be some discretion. However, I found that all four of these flats were unacceptably small meaning that they would not give rise to satisfactory living conditions for any occupiers. The small size of flat 6 was particularly cramped with a floorspace of 32 m² against a NDSS standard of 37 m², a difference of well over 10%.
14. I therefore conclude that the proposal would not deliver satisfactory living conditions for the occupiers of the flats. As such the proposal would be contrary to Policy CP4 of the Enfield Plan Core Strategy 2010 – 2025 (the EPCS) which indicates that standards for internal space will be set out in the EDMD. It would also be contrary to Policies DMD5, DMD8 and DMD37 of the EDMD as set out above as it would not be suitable for its intended function. It would be contrary to Policy 3.5 including accompanying Table 3.3 of the LP which seeks that housing development should be of the highest quality internally. It would also be contrary to paragraph 17 of the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all occupiers of land, and the guidance in the PPG and NDSS as set out above.

Housing needs

15. Before the works to facilitate the change of use commenced the appeal site was used as two flats; a one bedroom flat and a four bedroom flat. Policy CP5 of the EPCS plans for an overall mix of proposed housing with a particular emphasis on three and four bedroom properties to ensure new developments offer a range of housing sizes to meet housing need. The explanatory text refers to Enfield's Housing Market Assessment 2008 and a particular need for these larger properties. The Council also refers to a Strategic Housing Market Assessment made in 2010.
16. Policies DM4 and DM5 of the EDMD emphasise this need for family housing, with Policy DM5 indicating that the conversion of existing units into self contained flats will only be permitted if, amongst other matters, compensatory provision for family accommodation (3 bedrooms +) is provided within the

- development. The explanatory text says that this compensatory family housing should have direct, ground floor access to dedicated amenity space, and this, of course, could not be provided within this property.
17. The Framework in paragraph 50 indicates that local plans should plan for a mix of housing based on demographic trends. These development plan policies are thus consistent with national policy. However, they are based on somewhat dated evidence prepared against earlier, and now withdrawn, national guidance. Having said that, there is nothing to show that the overall need for larger sized accommodation has reduced.
 18. The appellant has provided a letter from a local letting agent where he indicates that he considers that the appeal site is not an appropriate location for family sized properties. This is because there are no amenities such as play space on site for children and the Council confirms that the nearest area of open space at Enfield Town Park is an 8 minute walk away. In my view this makes it less than ideal for family accommodation. However, I have been provided with no information to show that unsuccessful attempts have been made to let the building with its previous configuration. The loss of a larger unit would therefore result in the loss of housing choice for those seeking larger accommodation in the area.
 19. The appellant makes the point that Enfield will be the focus for major development in the near future and that balancing of accommodation in the area can be provided for within that wider development. In my view this does not mean that other, required, development should be lost, as this would exacerbate the overall need in the area.
 20. Given the determination should be in accordance with the terms of the development plan, the lack of information to show that there have been unsuccessful attempts to let the four bedroom unit means that I conclude that there are insufficient material considerations to indicate that the determination should be made otherwise.
 21. On that basis the proposal would be harmful to the housing needs of the Borough. As such it would be contrary to Policy CP5 of the EPCS, Policies DM4 and DM5 of the EDMD as set out above. It would also be contrary to Policy 3.8 of the LP which seeks that new development should ensure housing choice in an area. It would also be contrary to paragraph 50 of the Framework as set out above.

Conservation Area

22. Policy DMD51 of the EDMD sets out that all development should demonstrate how the proposal minimises energy-related CO₂ emissions. The WMS referred to above indicates that local energy performance standards may be applied until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Act 2015. To this end the appellant has provided an Energy Statement that proposes various methodologies to deliver energy savings including solar photovoltaics. However, this Statement indicates that the proposal would only reduce CO₂ emissions by 17.3% against a development plan requirement of 19%. The parties accept that the requirement could be delivered through a planning condition at the policy standard.

23. The site lies in the middle of the ETCA which covers the whole of the town centre including the modern shopping areas. It has not been demonstrated how the solar photovoltaics would be delivered on the building. The Council is concerned that this could be harmful to the ETCA where special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
24. The rear elevation faces south and consequently any solar photovoltaics would be likely located on this elevation. Given the nature of the service area and the various ancillary features such as air conditioning units in this area this would not be harmful to either the character or appearance the ETCA. However, without knowing how large the panels would need to be to deliver the CO₂ savings it is not possible to be sure of that they only need to be located on the rear elevation. Photovoltaics can function on north facing elevations and, in particular, any panels on the front elevation would have the potential to be harmful to the appearance of this ETCA, and thus its significance as a designated heritage asset, although this would represent less than substantial harm in the terms of the Framework.
25. Where there is less than substantial harm paragraph 134 of the Framework indicates that this should be weighed against the public benefits of the proposal. While there would be provision of additional residential units, for the reasons I have already found, these would not be of high quality and this cannot represent a benefit.
26. Overall, on the basis of the information currently in front of me I am unable to be satisfied that the proposal would not preserve the ETCA as a designated heritage asset. As such the proposal would be contrary to Policies CP30 and CP31 of the EPCS which seeks development to be of high quality having special regard to its context and to show how it has respected and enhanced the heritage asset. It would also be contrary to Policies DMD37 and DMD44 of the EDMD which seek an attractive public realm and states that applications that fail to conserve and enhance the significance of the heritage asset will be refused. It would also be contrary to paragraph 131 of the Framework which indicates development should take into account the desirability of new development making a positive contribution to local character and distinctiveness.

Conclusion

27. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR