



Appeal Decision

Site visit made on 15 March 2021

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/Q5300/W/20/3258798

Flat 2A, 2 Roseneath Avenue, London, N21 3NE

- 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 Enver Ozetem against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/01525/FUL, dated 19 May 2020, was refused by notice dated 29 July 2020.
 - The development proposed is to convert 5 bedroom 1st floor maisonette to 1x2 and 1x1 bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Appellant submitted amended plans and referred to them in the Statement of Case. The difference between the refused scheme and the amended plans is the introduction of a kitchen window on the second floor gable end of the building. The window would be opposite the rear windows of nearby properties that back on to the appeal site. There is no evidence that the amended plans formed part of the scheme that the Council made its decision on, or that the amended scheme has been subject to any form of public consultation. In accordance with the 'Wheatcroft Principles'¹, 'it would not be appropriate to consider these amended plans within my decision as the acceptance of such would deprive those who should have been consulted on the changed development or the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council as part of the original planning application.
3. Both the Council and appellant were afforded an opportunity to clarify the Council's position regarding its housing land supply and to provide further comments as to whether this has any implications for how I consider the appeal. No response was received.
4. The Council's reasons for refusing the application refer to policies 3.3, 3.5 and 3.8 of the London Plan (2016), which relate to housing supply, quality and choice, respectively. That plan has since been superseded by the London Plan 2021 (LP) which was published in March 2021. Policies H1, D3 and H10 of the LP set similar requirements and I have determined the appeal with regard to

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

them. I am satisfied that neither party will be caused an injustice by taking this approach.

Main Issues

5. The main issues are:

- the effect of the proposal upon the character of the area;
- whether the proposal would result in the unacceptable loss of family accommodation; and
- the effect of the proposal upon the living conditions of future occupants with particular regard to light, outlook, private amenity space and internal space.

Reasons

Character of the Area

6. The appeal site is an end of terrace property in a street comprising terraced and semi-detached housing. There are flats on the lower ground floor and ground floor. The proposal relates to the conversion of the first and second floor, and loft space, from a five bedroom maisonette to 2 flats.
7. The Council is concerned that the proposal would lead to an overconcentration of conversions within the road and thereby harm the established residential character of the area. According to the Council, the number of flats in the road already exceeds the 20% limit set in policy DMD 5 of the Enfield Development Management Document 2014 (DMD). However, the property has already been converted to three flats. I do not consider that the further subdivision to create a fourth flat would change the existing character of the building, in terms of its appearance, or that of the wider area.
8. Also, given that the number of bedrooms would reduce from 5 to 3, I am not convinced that the potential number of occupants would increase or, if they did, they would generate any more activity, disturbance or noise than would be the case from the existing maisonette and flats.
9. Overall, I conclude on this main issue that the proposal would not harm the residential character of the area in terms of the appearance of the property or because of an increased level of activity. As such there would be no conflict with the aims of criterion b) of policy DMD 5 of the DMD, policies CP4, CP5 and CP30 of the Enfield Core Strategy 2010 (CS) and Policy H10 of the LP which require development to contribute to a range of housing types and sizes that respect the quality and character of local neighbourhoods and local distinctiveness.

Family Accommodation

10. The Appellant contends that the existing maisonette does not meet the Council's definition of family accommodation because there is no direct ground floor access to a garden. As such, the appellant considers there is no need to compensate for its loss as required by policy DMD5 of the DMD.
11. However, paragraph 4.3.8 of the DMD, to which the appellant refers, defines the Council's expectations regarding compensatory family housing, rather than what it considers constitutes existing family accommodation. It also refers to

compensatory housing in the context of the strategic aim of increasing the supply of 3+ bed units.

12. Whilst I accept that access to the garden area from the first floor is not ideal, the existing maisonette could be used as family accommodation and the proposal would lead to the loss of 3+ bed accommodation. The proposal would therefore conflict with the aims of policy DMD 5 of the DMD, policies CP 4 and CP 5 of the CS, policy H10 of the LP, the National Planning Policy Framework, and the Enfield Strategic Housing Market Assessment (2015) which requires new development to provide a range of housing types and sizes to meet the needs of all households.

Living Conditions

13. The proposed second floor flat bedroom has a sloping ceiling which severely limits movement within the room and would not provide adequate accommodation. Also, the kitchen has no windows, and the door is accessed from the proposed hallway limiting access to natural light and ventilation and providing no outlook. Even if the design would meet building regulations, as the appellant suggests, it would lead to poor living conditions for future occupants.
14. The rear garden currently provides shared amenity space for the flats, but no additional private amenity space is proposed as required by policy DMD 9 of the DMD. The appellant has suggested that the garden could be sub-divided to provide private amenity space for each flat. However, sub-dividing the garden into 4 would lead to visual clutter and harm the appearance of the appeal site. Overall, on this main issue I conclude that the proposed development would not provide adequate living conditions for future occupants and would therefore conflict with the objectives of the National Planning Policy Framework (2019), policy D6 of the LP, Policy CP4 of the CS and Policies DMD5, DMD8 and DMD9 of the DMD which seek well designed functional housing that provides adequately sized rooms, good quality private amenity space, and preserves amenity in terms of daylight, sunlight and outlook.

Planning Balance

15. The Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the National Planning Policy Framework (the Framework). Consequently, paragraph 11(d) of the Framework is engaged. It requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. The proposal would provide benefit in terms of providing an additional unit of accommodation which weighs in favour of the development. In my view, the identified harm arising from the loss of a larger unit of accommodation in a sustainable location, for which there is an identified need, and the unacceptable effect of the proposal on the living conditions of future occupants would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole. Thus, the proposal would not be sustainable development for which the Framework indicates a presumption in favour.

Other Matters

17. A local resident raised concerns regarding alleged breaches of planning consent by the Appellant, carparking, and cycle and bin storage. However, these do not add to my reasons for dismissing the appeal.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

P D Sedgwick

INSPECTOR