

Appeal Decision

Site visit made on 17 May 2021

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/N5090/W/21/3266246
233 Squires Lane, Finchley, London N3 2QS

- 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 N Chudasama against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/5223/FUL, dated 3 November 2020, was refused by notice dated 23 December 2020.
 - The development proposed is the conversion of house into 3 flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In its Decision Notice, the Council refers to policy 3.5 of The London Plan. Since the application was determined, The London Plan 2021 has been adopted. The space standards relevant to the appeal proposal remain unchanged. On this basis, referring to the updated version of the London Plan will not disadvantage the parties in any way.

Main Issues

3. The main issues in this case are whether the development would provide adequate amenity space and living conditions for future residents, along with the effect of the development on local kerbside parking.

Reasons

Amenity space

4. The appeal relates to a mid-terrace house which would be converted into 3 flats. Only the ground floor flat would have access to outside space at the rear of the building.
5. The Council's adopted Supplementary Planning Document titled '*Sustainable Design and Construction*' (SPD) recommends that flats should have an outdoor amenity space of 5sqm per habitable room. The SPD defines 'habitable room' as 'a room within a dwelling, the primary purpose of which is for living, sleeping or dining, including kitchens where the total area is more than 13sqm (including fittings), or the dining space if it is divided from the working area by a moveable partition'. It explains that rooms exceeding 20sqm will be counted as two.

6. Paragraph 2.3.32 of the Mayor of London's Housing Supplementary Planning Guidance states that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement. It explains that this area must be added to the minimum GIA.
7. The Council argues, in light of the SPD definition of a habitable room, that the first floor flat comprises 3 rooms as the kitchen exceeds 13 sqm and the living space exceeds 20sqm. These measurements have not been disputed by the appellant. On this basis, 15sqm of amenity space would be required. The minimum size for a 1 bed 1 person flat with a bathroom (as illustrated on the proposed floor plan) according to Table 3.1 of the London Plan 2021 (LP) is 39sqm. The proposed first floor flat provides 45sqm. This translates to a shortfall of 9sqm of amenity space.
8. In addition, the Council asserts that the loft flat comprises 2 habitable rooms as the kitchen does not exceed 13sqm but the living space exceeds 20sqm, thereby generating a requirement for 10sqm of amenity space. Again, these measurements have not been disputed. The loft flat is 40sqm, which is 3sqm above the minimum size requirement outlined by the LP for a 1 bedroom 1 person flat with a shower room (as shown on the proposed floor plan). A further 7sqm of amenity space would therefore be required. The additional space to be provided for the loft flat would be eaves storage. To my mind, this is not useable living space.
9. The figures and shortcomings outlined above are a strong indication to me that adequate amenity space and therefore adequate living conditions would not be provided for future occupiers the first floor and loft flats. As such, the proposal conflicts with the development plan policies and design guidance outlined above, along with policy DM02 of the Council's adopted Development Management Policies Development Plan Document (DMP DPD) which seeks to ensure that new development meets relevant design standards.

Kerbside parking

10. The appeal site lies within a PTAL 1b Zone, which translates to very poor public transport accessibility. According to policy DM17 of the DMP DPD, the Council asserts that the required off-street parking requirement for the proposal, taking into account the existing use, would be 2 spaces.
11. The appellant explains that the Council's requirement assumes 1 space per flat against only 1 space for the existing house based on it having 3 bedrooms. However, the appellant asserts that the existing house has 5 bedrooms rather than 3.
12. The 'proposed' floor plans clearly show that each flat would have just 1 bedroom. The 'existing' plans indicate that the existing dwelling has more than 3 bedrooms, or at least it has the capacity for more than 3 rooms on the first and second floor to be used as bedrooms. To this end, I find it entirely feasible that the demand for off-street car parking associated with three 1 bedroom flats would be comparable to that which might be generated if the existing dwelling was occupied by a large family with multiple car users.

13. Moreover, parking within the nearby roads is unregulated and several parking spaces were available during my mid-afternoon visit. This took place during a period of 'lockdown', when people were actively encouraged to stay at home.
14. In light of the above factors and in the absence of any compelling technical evidence to the contrary, I am satisfied that the proposal need not have a materially greater impact on the availability of kerbside car parking than if the property remained as a single dwelling. In this respect, I find no conflict with policy CS9 of the adopted Barnet Core Strategy, policy DM17 of the DMP DPD or the overall aims of the Council's adopted SPD titled 'Planning Obligations' which seek to ensure the safety of highway users.

Overall Conclusions

15. Although I am satisfied that the proposed development need not have a greater impact on the availability of kerbside parking than the existing use of the property as a family dwelling, inadequate amenity space and therefore inadequate living conditions would be provided for future occupiers of the first floor and loft flats, contrary to the development plan policies and design guidance outlined above.
16. The arguments advanced by the appellant in favour of the proposal do not outweigh this failing and policy conflict, therefore the appeal does not succeed.

David Fitzsimon

INSPECTOR