The Planning Inspectorate

Appeal Decision

Site Visit made on 18 October 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2021

Appeal Ref: APP/Q5300/D/21/3274609
26 Coniston Gardens, LONDON N9 8NB

- 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 MS YUKSEL BEKIROGLU against the decision of London Borough of Enfield.
- The application Ref 21/00110/HOU, dated 11 January 2021, was refused by notice dated 16 April 2021.
- The development proposed is for a 4.2m rear extension.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the basis that the development has already been undertaken, section 73A of the 1990 Town and Country Planning Act applies. I have dealt with the appeal on this basis.

3. I have used the description of development from the application form as this suitably describes the proposal. I have removed the reference to retrospective as this is not a description of development.

Main Issue

4. Whether the proposed extension would accommodate flood resilience measures and would be at risk of flooding.

Reasons

5. The rear garden appears to be largely flat and partially hard-surfaced. The extension is about 0.3 metres above the garden level. During my visit, I observed that the extension was level with the front room and porch of the host dwelling and that the front door had level access onto the driveway.

6. The rear extension, the subject of this appeal, is located within flood zone 2. The National Planning Policy Framework (The Framework) seeks to direct development away from areas at risk of flooding. Paragraph 167 states that development should only be allowed in areas of flooding in certain circumstances. These relate to where it can be demonstrated that the development is flood resistant and resilient such that, in the event of flood, it could be quickly brought back into use without significant refurbishment. Furthermore, paragraph 168 states that applications for minor development, such as proposed here, should meet the requirements of a site-specific flood risk assessment.

7. The appellant's flood risk assessment[1] (FRA) identifies that the Salmons and Pymmes Brooks are local to the site. These feed into the River Lee and are considered to be the most likely sources of flooding in the area. The FRA finds that the 100 year flood level, and minimum ground level, is -1.4 metres Above Ordnance Datum (AOD). It recommends that finished floor levels should be 0.3 metres above minimum ground level to address flood risk. It advises that surface water be dealt with by sustainable drainage using a soakaway. It concludes that flood protection should be provided by the use of flood resistant construction methods (FRCM), as detailed in the FRA, for the first metre above floor level.

8. However, the submitted plans do not illustrate AOD levels. Also, the front elevation does not indicate that the proposal would be 0.3 metres above ground level. Furthermore, the appellant explains that on site attenuation is not necessary and that surface water is being discharged to the mains drainage. This is in contradiction of the recommendations of the FRA. Accordingly, the appellant has not confirmed that the extension has been constructed in accordance with the FRCM advanced by the FRA. Therefore, based on the evidence before me, there is insufficient evidence that the extension fully accommodates the required flood resilience measures. Consequently, it appears that the proposal would be at risk of flooding.

9. As a result, the proposal would conflict with policies SI 12 and SI 13 of the London Plan (2021), policies CP28 and CP29 of the Core Strategy 2010-2015 (2010), policies DMD59 and DMD 60 of the Enfield Development Management Document (2014) and the Framework. These policies, among other matters, seek development that would ensure that flood risk is minimised, residual flood risk reduced and for rainwater be managed through the drainage hierarchy.

Other Matters

10. The appellant has stated that the proposal would support a growing family. However, this private benefit would be of limited weight in favour of the appeal and would not outweigh the identified policy conflict. There is insufficient evidence that the proposal would be permitted development to confirm that a fall-back position exists. The proposal would complement the character of the host dwelling. However, an absence of harm in this respect can only be considered as a neutral factor in the planning balance.

11. The use of a planning condition could not address the identified deficiencies as the works required to retrofit any uninstalled flood prevention measures could be extensive. As such, it would be unreasonable and imprecise to impose such a planning condition.

Conclusion

12. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

B Plenty

INSPECTOR

[1] Flood Risk Assessment, January 2021 by Delta Tech Ltd