
Appeal Decision

Site visit made on 12 April 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14/04/2022

Appeal Ref: APP/N5090/W/21/3284172
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 21/4237/FUL, dated 29 July 2021, was refused by notice dated 28 September 2021.
 - The development proposed is conversion of a house into 3 flats.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of no usable outdoor amenity space being provided for the occupiers of the proposed first and second floor flats.

Reasons

3. The appeal property is a mid-terrace dwellinghouse on the south side of Squires Lane. It is proposed to convert the existing dwellinghouse into three flats over three floors. The occupants of the ground floor flat would have access to the existing private outside amenity space to the rear, but the occupants of the first and second floor flats would have no access to any private outside amenity space.
4. A similar proposal was considered by another Planning Inspector on appeal¹ in May 2021. The appellant's evidence is that the Planning Inspector did not accurately assess the proposal in so far that some rooms were not 'habitable' with reference to the definition in appendix 2 of the SPD and hence the shortfall in the size of flats was not as great as considered by the Inspector. The appellant's reference to these errors has not been disputed by the Council.
5. In respect of the size of the proposed flats (i.e. gross internal floor area and the size of individual rooms), it is of note that the Council raises no concerns with reference to the standards in the London Plan 2021 (LP) and the Council's adopted Sustainable and Design construction SPD 2016 (SPD). I have no reason to disagree with the position reached by the Council.
6. Notwithstanding the above, providing acceptable living conditions for the occupiers of the proposed flats goes further than the provision of acceptable

¹ Appeal reference APP/N5090/W/21/3266246

internal space. The Council's SPD states that 5 m² of usable outside amenity space per habitable room shall be provided for each flat. In addition, policy D6 of the London Plan 2021 (LP) states that '*a minimum of 5 sq.m. of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m. should be provided for each additional occupant, and it must achieve a minimum depth and width of 1.5m. This does not count towards the minimum Gross Internal Area space standards required in Table 3.1*'. The occupants of the upper flats would not have access to any usable outdoor amenity space and, in this regard, there would be direct conflict with the SPD. Furthermore, the proposal would not accord with the '*minimum*' outside amenity space requirements of policy D6 of the LP.

7. The appellant has referred me to public amenity spaces within the vicinity of the appeal site such as at Victoria Park and Wilf Slack Sports Ground. I accept that this would provide occupants of all three flats with the opportunity to exercise or relax in a public setting. However, there is a difference between private and public amenity spaces. Amenity space associated with the home functions as an area to relax and unwind with privacy and relative peace and quiet. Furthermore, it also enables other useful domestic functions to be carried out such as say drying washing or growing fruit and vegetables. I would also add that there is a difference between internal and external amenity space with the latter providing an important function in terms of getting fresh air and providing a varied and stimulating residential environment.
8. I therefore find that neither the existence of nearby public amenity spaces, nor providing acceptably internally sized flats, justifies departing from the usable outside amenity requirements of the SPD or the LP and, in this case, I find that the occupants of the proposed upper flats would not therefore have acceptable living conditions.
9. For the above reasons, I therefore conclude that the proposal would not accord with the amenity requirements of policy DM02 of Barnet's Development Management Policies DPD 2012; the SPD and policy D6 of the LP. In reaching this view, I am cognisant that the proposal would be acceptable in respect of other planning matters. However, these are matters of neutral consequence in the planning balance. I also note that the proposal would have the effect of boosting the supply of homes in the area, offering some additional housing choice and leading to some positive benefits from an economic point of view. However, these contributions would be modest taking into account the quantum of residential units proposed and would not alter or outweigh my conclusion on the main issue.

Conclusion

10. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR