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# Appeal Decision

Site visit made on 22 June 2022

**by Zoë Franks Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 July 2022**

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**Appeal Ref: APP/N5090/C/21/3273362**

**7 Oakmead Gardens, EDGWARE, HA8 9RW**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Said Gausuddin against an enforcement notice issued by the Council of the London Borough of Barnet.
  - The notice, numbered ENF/1113/20, was issued on 12 March 2021.
  - The breach of planning control as alleged in the notice is the change of use of the property to two self-contained flats.
  - The requirements of the notice are to: 1 Cease the use of the property as two self-contained flats. 2 Permanently remove all but one set of kitchen facilities from the property, including kitchen units, cooking facilities, sinks and worktops.
  - The period for compliance with the requirements is 6 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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## Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

## Ground (a) and the deemed application for permission

2. The main issues in the ground (a) appeal are the effect of the development on the character of the area and whether it provides acceptable living conditions for its occupants. Related to this is whether the development results in the loss of supply of family housing which is contrary to the local development plan.
3. The appeal property is located on a residential cul-de-sac mostly consisting of semi-detached houses. The former two-storey dwellinghouse has been converted into two flats, one on each floor. The flats each have 2 bedrooms and are accessed through separate doors which are located in the porch behind the shared front door. The ground floor flat is much larger than the upstairs flat and has access to the large rear garden whereas the upstairs flat has no private outdoor space. There is shared parking and refuse storage on the hardstanding at the front of the property.
4. The Council accepts that the size of both flats, and the sizes of all of the bedrooms, meet the national space standards as included in the development plan for the area. However, its case is that the lack of private garden for use by the first floor flat and the 'stacking' of the first floor kitchen and living area above the ground floor bedroom create inappropriate living conditions for the occupants in conflict with policy. In addition, the Council argues that the

development changes the character of the area which predominantly consists of family sized houses.

5. The appellant says that the effect of the change of use of the property from one semi-detached family house to two separate flats does not cause any adverse or material effects and in fact provides an alternative size and tenure of housing which would support supply in an area which is overwhelmingly made up of family sized houses. Whilst I accept that the impact of the two flats on the area in terms of comings and goings, parking and bin storage is negligible when compared to a single family sized house, Policy DM01 of Barnet's Local Plan September 2012 ('The Local Plan') advises that the conversion of dwellings into flats in roads characterised by houses will not normally be appropriate. None of the other houses on the road have been converted into flats and there is nothing before me to indicate that it would be appropriate in this case. Policy DM08 does not preclude the subdivision of properties to create flats but advises that homes with 4 bedrooms are the highest priority. The change in this case does not therefore accord with that policy, and causes harm to the character of the area.
6. In addition, the lack of private amenity space for use by the occupants of the first floor flat is in conflict with Policy DM02 and the Sustainable Design and Construction SPD July 2016 which advises that residential units with insufficient garden space are unlikely to provide good living conditions for future occupiers. The green space identified by the appellant is simply too far away and accessed by walking alongside an extremely busy dual carriageway which is not easy to cross. This is not an appropriate alternative to a private garden especially for a flat which is suitable for a family in terms of size and location. This is not changed by the fact that current or future occupants would be aware of the lack of outdoor space when deciding to live there.
7. The appellant has not disputed that harm is caused to the living conditions of the occupants of the downstairs flat by the 'stacking' configuration but suggested that it could be alleviated through the imposition of a condition. The appellant has not provided any details about what this condition would secure or any potential wording and I was therefore unable to take this into account as the purpose of the condition was not clear.
8. I have considered the previous appeal decision supplied by the appellant. However, as this decision concerned an 8 bedroom HMO located in a different borough, and I do not have the wording of policy in that case, I can give it little weight here. The appellant's case is that the inspector there decided that the change to an HMO use was not materially different in terms of effects on the character of the area, but my reasoning as set out above is not predicated on the impact of the development in terms of the use of the flats.
9. The development causes material harm to the character of the area and does not provide acceptable living conditions for its occupants due to the lack or private amenity space and configuration of rooms. This is in conflict with Policy CS 5 of the Core Strategy and Policy DM01 of the Local Plan which is part of the local development plan and which seeks to protect Barnet's character, and Policy DM02 and the Sustainable Development SPD as set out above. In the absence of any material considerations of sufficient weight to overcome this conflict, the appeal on ground (a) fails and the deemed application for permission is refused.

**Ground (g)**

10. The appellant seeks 12 months in which to comply with the requirements to provide time to give notice to the existing tenants and to allow them to find alternative accommodation. However, the appellant has not provided any specific information or details regarding why the 6 month period would be insufficient in this case and the appeal on this ground therefore fails.

*Zoë Franks*

INSPECTOR