



Appeal Decision

Site visit made on 13 September 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/Q5300/W/21/3288526

20 Victoria Road, Edmonton, London, N18 2UF

- 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 Bashkim Kurti against the decision of the Council of the London Borough of Enfield.
 - The application Ref 21/01150/FUL, dated 23 March 2021, was refused by notice dated 7 June 2021.
 - The development proposed is conversion of dwelling to three self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the development would pass the Sequential and Exception Tests and would be safe from flooding without increasing flood risk elsewhere;
 - (b) Whether the development would result in an excessive clustering of flat conversions, which local planning policy seeks to resist;
 - (c) The effect of the development on the character and appearance of the surrounding area;
 - (d) Whether the development would provide adequate living conditions for future occupiers with regard to outlook, internal living space, and access to private outdoor amenity space; and
 - (e) The effect of the development on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

Flood risk

3. The appeal site is located within Flood Zones 2 and 3 as defined by Environment Agency flood mapping. The National Planning Policy Framework ('the Framework') seeks to steer new development to areas with the lowest probability of flooding by applying a Sequential Test. This states that development should not be permitted if there are reasonably available sites appropriate for the development in areas with a lower probability of flooding. In this case, however, no evidence has been submitted to demonstrate that the Sequential Test has been met.

4. The development is also required to pass the Exception Test as it proposes a 'more vulnerable' use that is partly in Flood Zone 3. In order to pass the Exception Test the development must, firstly, provide wider sustainability benefits to the community that outweigh the flood risk and, secondly, be safe for its lifetime without increasing flood risk elsewhere.
5. In terms of the first part of the Exception Test, the development would provide additional homes in an accessible location and would modernise and insulate the property. It would also generate economic benefits during the construction phase. However, these benefits would be relatively modest and are common to many developments of this type and size. Based on the information before me, I do not consider that these benefits would outweigh the flood risk.
6. In terms of the second part of the Exception Test, no flood risk assessment has been submitted to show that the development would be safe without increasing flood risk elsewhere. In this regard, additional dwellings are proposed at the site including an apartment that would be based entirely at ground floor level. In the absence of a site-specific flood risk assessment, it is unclear what the full extent of the flood risk to the development would be, or whether mitigation is achievable. I further note that the Environment Agency has objected to the development on these grounds.
7. In these circumstances, it would be inappropriate for such matters to be dealt with by condition. Moreover, both the Sequential and Exception Tests must be passed before development is considered to be acceptable.
8. For the above reasons, I conclude that the development would not pass the Sequential or Exception Tests, and it has not been demonstrated that it would be safe from flooding without increasing flood risk elsewhere. It would therefore be contrary to Core Policy 28 of the Enfield Core Strategy (2010), Policies DMD 59, DMD 60, and DMD 62 of Enfield's Development Management Document (2014), and guidance in the Framework relating to flood risk.

Over-concentration of flat conversions

9. Policy DMD 5 of Enfield's Development Management Document (2014) states that the subdivision of existing dwellings into flats must not exceed 20% of the properties along the road, and that only 1 out of a consecutive row of 5 units may be converted. In this regard, the Council has drawn my attention to a number of neighbouring properties that have been converted to flats or HMOs, including Nos 22, 23, and 24. A number of these properties show clear signs of having been subdivided, as I observed on my site visit. Planning permission reference numbers for these subdivisions have also been provided. The development would therefore clearly be at odds with Policy DMD 5.
10. For the above reasons, I conclude that the development would result in an excessive clustering of flat conversions, which local planning policy seeks to resist. It would be contrary to the relevant sections of Policy DMD 5 of Enfield's Development Management Document (2014) in this regard.

Character and appearance

11. The development would consist of internal reconfigurations and would not involve any extensions or other external changes. It would make little difference to the appearance of the property from the road and there would be no sub-division of the rear garden space. The development would be set within

a terrace that contains other apartment conversions and it would not have an unduly cramped form in that context. In my view, any effect on the character of the area would be limited.

12. For the above reasons, I conclude that the development would not significantly harm the character and appearance of the area. It would therefore accord with the relevant sections of Policies DMD 5 and DMD 37 of Enfield's Development Management Document (2014). These policies seek to ensure, amongst other things, that residential conversions do not harm the character of the area and achieve high quality design.

Living conditions – future occupiers

13. Policy DMD 9 of Enfield's Development Management Document (2014), and Policy 6 of the London Plan (2021), require that new 1 bedroom, 2 bedspace apartments are served by a minimum of 5 square metres of private amenity space. In this regard, both Flats 2 and 3 would not have any private outdoor amenity space. However, the appeal property is located directly opposite to Pymmes Park, which is a large and high quality open space with numerous paths, mature trees, sports pitches and a lake. An entrance to the park is located nearby. In addition, Flats 2 and 3 would be single bedroom properties and so would be unlikely to accommodate families with children. Whilst there would be a conflict with the requirements of Policy DMD 9, this would not lead to any harm in these particular circumstances. This lack of harm would outweigh the conflict with Policy DMD 9 in my view.
14. Bedrooms 2 and 3 of the proposed ground floor apartment (Flat 1) would look out onto a small private courtyard. Whilst this arrangement would provide restricted outlook to these rooms, it would allow for adequate levels of natural light. The door to the courtyard from bedroom 2 also has a glazed pane that could be replaced with clear glazing to allow for some outlook from this room. Flat 1 would otherwise have good levels of outlook, including to the master bedroom at the front, and the living area at the rear. On balance, this arrangement would not be unduly harmful to future occupiers in my view.
15. My attention has been drawn to '*Inclusive mobility: making transport accessible for passengers and pedestrians*', which was published by the Department for Transport in 2021. However, this document is a best practice guide only, and the widths that it specifies relate to passageways rather than access points. Moreover, Policy D8 of the London Plan, which is also referred to by the Council, does not refer to these standards. As the development would make use of an existing access, and only a small number of additional units are proposed, I consider that this arrangement would be acceptable.
16. For the above reasons, I conclude that the development would provide adequate living conditions for future occupiers with regard to outlook and access to private outdoor amenity space.
17. Separately, the submitted floor plans indicate that both Flats 2 and 3 would have a gross internal floorspace of 54.5 square metres. However, Flat 3 would clearly be smaller than Flat 2, as it would not benefit from a bay window, and would be set in at both the front and rear. It is therefore unclear whether Flat 3 would meet the minimum gross internal floor area required by Policy D6, and as set out at Table 3.1, of the London Plan. However, as I am dismissing the appeal on other grounds, this matter is not determinative in this case.

Living conditions – neighbouring occupiers

18. The development would subdivide the dwelling into 3 apartments, all of which would be accessed via the existing front door. However, given that only 2 additional dwellings are proposed, this is unlikely to generate any significant noise and disturbance from comings and goings. The front door is also positioned next to the main entrance to No 21, rather than a habitable room, and is in close proximity to the road. There is also no evidence before me that other nearby conversions have led to noise and disturbance issues.
19. For the above reasons, I conclude that the development would not significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore accord with Policies DMD 8 and DMD 68 of Enfield's Development Management Document (2014). These policies seek to ensure, amongst other things, that new development preserves neighbouring amenity and does not generate an unacceptable level of noise.

Conclusion

20. As set out above, I conclude that the development would result in an excessive clustering of flat conversions, would not pass the Sequential or Exception Tests, and has not demonstrated that it would be safe from flooding without increasing flood risk elsewhere. It would be contrary to both the development and the Framework in these respects. Whilst it would create additional dwellings in an accessible location, would modernise and insulate the property, and would generate some economic benefits during the construction phase, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR