
Appeal Decision

Site visit made on 11 November 2024

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Appeal Ref: APP/Q5300/D/24/3349345

36 Raleigh Road, Enfield, EN2 6UB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Sarah Pennells against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 24/00980/HOU.
 - The development proposed is an outbuilding – garden studio.
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Decision

1. The appeal is allowed and planning permission is granted for an outbuilding – garden studio at 36 Raleigh Road, Enfield, EN2 6UB in accordance with the terms of the application, Ref 24/00980/HOU, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and document: DPL.01, DPL.02a, DPL.03a, DPL.04a, DPL.05, Flood Risk Assessment, April 2024.
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall be as specified on the approved plans.

Application for costs

2. An application for costs was made by Ms Sarah Pennells against the Council of the London Borough of Enfield and this is the subject of a separate Decision.

Main Issue

3. There is one main issue which is the effect of the outbuilding on flood risk in the surrounding area and the effect of the risk of flooding on the safety of future occupiers of the building.

Reasons

4. The appeal dwelling is a modest, two storey dwelling of traditional design. It is located in a street of mostly similar dwellings arranged as short terraces or in semi-detached pairs. It lies within the Enfield Town Conservation Area (CA). The garden at the appeal dwelling is narrow but long. It and its neighbours are

separated by fences. To the rear of the site are the gardens of properties in Sydney Road.

5. The proposed outbuilding which would be located at the end of the garden is classed as minor development under the National Planning Policy Framework (NPPF) and its accompanying guidance. As such it is not subject to the sequential or exception tests but should still meet the requirements of a site-specific Flood Risk Assessment (FRA). The submitted FRA identifies that the site is located in Flood Zone 1, areas with the lowest risk of flooding, according to the Environment Agency Flood Zones Maps. The current and proposed development site use is classified as a 'More Vulnerable' land use according to the NPPF. The site is located in an area with medium risk from surface water flooding and low risk from all other sources including fluvial/tidal risk, groundwater, sewer and reservoir.
6. The proposed outbuilding which would replace a smaller shed has been designed to be raised some 0.2m above ground levels on a series of pins, as set out in the FRA and shown on the submitted plans, in order to protect it from flooding (the finished floor level is proposed to be 30.12mAOD which is at least 150mm above the estimated surface water flood depth for a 1 in 100 year (+17% climate change) event. The area under the base that is currently unpaved would be paved using a permeable material. Both these measures would assist in maintaining the free flow of water and retention of flood capacity beneath the building. As set out in Section 4.4 of the submitted FRA, it is also proposed to excavate within the rear garden at the site to replace the circa 3.0m³ of flood capacity lost to the development.
7. Nevertheless, the Council's Sustainable Urban Drainage Systems (SuDs) officer considers that the FRA fails to demonstrate that the development would be safe from flooding and would not increase flood risk elsewhere. In particular, it is identified that a flood management/evacuation plan should be provided demonstrating that the evacuation route is in the "Very Low Hazard Level".
8. The appellant argues that the submitted FRA demonstrates that the proposal has been designed such that it would not increase the risk of flooding to others. Moreover, an evacuation strategy, based on the severe weather warning service, including evacuation advice from the Environment Agency (EA) and local agencies, informed by their early warning systems, is set out in the FRA. In addition, the building is a residential outbuilding, meaning that occupiers could evacuate to the safety of the main dwelling well before any flood event. Taken together it is suggested these measures would reduce the likelihood of danger to life should severe flooding occur and indicate that flood risk at the site could be suitably managed.
9. The appellant also points out that a very similar building but without the proposed flood risk measures, such as the elevated floor level, stilted foundation and permeable paving, could be built at the site under permitted development rights set out under Class E of part 1 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. I noticed that there is a similar large outbuilding to the one proposed in the next door garden which appeared to be of recent construction, and that this did not appear to have a non-standard stilted foundation. In addition, other garden outbuildings could be seen in the vicinity. The Council has not suggested any reason why PD rights would not apply at the appeal site. This therefore

amounts to a fallback position which I consider to be very likely to be carried out if planning permission is refused.

10. I have given this case very careful consideration because flood risk is an important issue and I take the view that national guidance contained in the NPPF together with local policy should not be set aside other than in those circumstances where other material considerations clearly outweigh the risk. In this case a very similar building but without the same flood risk protections proposed could be built at the site and probably would be if planning permission for the appeal building is refused. It is therefore the case that some flood protection would be better than none. Moreover, flood risk in the area is limited to a moderate risk of surface water flooding.
11. On balance, I therefore conclude on the main issue that, notwithstanding the flood risk to the building and future occupiers and the limited risk of increased flooding in the surrounding area, to the extent that the proposed development conflicts with the tests set out in the NPPF, the further guidance set out in the Planning Practice Guidance and the requirements of Policy SI 13 of the London Plan, 2021, Policies CP21 and CP28 of the Enfield Core Strategy, 2010, Policies DMD59, DMD60 and DMD61 of the Enfield Development Management Document, 2014, and the New Enfield Level 1 Strategic Flood Risk Assessment, 2021, these, are outweighed by the particular circumstances of the case and the appeal should be allowed.
12. Turning to conditions the Council suggests two conditions in addition to the statutory commencement condition. I agree that the development should be carried out in accordance with the approved plans and the submitted Flood Risk Assessment, April 2024, to provide certainty and to ensure that the proposed measures to manage flood risk are incorporated into the development. In addition, the materials to be used in the construction of the external surfaces of the development hereby permitted should be as specified on the approved plans. This is necessary to protect the character and appearance of the appeal site and the surrounding area, including the Enfield Town CA.
13. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

KE Down
INSPECTOR