



Appeal Decision

Site visit made on 19 November 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2024

Appeal Ref: APP/Q5300/W/24/3346227

27 Park Avenue, Edmonton, Enfield N18 2UP

- 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 Mr Shahram Mirshahi of Arrowise Corp against the decision of the Council of the London Borough of Enfield.
 - The application Ref is 24/00025/FUL.
 - The development proposed is conversion of the property to two flats, two bedroom at ground floor and three bedroom to first/loft floors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
3. As stated on the appellant's planning application form the conversion has already taken place. I have dealt with the appeal on the basis that planning is being sought retrospectively.
4. I understand that an Enforcement Notice has been served on the Appellant with regard to the existing use of the property. The enforcement process is a separate matter.

Main Issues

5. The main issues are:
 - whether the development provides adequate living conditions for existing occupiers with particular regard to internal living space and layout, floor-to-ceiling heights and private amenity space; and
 - whether or not adequate arrangements are made to manage flood risk.

Reasons

Living conditions

6. The appeal property (No 27) is a two-storey mid-terraced property located within an established residential area. The evidence before me indicates that it was previously laid out as a three-bedroom house with a generous sitting/dining room on the ground floor and a bedroom within the loft space.

7. Policy D6 of the London Plan 2021 prescribes, amongst other matters, minimum Gross Internal Areas (GIA) for residential units and minimum widths for bedrooms and that minimum floor-to-ceiling height must be 2.5m for at least 75 per cent of the GIA of each dwelling. Standards set out in Policy D6 are intended to provide a good standard of living for intended future occupiers.
8. The internal layout of No 27 provides two flats comprising of a 2-bed flat at ground floor and a 3-bed flat at first. Submitted plans show bedrooms of differing sizes within each flat. Neither party have provided me with the dimensions of each bedroom or confirmed occupancy level. Notwithstanding this, the Council contend that the ground floor flat is a 2 bed/3 person unit and the first floor flat a 3 bed/5 person unit. This has not been challenged by the appellant, and there is no dispute that both flats fall below the minimum GIA.
9. With regard to the upper flat, I saw that the dining/sitting room was open plan and lit by one window to the front. I saw that the room provided access to the bedroom to the front and the bathroom to the rear. It was also open to the staircase from the ground floor and to the loft space and the majority of its layout was dedicated to circulation space. Given that up to 5 people could occupy the flat, there was little useable space for its occupants to sit, dine or watch TV as a family. Its layout resulted in the room appearing cramped and confined which results in a poor standard of living accommodation which occupants should normally expect for day-to-day living.
10. I have nothing before me which confirms that the floor-to-ceiling height within the loft bedroom. The roof to this room was sloped at both ends. This significantly reduced the floor-to-ceiling height for a large portion of the room. Based on the evidence before me and observations on site, I am not satisfied that the floor-to-ceiling height would achieve the 2.5 metre set out in Policy D6.
11. Whilst all bedrooms to the upper flat contained double beds only Bed 1 contained a wardrobe, which was a reflection of the very limited floorspace available. From my observations, this was due to Bed 2 being too small to accommodate additional furniture and maintain circulation space, and Bed 3 set within the loft space with restricted floor-to-ceiling height. The substandard floor space within the dining/sitting room and bedrooms added to the feeling that the flat was confined and resulted in a cramped living arrangement.
12. Even if No 27 is in close proximity to Pymmes Park, Policy D6 is clear that outdoor amenity space is a requirement for all dwellings. The absence of external amenity space to which a family have instant access, restricts the opportunity for children to play freely, and for adults to relax or to simply dry washing, and further exacerbates the cramped living conditions for the occupants.
13. I note the appellant's suggestion to alter the flats to be in line with Policy D6, however, I can only assess the current proposal on the basis of the information before me.
14. The appellant has drawn my attention to a number of properties which they contend are similar to the appeal before me at 41 Millbrook Road¹ (No 41), 25

¹ 19/01914/CEU

St Martin Road² (No 25) and 38 Ladysmith Road³ (No 38). I have not however been provided with the background relating to these.

15. With regard to No 41, whilst the 'approved layout' shows two flats, the upper flat has one bedroom and separate living, dining and kitchen rooms. This example is sufficiently different so as not to be directly comparable.
16. With regard to No 25, both flats contain only one bed, and the living/kitchen areas in each flat appear to be substantially larger than the dining/sitting room in the upper flat within the appeal before me. As such, this example is not directly comparable.
17. Finally, with regard to No 38, the ground floor flat is shown to be a studio. The first floor of the upper flat is laid out as a large open plan, dual aspect living/kitchen/diner with a separate bathroom and one bedroom within the roof space. Given the difference in property type, the circumstances of this example are not directly comparable to the appeal before me.
18. The appellant contends that the development retains a 3 bedroom dwelling which addresses the compensatory provision of family accommodation. Policy DMD5 of the DMD relates to residential conversions. It states amongst other matters, that all development must provide a high-quality form of accommodation which meets internal floor space standards in the London Plan. Even if the flat to the first floor retains 3 beds, its internal space would fall below the minimum standards required to provide a good standard of living. As such I do not consider this flat would provide suitable accommodation for family accommodation.
19. I therefore conclude that the proposed dwelling fails to provide occupiers with adequate living conditions in terms of internal living space and private amenity space. The proposal conflicts with Policy D6 of the London Plan 2021, Policy CP4 of the Enfield Plan Core Strategy 2010-2025 (Core Strategy) and Policies DMD5, DMD8, DMD9 and DMD37 of the Development Management Document (DMD) 2014 which collectively seek to ensure housing development to be of high-quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose, and which have private outdoor space. There would also be conflict with the Mayor of London Housing Supplementary Planning Guidance and Nationally Described Space Standards which collectively seek to ensure indoor environments are comfortable and inviting for people to use and which deliver appropriate amenity. There is also conflict with Chapter 12 of the National Planning Policy Framework (the Framework) insofar as it seeks to ensure development creates places with a high standard of amenity for existing users.

Flood Risk

20. There are discrepancies in the appellant's evidence with regard to the location of No 27 in relation to Flood Zones. Whilst the Flood Resilience Design Statement refers to the site as being 'Austin Road', the extract clearly shows Park Avenue and Flood Zone 2 (FZ 2). The Appeal statement however, states that the majority of the site is located in Flood Zone 1, with a small portion

² 19/01814/CEU

³ 20/00585/FUL

located in FZ 2 localised to the frontage along Park Avenue. Looking at the evidence as a whole, it appears that No 27 is within FZ 2.

21. Despite the submitted Flood Risk Assessment (FRA), the Council state that as the site is at risk of flooding from the 1 in 100 year plus climate change fluvial flood event, the application contains insufficient information to ensure that the development is safe from flooding and will not increase flood risk elsewhere.
22. Planning Practice Guidance⁴ confirms that minor developments (such as that proposed), are unlikely to raise significant flood risk issues unless they would have an adverse effect on a watercourse, floodplain or its flood defences; they would impede access to flood defence and management facilities; or where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows.
23. Even minor development can affect flood risk within the site and beyond. The proposal is for minor development and, as such, a pragmatic approach should be taken to the scope and level of detail provided in the required FRA. However, as a minimum, the assessment needs to demonstrate that the development would be safe for its users for the lifetime of the development without increasing flood risk elsewhere, and would be sufficiently flood resistant and resilient to the level and nature of the flood risk.
24. The FRA suggest a number of mitigation measures which include amongst other matters, the incorporation of soft landscaping to the front, the application of External Wall Insulation (EWI) to improve moisture resilience, raising electrical conduits and fixtures 1 metre above floor level and the incorporation of a flood Door Dam.
25. Given the sporadic nature of flood events, the installation of the flood Door Dam would require it to be undertaken by the occupants. There are no details to show where this feature would be stored or who would be the responsible party to securely fit it to ensure its effectiveness. Furthermore, I have no details to demonstrate what extent of soft landscaping would be provided. Given that the front would also be utilised for bin and bike storage, as identified in the appellant's Planning Statement and from observations on site, I am not satisfied that this area could accommodate all said features.
26. As the main access from Park Avenue is shared by both flats, I find that the FRA does not provide sufficient detail to demonstrate that the proposed mitigation could be installed and would not present an unacceptable risk to flooding. Whilst No 27 remains residential in nature and within a vulnerable classification, the development results in a new dwelling and this increases the number of vulnerable uses within the site. The subdivision of the property horizontally results in the occupants of the ground floor flat having no alternative accommodation to take refuge in the event of a flood.
27. I am not satisfied that it has been demonstrated that the proposal would be acceptable with regard to flood risk. It follows that the proposal conflicts with Policies SI 12 and SI 13 of the London Plan, Policies DMD59, DMD60, DMD61, DMD62 and DMD63 of the DMD and Policies CP21, CP28 and CP29 of the Core Strategy which collectively seek to ensure that flood risk is minimised and mitigated, and that residual risk is addressed. There is also conflict with

⁴ Paragraph: 051 Reference ID: 7-051-20220825

chapter 14 of the Framework, which echoes these policies concerning flooding and flood risk.

Other Considerations

28. Paragraph 11 d) of the Framework requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, developments should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. For housing proposals, policies should be considered out of date where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites
29. The appellant asserts that the Council are unable to demonstrate a five-year housing land supply. The Council has not provided a statement and therefore remains silent on the matter. As such, I have approached the appeal on the basis that the Council does not have a sufficient supply of deliverable housing sites, meaning that paragraph 11 d) of the Framework is engaged.
30. The proposal would result in the creation of one additional dwelling within a sustainable location. It would also bring additional residents to the area who would contribute to the local economy. However, given that I have found that the internal accommodation would fall below minimum standards and the first floor flat would have no external amenity space, these benefits have minimal weight in favour of the appeal. I am mindful that the upper unit is already occupied by a family, a matter I return to later.
31. I have identified that the development conflicts with the policy designed to ensure acceptable living conditions. This policy is consistent with the aims of the Framework in terms of ensuring good standards of amenity. This alignment increases the weight given to the policy conflict. Therefore, the conflict with this policy results in the development conflicting with the development plan when taken as a whole.

Planning Balance and Conclusion

32. While I recognise the benefit of creating an additional dwelling, viewing the case as a whole, the adverse impacts of the proposal in terms of the harm to the living conditions of existing occupiers, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.
33. I understand that the upper flat is occupied by a family and that an enforcement notice relating to the development has been issued. Under these circumstances, the refusal of planning permission could ultimately result in those living at the property losing their current home. Loss of their home would represent a serious interference with their right to respect for their private and family life and home in accordance with Article 8 of the European Convention on Human Rights, as set out in Schedule 1 of the Human Rights Act 1998. There are two children at the property, and no planning issue is inherently more important than the best interests of a child. It appears to me that the

best interests of the children will lie in remaining at the property, in accordance with the apparent wishes of the adult family members.

34. However, rights under Article 8 are qualified rights. The interference in this case is in accordance with the law, and the disruption that could be caused must be weighed against the public interest of ensuring the proper planning of the locality. In my judgement, dismissal of the appeal is a necessary and proportionate response and would not result in any violation of the rights of the individuals concerned.
35. The proposal conflicts with the development plan taken as a whole, and material considerations do not indicate a decision otherwise in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

L Clark

INSPECTOR