
Appeal Decision

Site visit made on 19 September 2016

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 October 2016

Appeal Ref: APP/G5180/W/16/3152651

Holmedene Court, 45 Southlands Grove, Bickley, Bromley, BR1 2DA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ten Levels Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/04113/RECON, dated 18 September 2015, was refused by notice dated 23 February 2016.
 - The application sought planning permission for a two storey side extension without complying with a condition attached to planning permission Ref 19/81/1409, dated 2 July 1981.
 - The condition in dispute is No. 2 which states that: the additional accommodation shall be used only by members of the household occupying the dwelling, Holmdene Court, 45 Southlands Grove, Bickley, and shall not be severed to form a separate self-contained unit.
 - The reason given for the condition is: to ensure that this unit is not used separately and un-associated with the main dwelling so as to cause an unsatisfactory sub-division into two dwellings.
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Preliminary matter

1. The original planning application was for an extension to the existing dwelling house and condition 2 relates specifically to that proposal. Under section 55 of the Town and Country Planning Act 1990 (TCPA) the subdivision of one dwelling house into two would be an act of development which requires full planning permission under section 78 (s78) of the TCPA.
2. The Appeal application was made under section 73 of the (TCPA) and seeks the removal of a condition imposed on the original planning permission. It is not an application for full planning permission under s78 of the TCPA. The Appeal has to be determined on this basis. Any determination on the conversion of the Appeal dwelling to form two separate dwellings would need to be made the subject of a full planning application under s78 of the TCPA.

Decision

3. The Appeal is allowed and planning permission is granted for a two storey side extension at Holmedene Court, 45 Southlands Grove, Bickley, Bromley, BR1 2DA in accordance with the application Ref DC/15/04113/RECON, dated 18
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September 2015 without compliance with condition 2 previously imposed on the planning permission Ref 19/81/1409, dated 2 July 1981.

Main Issue

4. The main issue is whether condition 2 is necessary to ensure that the existing dwelling remains occupied as a single dwelling.

Reasons

5. The Appeal application is for the removal of condition 2, which seeks to ensure that the existing dwelling is not sub-divided into two separate dwellings. As indicated above the subdivision of a single dwelling house into two would be an act of development which requires full planning permission. This is irrespective of whether or not condition 2 is retained.
6. As such condition 2 is not necessary to ensure that the existing property remains occupied as a single dwelling. Having failed the test of need as set out in paragraph 206 of the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (PPG), the retention of condition 2 would also fail the test of reasonableness set out in the NPPF and the PPG.
7. I conclude that condition 2 is both unnecessary and unreasonable and is not required to ensure that the dwelling remains occupied as a single dwelling house.

Elizabeth Lawrence

INSPECTOR