The Planning Inspectorate

Appeal Decision

Site visit made on 5 October 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 27 October 2016

Appeal Ref: APP/B5480/W/16/3151247
137 Wennington Road, Rainham RM13 9TR

- 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 Lowfield Development Ltd against the decision of the Council of the London Borough of Havering.
- The application Ref P1840.15, dated 8 December 2015, was refused by notice dated 2 February 2016.
- The development proposed is change of use of former workshop/studio to a one bed C3 self-contained residential dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. At the site visit, I was unable to gain access to the rear yard of the appeal site. I have therefore determined the appeal based only on my assessment of the proposals from the access lane to the rear of the property at 137 Wennington Road.

Main Issues

3. The main issues are whether the proposal would provide adequate living conditions for future occupants, with particular reference to outdoor space, overlooking, and means of access, and whether the proposal would make adequate provision for education infrastructure.

Reasons

Living conditions

4. The appeal site comprises a two storey former workshop building situated to the rear of the property at 137 Wennington Road. No 137 comprises a beauty salon business on the ground floor, and a residential flat on the first floor. The proposal would create a new dwelling within the former workshop building, and access to it would be taken from the existing lane which runs behind the parade of shops on Wennington Road.

5. A appeal decision[1] on a previous scheme found that the shared use of the yard between the new dwelling and the existing business would be unsatisfactory. The current scheme would therefore divide the yard with a fence, retaining a

[1] APP/B5480/W/15/3089669

small outdoor area for the use of the business. The remainder of the yard would comprise outdoor space for the new dwelling, and would be landscaped and planted. The existing Perspex sheeting would be removed, and the steel fencing facing the lane would be replaced, which would improve the appearance of the area.

6. However, whilst this division would ensure a greater degree of privacy, I am concerned that the quality of the outdoor space would be compromised by the degree of enclosure. It would be bounded by fences of approximately 1.8m in height to the north and south, the two storey building to the west, and the property boundary to the east. The feeling of confinement within the area would be heightened by the lack of outlook. I accept that other flats in the area may have still less provision of outdoor space, but that does not overcome my concerns in this particular instance.

7. The Council has raised concerns about the effect of overlooking from the first floor flat at No 137. On my site visit, I was able to see clearly the north-facing bathroom and bedroom windows of the flat. From my observations, and the submitted plans, there would be nothing to impede direct views from the bedroom window towards the outdoor space. The overlooking from this window at close quarters would be unacceptably harmful to future occupants when using the outdoor area, particularly in view of the limited amount of space that would be available to them. Even if direct views from the bathroom window were not possible due to the obscure glazing, its size and greater proximity to the yard would give rise to a harmful perception of overlooking.

8. At the time of my visit, the narrow access track to the rear of the properties appeared to have been recently cleared. However, it was unmade, and was surfaced in soil, and appeared to be largely unlit. Policy DC4 of the Havering Core Strategy and Development Control Polices Development Plan Document (DPD, 2008) requires that conversions for residential use should provide safe and secure access from the street. In my view, the proposed access would not meet those criteria. It would be particularly unattractive during the hours of darkness, when future occupants would have to walk a significant distance from Wennington Road along an enclosed and unsatisfactory route.

9. I accept that the lane is the only means of access to the appeal site, and that it may be used by other residents in the vicinity. The appellant contends that they are required to maintain the right of way, but there is no substantive evidence before me to confirm the terms of this requirement. Furthermore, no detailed proposals have been submitted for the works to improve the lane, and in any case, it would be difficult to ensure adequate future maintenance of the area. For those reasons, I am not satisfied that the access to the development could be made safe and secure through the imposition of a planning condition.

10. Taking these factors in combination, I conclude that the proposal would fail to provide adequate living conditions for future occupants. It would therefore conflict with DPD Policy DC4 which seeks, amongst other things, a suitable degree of privacy, and safe and secure access from the street.

Provision for education infrastructure

11. The Council requires financial contributions towards the provision of education infrastructure in accordance with DPD Policy DC72, and the Council's Planning Obligations Supplementary Planning Document (SPD, February 2013). The

SPD states that a standard charge will apply to all forms of residential development, and to all proposals that would result in a net increase of one dwelling or more. In this case, the discounted standard charge of £6000 is sought.

12. The SPD does not set a threshold in terms of dwelling size in respect of the requirement for contribution. However, the appellant argues that the limited size of the development, having only one bedroom, could not accommodate a family unit. They therefore dispute the necessity for a contribution towards school places, on the basis that there would be no additional pressure on education facilities. On the basis of the plans before me, I agree that the development would be suitable in size only for one or two adults.

13. Planning obligations should only be sought where they meet the three tests set out in the National Planning Policy Framework (NPPF). Obligations should be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. As the development would be too small for a family, I consider that the impact on education provision arising from it would be minimal. The obligation would therefore not meet the test of necessity, and thus would conflict with the aims of the NPPF in this regard.

14. The Council has drawn my attention to a number of appeal decisions in support of their position, but in each of those cases, it is clear that the developments in question would be large enough to house families, and so would be likely to place demands on school places. As such, they do not provide a direct parallel to the appeal scheme before me, and so I can afford them little weight.

15. I therefore conclude that, were the scheme to be found otherwise acceptable, the benefits of providing an additional dwelling in a sustainable location would outweigh the conflict with DPD Policy DC72 and the SPD, in view of the minimal harm the proposal would have on the provision of education infrastructure.

Other matters

16. The conversion of the appeal site for residential use would add a dwelling to the housing supply. It would contribute to the economy during the construction phase, and consequently through support for the town centre facilities and the wider local economy. Whilst such benefits, however modest, are to be given weight, they would not outweigh the harm I have identified above.

17. Reference has been made to the previous grant of planning permission in May 2003. However, I have very little detail in respect of this permission, and so I can afford it little weight.

18. In support of their case, the appellant refers to paragraph 51 of the NPPF, which encourages the reuse of empty buildings for residential use. However, this important policy aim does not outweigh the need for other policy objectives to be met. Paragraph 51goes on to refer specifically to buildings within the B use classes. As there is no confirmation before me of the lawful use of the appeal site, I am unable to give this matter any further consideration.

19. I have had regard to the letter of support that has been received in respect of the appeal proposal, and the fact that the appeal property has been vacant for some time, but these matters have not led me to a different conclusion.

Conclusion

20. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR