
Appeal Decision

Site visit made on 1 November 2016

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 22 November 2016

Appeal Ref : APP/W5780/C/16/3149227

160 Chigwell Road, South Woodford, London, E18 1HA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Shakespeare Developments Limited against an enforcement notice issued by the Council of the London Borough of Redbridge.
- The notice was issued on 16 March 2016.
- The breach of planning control as alleged in the notice is without planning permission, a single residential dwellinghouse has been converted into five self-contained flats.
- The requirements of the notice are 1. cease use of the property, other than as a single dwellinghouse; and 2. remove all fixtures and fittings that facilitate the unauthorised use of the property as five self-contained flats including the removal of i. all fixtures and fittings from 4 of the kitchens and 4 of the bathrooms; and ii. internal partitions, walls and doors in the communal hallway that facilitate the use of the property as five self-contained flats; and 3. remove separate utility meters and provide one meter for each utility for the entire property; and 4. remove from the land all building materials and rubble arising from compliance with steps 1.2. and 3. above.
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: the appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Appellant says that he wishes to retain four of the five flats at the property and that they would be retained in accordance with the plans submitted with planning application reference 4973/15 including alterations to the rear extension as set out in planning application reference 0557/143 and removal of the attic flat. The Appellant refers to this scheme as 'the appeal scheme' and I shall adopt this description. Planning application reference 4973/15 has been refused and planning application reference 0557/143 has been granted.
2. This appeal is not against the refusal of planning application 4973/15 but against the enforcement notice attacking use as five flats. The deemed application before me in this appeal concerns the matters cited in the notice as constituting a breach of planning control. The breach is conversion to five self-contained flats. In contrast the appeal scheme is for four flats. By virtue of section 177(1)(a) of the 1990 Act, as amended, I have the power to grant planning permission in relation to the whole or any part of the matter before me. I have therefore turned my mind to whether the differences between the

appeal scheme and the development described in the notice are such that the appeal scheme could be regarded as part of the development attacked by the notice.

3. I consider that the appeal scheme cannot reasonably be regarded as part of the breach of planning control cited in the enforcement notice. It includes works which are not part of the alleged breach, including alterations to the rear extension and some of the flats. It follows therefore that the deemed application does not include consideration of the appeal scheme.
4. Accordingly, I will consider the deemed application for the development cited in the notice and not for the appeal scheme. I will however take into consideration that the Appellant is able to pursue the appeal scheme through the normal planning process when considering the ground (g) appeal.
5. The Appellant refers to proposed changes to the requirements of the notice but there is no ground (f) appeal before me and accordingly I determine the appeal under grounds (a) and (g) only.

Ground (a) appeal and deemed application

Main Issues

6. The main issues in the determination of this appeal are the effect of the development on (i) the living conditions of occupiers of the development and nearby properties with regard to noise and disturbance, the living conditions of current and future occupiers of the development with regard to internal space and external amenity space, (ii) housing stock in the Borough and (iii) highway safety.
7. The appeal site is one of a pair of two-storey semi-detached dwelling houses. The pair of dwellings are locally listed due to their historic interest as labourers' cottages. The site is bounded by commercial uses to the north, south and west and adjacent commercial uses form part of a wider industrial area. A residential area is situated to the north of the property beyond the commercial uses comprising mainly terraced houses with some flats and conversions. The site faces the A113 a busy main road.

Living conditions

Noise and disturbance

8. The development plan (including the London Plan and adopted development plan documents including the Redbridge Core Strategy (the Core Strategy) and Borough Wide Primary Policies Development Plan Document (the DPD)) follows the National Planning Policy Framework (the Framework) in seeking to protect the amenities of neighbours. Strategic Policy 3 of the Core Strategy requires development to respect the amenity of adjoining properties and the locality generally.
9. The Council is concerned that the unauthorised use would cause disturbance to the occupiers and residents in the surrounding area. However, the reasonable expectations of occupants and residents in the locality would be for a level of noise and disturbance commensurate with the surroundings. In the context of the separation distances between the appeal site and nearby residential properties, the mix of commercial uses in the locality and the close proximity of

a busy road I am not persuaded that the development is likely to cause undue harm to the living conditions of occupiers of the development or neighbours by reason of noise and disturbance. I note that there are no complaints or evidence of recorded noise levels before me and that adjoining neighbours who support the development do not describe undue noise and disturbance.

10. I therefore conclude that the development does not cause undue harm to the living conditions of current or future occupiers of the development or nearby residents by reason of noise and disturbance and accords with relevant policies in the development plan, including Strategic Policy 3 of the Core Strategy.

Amenity space

11. Policy BD4 of the DPD sets out minimum amenity space standards. There is no dispute between the parties that amenity space is below this standard. I have also taken into account as a material consideration the Supplementary Planning Guidance on Amenity Space and Residential Development (the SPD).
12. Policy BD4 is not a blanket restriction. Public open space exists nearby and some of the units are one bedroom units not family units. The Appellant suggests the imposition of a condition requiring a scheme to be agreed with the Council and I agree that this matter could be adequately controlled by condition if appropriate.

Internal space

13. Internal space standards are set out in policy 3.5 of the London Plan. There is no dispute between the parties that these standards are not met.
14. I saw at my site visit that some of the units are cramped and provide insufficient room for day to day living. The absence of storage space in some units adds to the unsuitability for domestic living. I agree with the Council that the units attacked by the notice provide unsatisfactory accommodation for occupiers.
15. I conclude that the development causes harm to the living conditions of current and future occupiers of the development by reason of inadequate internal living space. This is contrary to relevant policies in the development plan, including policy 3.5 of the London Plan.

Housing Stock

16. Policy H2 of the DPD seeks to control conversions of larger family housing. It sets out criteria where conversion will be permitted. These criteria include location and standard of accommodation. I note the emergence of the Local Plan 2015-30 but as this is not adopted this limits the weight that I have attached to it. I have also taken into account as a material planning consideration the SPD.
17. The surrounding area does not comprise predominantly converted properties nor is it in a metropolitan or district centre. The appeal site is therefore not within either of the two locations specified in policy H2 as where conversion will be permitted (subject to meeting other criteria).
18. The Council is concerned that to permit conversion in this location would undermine its objective of retaining sufficient family housing and set an unacceptable precedent. But the policy does not place a blanket restriction on

land use. I note the recent evidence of housing need before me, including the Strategic Housing Market Assessment published in 2010 (the SHMA) and the Annual Monitoring Report (the AMR), and the particular characteristics of the locality of the site.

19. I am not persuaded that the likely effect of conversion on the supply of family housing in the Borough would be sufficiently significant to warrant an in principle objection to the development. In the context of the particular facts of this case I find that the development does not undermine the Council's housing stock aims and does not undermine the Council's wider housing strategy and is not contrary to policy H2 of the DPD.

Highway safety

20. Policy T5 of the DPD provides that car parking will be sought in accordance with stated minimum standards but that where lesser provision is proposed stated criteria will be taken into account.
21. The front hardstanding of the appeal site can accommodate cars and on street parking is available nearby and is not restricted. I note the PTAL rating but also that there is a bus stop and underground station nearby. The adjoining neighbour does not describe parking or congestion problems arising from the use of the site. I consider that the circumstances of this site justify lesser provision than full compliance with the minimum standards.
22. The Appellant proposes a condition requiring the agreement of a scheme to provide three car parking spaces. I consider that this matter could be adequately controlled by condition if appropriate.

Other matters

23. I note that the submissions refer to the site being within a flood risk area. But there is no detail before me and nothing before me suggests that this is a main issue in this appeal.
24. My attention is drawn to the local listing of the site but there is nothing before me to suggest that the development fails to preserve the building, its setting or any feature of value.
25. I have had regard to the improvement of the state of the property, issues of density and lifetime neighbourhoods but none of these issues lead me to alter my conclusions on the main issues.
26. Other appeal decisions are drawn to my attention. I do not know the particular circumstances of these cases and many involve policies that have been superseded. I have determined this appeal based on its particular facts.

Conclusion on ground (a) appeal

27. Although I have found that there is no harm to the living conditions of current and future occupiers or neighbours by reason of noise and disturbance, no breach of policy H2 in respect of housing stock and that external amenity space and parking can be adequately controlled by condition I have found harm in respect of the adequacy of internal space. This harm outweighs my other findings and means that planning permission should not be granted.

28. I have considered whether conditions could overcome the identified harm. I have taken into account the Planning Practice Guidance. The Appellant proposes a set of conditions in the event that the appeal is allowed but these relate to the appeal scheme and would not remedy the identified harm. I do not consider that the harm caused by the internal space of the units is a matter than can be adequately controlled by condition.
29. For the reasons given I conclude that the ground (a) appeal is dismissed. Planning permission should not be granted for the development the subject of the notice.

Ground (g) appeal

30. This ground of appeal is that the time period for compliance with the notice is unreasonably short. The time period is six months.
31. The Appellant says that it may be necessary to temporarily or permanently evict tenants in order to carry out the required works and that six months is not long enough to identify alternative accommodation. He says that twelve months would be reasonable. The Council in their submissions indicate that they would accept 10 months as appropriate.
32. The right to a home must be taken into account. Interference with the way the Appellant uses the property must be proportionate taking into account conflicting consideration of public and private interest. I have also taken into account that the Appellant may wish to pursue the appeal scheme through the normal planning process.
33. I consider a period of ten months to be a reasonable period in which to expect the requirements to be undertaken. It would strike the appropriate balance between the conflicting private and public interest and be proportionate so as not to violate individuals' rights. To this extent the appeal on ground (g) succeeds and I am varying the notice accordingly prior to upholding it.
34. For the reasons given above I conclude that a reasonable period for compliance would be ten months and I am varying the enforcement notice accordingly prior to upholding it. The appeal under ground (g) succeeds to that extent.

Formal Decision

35. The appeal is allowed on ground (g) and it is directed that the enforcement notice be varied by the substitution of ten months as the period for compliance. Subject to this variation the enforcement notice is upheld.

S. Prail

Inspector