
Appeal Decision

Site visit made on 12 December 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 05 January 2017

Appeal Ref: APP/G5180/W/16/3159850

Kent House Tavern, Thesiger Road, Penge, London SE20 7NQ

- 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 Mr Abdul Ghafar against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/01750/FULL3, dated 11 April 2016, was refused by notice dated 17 August 2016.
 - The development proposed is the change of use of the ground floor premises to x3 residential flats (Use Class C3) and associated alterations.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) the living conditions of future occupiers, with particular regard to private outdoor amenity space, outlook, privacy and light; and
 - (ii) highway safety, with particular regard to the demand for on-street car parking.

Reasons

3. The appeal site is located on Thesiger Road, close to the junction with Kent House Road. The predominant character of the area is residential, although a small number of commercial units are located on Kent House Road. The site is a 2-storey red brick building, with the previous use of the site being that of a public house until early 2013.
4. I am aware of the relatively detailed planning history of the appeal site, including the appeal decision in March 2015¹ and the planning permission granted in October 2015² for the construction of 6 one bedroom flats on the first and second floors and introduction of dormer windows. At the time of my site visit, construction work was underway at the site and the entire exterior of the building was enclosed by hoarding.

¹ Appeal reference: APP/G5180/A/14/2227088

² Council reference 15/02635/FULL1

Living conditions

5. Policies BE1 and H12 of the London Borough of Bromley Unitary Development Plan 2006 (the UDP) seek, amongst other things, to ensure that new development achieves a satisfactory quality of accommodation and amenity.
6. Both the appellant and the Council agree that the proposal complies with the minimum internal space standards as set out in Table 3.3 of Policy 3.5 of The London Plan 2016 (TLP) and I have no evidence before me which leads me to dispute this.
7. Notwithstanding the above, the Mayor of London's Housing Supplementary Planning Guidance 2006 (the SPG) states that private open space is of a high value and should be provided in all new housing developments. Standard 26 of the SPG requires that a minimum of 5 square metres of private outdoor space is provided for 1-2 bedroom units, with a further 1 square metre being provided for each additional occupant. The proposal would fail to provide any private outdoor space for any of the proposed units.
8. I accept that a degree of flexibility and common sense is required in the application of such standards, particularly in buildings which were formerly had a non-residential use. The SPG also acknowledges this and advises that where significant site constraints exist which prevent the provision of private outdoor amenity space, dwellings may be provided with additional internal living space, equivalent to the area of the private open space requirement.
9. The appellant has acknowledged that due to the physical constraints of the use of the former public house, it is not possible to provide private outdoor amenity space. Moreover, the appellant contends that the proposed low density accommodation would provide a good standard of accommodation. However, there is no evidence to confirm whether extra internal living space to mitigate the lack of provision of private outdoor amenity space has been provided within the proposal before me.
10. My attention has been drawn to a number of recreation grounds/open space areas within the locality. Access to each of the areas highlighted would require a journey of at least 5-10 minutes on foot. I acknowledge that therefore these areas are not located a significant distance away from the appeal site. Nonetheless, I do not consider that any of the 5 identified sites can be considered to be adjacent to the site. As such, it is unlikely that these spaces would be used on a daily basis by any future occupants. The appellant has also referred to the outdoor seating area located to the north of the application site. I accept that this is directly adjacent to the appeal site. However, this area consists of only two benches and faces onto a relatively busy road. As such, I do not find that this area could be considered to constitute an adequate level of outdoor amenity space provision for between 4 and 6 future occupants of the proposed units.
11. The appellant contends that future occupiers of the ground floor units are likely to be students, single professional or young couples and as such, have fewer requirements for private outdoor space than families with children. Each of the proposed units would be provided with washing machines/dryers and occupants would have access to refuse and bicycle storage areas.

12. Nevertheless, I do not consider that these factors justify the deficiency of provision. I recognise the benefit of the creation of additional units to the supply of housing within the Borough. However, I find that the proposal fails to provide a level of private outdoor space for future occupiers that could reasonably be expected from such a proposal.
13. The Council has raised concerns in relation to the shape of the living rooms within proposed units 1B-C and 1B-B in terms of their shape. I accept that the shape may not be a standard square or rectangular, however the proposal exceeds the minimum internal space standards as set out in table 3.3 of Policy 3.5 of the TLP and the quality of accommodation requirements of Policies BE1 and H12 of the UDP. Given the adequate room sizing, in this instance I do not find that the unusual shape would result in a level of harm which would be of such significance as to harm the living conditions of future occupiers. Moreover, I do not find that the proposal represents an over-intensive use of the site.
14. I note that the Council also raised concerns in relation to outlook, privacy and light within their Statement of Case, which were not captured within the decision notice. I accept that it is not unusual for windows to face a public highway, however from the evidence before me majority of the proposed fenestration for unit's 1B-B and 2B-A would face directly onto a highway. Given the minimal separation from the highway and the resulting possibility of overlooking, to ensure an adequate level of privacy I consider any future occupiers would be required to employ some form of window treatment to all windows. As such, I accept that the level of light into the rooms may be reduced. Nevertheless, I do not find consider the loss of light would be of such significance as to be detrimental to living conditions.
15. From the submitted plans, the bedroom of proposed unit 1B-C will face an enclosed area which is to be used a bin store. In order to protect privacy the associated windows would be afforded obscure glazing. However, given the lack of outlook I consider that the bedroom would be likely to feel enclosed and claustrophobic for future occupiers using the room.
16. Despite finding no harm in relation to privacy and light, I have found significant harm for the living conditions of future occupiers of unit 1B-C. Furthermore, I consider that the lack of private outdoor amenity space would cause significant harm to the living conditions of all future occupiers. Accordingly, I therefore find that the proposal would be contrary to the general design principles of Policies BE1 and H12 of the UDP and relevant advice relating to residential amenity within the SPG.

Highway safety

17. When taken together Policies T3 and T18 of the UDP seek, amongst other things, to ensure that new development does not adversely affect car parking provision and overall road safety.
18. I note that the appellant submitted a night time parking survey as part of a previous planning application³. In addition, a further night time parking survey⁴ was undertaken and formed part of the application which is the subject of this appeal. The results indicate that whilst parking pressure exists within

³ Council reference 14/01394/FULL1

⁴ Transport Statement – Appendix B

the vicinity of the site, it is below the accepted parking stress threshold. Moreover, the findings also confirmed that even if all of the 3 proposed units and the additional 6 units located on the upper floors owned two cars, and parked these all on-street, the local parking pressure would still remain below threshold.

19. Furthermore, the site is not located in a controlled parking zone and most of the surrounding streets had unrestricted kerbside parking. In addition, the appeal site is afforded a good level of public transport accessibility and has a public transport accessibility level of 3. A number of bus stops within a walk of less than 5 minutes were evident and Kent House rail station was approximately an 8-10 minute walk from the site. Accordingly, future occupants of the units would not be solely reliant on the use of private vehicles.
20. I note the concern raised by the Council in relation to the timing of the surveys. However, I consider that parking stress is likely to be at its highest during the evening periods when residents have returned from either work or day time activities. In addition, from my observations made during my site visit, it was evident that whilst on-street parking pressure existed, a number of car parking spaces were available within a short walking distance from the proposed site during the day time. I accept that this is only a snap shot in time, and despite concerns raised by neighbouring occupiers particularly in relation to the safety of the junction, no objection has been made by the Council's Highway department. In addition, no substantive evidence has been submitted in relation to accident data for this location to support such safety concerns. As such, I have no reason to doubt that my observations are not a valid representation of the availability of parking within the locality.
21. As such, due to the relatively modest scale of the proposal and the accessibility of public transport provision, I do not consider that the potential increase in the level of demand for on-street car parking would result in a substantial increase of additional traffic movements which would impact on the safety of road users nor would it be prejudicial to the free flow of traffic. Accordingly, I find that the proposal would not conflict with the highway safety objectives of Policies T3 and T18 of the UDP.

Conclusion

22. Despite finding no harm in relation to highway safety, the harm identified in relation to the living conditions for future occupiers is decisive. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR