

Appeal Decision

Site visit made on 26 January 2017

by A U Ghafoor BSc (Hons) MA MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/T5150/C/16/3155049

52 Ranelagh Road, London NW10 4UR

- 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 Mr Jeff Dawes against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice, numbered E/16/0052, was issued on 29 June 2016.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the premises to two flats.
 - The requirements of the notice are to:
 - (1) Cease the use of the premises as two self-contained flats
 - (2) Remove all kitchens and cooking facilities, except ONE, from the premises and remove all associated debris and materials arising from this removal from the premises. Remove all bathrooms and bathroom facilities, except two, from the premises and remove all associated debris and materials arising from this removal from the premises. Thereby restoring the layout of the premises back to a family dwellinghouse.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the material change of use of the premises into two flats at 52 Ranelagh Road, London NW10 4UR, as shown on the plan attached to the notice, subject to the following condition:
 - 1) The use of the building as two self-contained flats hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within three months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for the layout of the two flats, as illustrated in drawing no. 15/021/25 dated 19 February 2016, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
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- iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved layout scheme specified in this condition, that scheme shall thereafter remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reasons - ground (a)

- 2. I undertook a comprehensive accompanied site visit and carried out a full internal inspection to see for myself the flats' arrangement and to gain an impression of the standard of accommodation, and appreciate the surrounding area. No. 52 is an end of terrace three bedroom property located on a corner in a mainly residential area. It has been physically subdivided to form two self-contained flats. The terms of the deemed application are directly derived from the allegation and planning permission is sought for the material change of use of the premises to two flats.
- 3. I consider the **main issue** are as follows: (1) Whether the development results in an unacceptable loss of a family-sized dwelling; and (2) The effect upon the living conditions of existing and future occupants, having particular regard to size of the flats, outlook and parking conditions.

Loss of family-sized dwelling

- 4. Policy CP 1 of Brent's Core Strategy 2012 (CS) and CP 2 set out spatial strategies and population and housing growth. Policy DMP 1, Development Management Policies (DMP) 2016, is a general development management policy. Amongst other things, proposals will be permitted provided it is of a location, use, layout and scale that complement the locality. Policy DMP 16 seeks to resist housing loss. Policy DMP 17 states conversion of a family-sized home (3 bedrooms or more) to two or more other dwellings will only be allowed where the following criteria are met: 1) the existing home is 130 square metres or more, and b) it results in at least a 3-bedroom dwelling. The London Plan¹ policies 3.4 and 3.14 are also of relevance.
- 5. Mr Dawes states that the floor area of the ground floor is 65 m² and 56 m² at first floor level. That being so the property has a floor area below the threshold in policy DMP 17. The Council say planning permission for erection of single-storey side extension to the dwellinghouse (ref: 15/4164) was approved, because the existing building was in use as a single dwelling. However, the extension already exists and there is nothing to suggest that the planning permission requires, by express condition, it to be occupied only for purposes ancillary to the existing dwelling. Additionally, there is nothing to suggest the extension is unlawful.

¹ The London Plan The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016.

6. While the existing 3-bedroom dwelling falls marginally short of the required 130 square metres, in my assessment the conversion would be an efficient use of existing housing stock. This is because of the site's layout and configuration combined with its end of row location. The locality already includes a mix of conventional housing and properties converted into flats. There is no cogent evidence to substantiate that this scheme has tipped the balance towards an over-concentration of converted properties or has an adverse effect on the supply of family-sized dwellings in the area or Borough.
7. The kind and scale of development is acceptable in this location, and the site is sustainably located. I consider that conversion of this property into two small flats is not at odds with the purposes of creating a balanced housing stock, neighbourhoods of choice, high quality and diverse housing in sustainable locations because of the site's location.
8. Pulling all of the above points together, on the site specific circumstances, I find that the grant of planning permission results in the loss of a family dwelling but the development has no material effect upon the supply of housing in the Borough. Accordingly, the spatial aims and objectives of policies CP 1, CP 2 and CP 21 of the Core Strategy and policy DMP policies 1, 16, and 17 would not be materially breached.

Living conditions

9. DMP policy 18 states that size of dwellings should be consistent with policy 3.5 of The London Plan table 3.3, which sets out minimum space standards for new dwellings, including those created because of a change of use. The gross internal floor area (GIA) for new dwellings should be as follows: 39 m² for one bed one person and 50 m² for two people, and 61 and 70 m² for two bed three or four people respectively. The ground floor flat has a GIA of 65 m² and to me appeared spacious. The first floor flat's GIA is 56 m², which would be acceptable to accommodate one or two persons and appeared reasonable in terms of available floor space. The layout permits free circulation and movement. There is adequate space to store possessions or undertake normal activities such as socialising, given the overall dimensions of the rooms. Even if there is a perceived shortfall in GIA, I take the view that the size and amount of useable floor space is unlikely to have knock-on effects on the health and wellbeing of future occupants.
10. The Council considers the ground floor flat's layout inadequate in that bedroom 2 is a room without a view. It argues that the opening in the external elevation faces the side extension and thus overlooks a solid brick wall. While not ideal, a void permits a view outwards as well as daylight reaching the bedroom. I am quite satisfied that the location and size of the opening does not result into a gloomy habitable space. In the round, I find the arrangement and configuration of the ground floor flat is acceptable.
11. The Council were faced with a first floor kitchen placed over bedroom 1 at ground floor level. The concern is disturbance to the latter's occupants created by use of the kitchen. An alternative scheme proposes to re-configure the layout by stacking a living room over the bedroom, which would work better in practice. Provided this scheme can be secured by imposing a condition, I consider this alternative arrangement would be acceptable.

12. DMP policy 19 requires all new dwellings provide amenity space: 20 square metres per flat. The size of the ground floor flat's outdoor area is limited but its shape would provide practical and useable private amenity space for future residents. I am concerned that occupiers of the first floor flat do not have access to any amenity space, which is a deficiency. However, it would be a one-bedroom flat and the likely demand arising from its occupants for on-site amenity is likely to be insignificant. There is sufficient internal space that could be utilised for domestic chores, such as drying clothes. Additionally, there is no evidence before to suggest there is no public open space nearby. While these open spaces are of general benefit, they would provide future residents opportunity to enjoy the outdoors. I do not consider planning permission should be withheld on this basis alone.
13. A small section of the rear yard designated for storage of waste collection containers and bicycle store. The distance from the flats to the communal bin area is not too great.
14. Location of the site means that it is accessible on foot and by public transport, but the Council is concerned about lack of off-street parking for the flats. However, there is no evidence before to indicate that the street is heavily parked or that this location presents particular traffic safety hazards. There is already on street parking restriction in the form of timed residents' permit scheme, and the Council has provided no clear information to show parking stress. At the time of my site visit, there appeared to be sufficient capacity for on-street parking of motor vehicles in the locality. While that is likely to change in the evenings when residents return home, there is nothing to indicate an existing parking problem would be exacerbated because of this limited scheme. Given the scale of development, I do not consider demand for on street parking is likely to increase significantly. The scheme is unlikely to create or contribute to congestion in the area.
15. For all of the above reasons, while there is deficiency in amenity space, overall I conclude that the development would not, subject to suitably worded conditions, materially harm living conditions of existing and future occupants. Accordingly, the scheme would comply with policy 3.5 of The London Plan, and DMP policies 1 and 18.

Other considerations

16. Although the reasons for issuing the notice do not refer to the possibility of an undesirable precedent being set, it is implied in the Council's statement of case². There are already examples of similar conversions in the street, but there is no clear evidence before me to suggest similar schemes are likely to be repeated nearby if planning permission is granted. There is nothing to show that the loss of this family dwelling has a negative cumulative effect on the character of the street. Indeed, I have examined the planning merits of this development and found the size, layout and arrangements of the flats acceptable subject to imposing suitably worded conditions to make it acceptable in planning terms, which I will come to later.
17. A local resident has concern about fly tipping but that is primarily a matter for environmental health services. A designated storage area is proposed at rear of no. 52.

² The Council briefly mentions this matter in paragraph 3.1.11.

Planning balance

18. The grant of planning permission results in the loss of this family dwelling, however the development has no material effect upon the supply of housing in the Borough. The lack of private amenity space for occupiers of the first floor flat is a deficiency, but not sufficient enough to withhold planning permission on this basis alone due to the location of the site. The conversion scheme has no adverse effect upon the living conditions of existing and future residents. To these findings I attach significant weight. The Council's concern about a negative precedent carries very little weight.
19. On balance, I find that, subject to suitably worded conditions, the scheme would not materially conflict with the aims and objectives of Core Strategy policies CP 1, CP 2 and CP 21, DMP policies 1, 16, 17, and 18, and The London Plan policies 3.5 and 3.14.

Conditions

20. The NPPF indicates local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The Council did not supply any suggested conditions.
21. Development has already been carried out, but drawing no. 15/021/25 shows a different internal layout to address stacking. Against this background, the purpose of condition 1) is to require compliance with a strict timetable for dealing with the internal layout. This matter needs to be addressed in order to make the development acceptable in planning terms. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter, since development has already taken place. The condition therefore provides for the loss of the effective benefit of the grant of planning permission where the detailed matter in question is not submitted for approval during the time set by the condition, approved either by the local planning authority or by the Secretary of State on appeal, and then implemented in accordance with an approved timetable. Should the requirements of the condition not be met in line with the strict timetable, then the planning permission falls away.

Overall conclusion

22. For the reasons given above and having considered all other matters, I conclude that the appeal should succeed on ground (a) and planning permission has been granted. The appeal on ground (f) does not therefore need to be considered.

A U Ghafoor

Inspector