

Appeal Decision

Site visit made on 28 March 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 21 April 2017

Appeal Ref: APP/C5690/W/16/3161396

291 Brockley Road, Crofton Park, London SE4 2SA

- 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 Mrs Pam Giggins against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/097691, dated 27 July 2016, was refused by notice dated 13 October 2016.
 - The development proposed is for the subdivision of the upper parts to form two x 1 bedroom self-contained flats incorporating a small second floor roof extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to the provision of internal and external living space and waste storage arrangements; and
 - whether the proposed development preserves or enhances the character or appearance of the Brockley Conservation Area.

Reasons

Living conditions

3. The appeal relates to a three storey terrace property with a mixed commercial and residential use. It is proposed to convert the existing three bedroom maisonette at first and second floor level into two separate flats.
 4. DM Policy 32 of the Development Management Local Plan (DMLP) expects, amongst other matters, that all new residential development meets the functional requirements of future residents. It is stated that the standards in the London Plan will be used to assess whether new housing development provides an appropriate level of residential quality and amenity. This will involve an assessment of whether the proposals provide accommodation that meet the criteria including minimum space standards and sufficient space for storage and utility purposes. Policy 3.5 of the London Plan sets out the
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- minimum space standards for new developments, adopted from the nationally described space standard¹.
5. The proposed plans show that flat 1 would have a floor area of 58.7m² including a bedroom of 12.4m² and a study of 11m². Given that there would be no mechanism to prevent the study being used as a second bedroom, the corresponding standards of the London Plan should properly be applied. For a two bedroom, three person flat this would be 61m². The appeal proposal would therefore fall approximately 2m² below this minimum standard. However, given the size of the second room, there is potential for it to be used as double bedroom, which would increase the minimum space standard requirement to 70m² and in turn would increase the deficiency to approximately 11m². This would be significant and would result in cramped and oppressive living conditions for future occupants.
 6. I note the appellant has provided a plan within her 'Appeal Statement 2' document which instead annotates the study of flat 1 as a kitchen. However, this is not the formal plan before me and the Council has not had opportunity to comment on it. Therefore, in applying the 'Wheatcroft Principles', I am unable to take it into account in my decision.
 7. At 49.6m² flat 2 would essentially meet the 50m² minimum space standards for a one bedroom, two person flat. Storage space of 1.5m² would also be provided in accordance with the standards.
 8. The nationally described space standards do not prescribe a minimum living/kitchen/dining size but I accept that the annotated bedrooms would meet the space standards for the same. Nevertheless, in overall terms flat 1 would fall below adopted development plan and nationally described space standards.
 9. Moreover, Standard 26 of the London Plan Housing Supplementary Planning Guidance (the Housing SPG) also states that a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings and an extra 1m² should be provided for each additional occupant. It is stated that dwellings on upper floors, as is the case here, should all have level access to a terrace, roof garden, winter garden, courtyard garden or balcony. The Housing SPG states that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement.
 10. In this case, the appeal proposal does not provide any outdoor amenity space and the internal accommodation is either below standard or very close to it, even without the additional space requirements to compensate for the lack of outdoor space.
 11. Whilst the existing unit may not have any external amenity space, I have no evidence that this has been approved as such under the current development plan standards. Similarly, although it is stated that a countless number of conversions could be presented with similar parameters that do not have outdoor amenity space, I have not been provided with any examples of the same which have been approved under the current development plan

¹ DCLG. Technical housing standards - nationally described space standard. 2015

standards. This therefore significantly reduces the weight I am able to apply to this assertion.

12. Furthermore, although it is stated that two sets of couples are living adequately in identical flat elsewhere, this is not a sufficient reason for these space standards to be set aside as they seek to ensure that all new homes are functional and fit for purpose.
13. The space standard deficiencies would be compounded without adequate refuse storage facilities. In this regard, I note the suggestion that a store could be provided within the demise of the ground floor shop, however, I have not been provided with any site specific plan to show how this would be achieved in the case of the appeal proposal and how this would affect the retail frontage. In the absence of such information to demonstrate that the matter could be satisfactorily resolved, it would not be appropriate to defer to a condition.
14. I accept that the proposals would bring a building back into use, which is currently vacant and in a poor state of repair and that the National Planning Policy Framework (the Framework) seeks to boost the supply of housing. However, this does not justify allowing accommodation which would not meet the needs of future occupants.
15. I therefore conclude on this main issue that the accommodation fails to meet adopted standards and as a result would provide unacceptable living conditions for future occupants, contrary to Policy 3.5 of the London Plan (2016), the Housing SPG, DM Policy 32 of the DMLP and the Lewisham Residential Standards Supplementary Planning Document (SPD), which seek to ensure high quality housing provision.

Conservation Area

16. The appeal site is located within the Brockley Road Conservation Area, the character of which is of a Victorian suburb with many of the houses set in wide, tree-lined roads which add to the area's spacious and leafy appearance.
17. The appeal building is a three storey Victorian terrace building with a ground floor commercial frontage with brick finish above incorporating decorative detailing. The rear of the terrace is more functional in character and is largely defined by the outrigger extensions of varying height, which I agree present a neutral contribution to the character and appearance of the Conservation Area.
18. Within this context, the second floor rear extension would be very modest and subservient in its scale and discreet in its positioning. It would be set well back from the main back wall of the outrigger and set in from its sides. It would be no higher than the main part of the adjacent chimney. It would break the eaves line but this wouldn't be readily discernible from many viewpoints and matching materials would help it blend in with the main roof. Therefore, although visible from Margaret's Road, it would not be a prominent feature. The extraction flue at No 293 Brockley Road, would be far more conspicuous. Beyond this view, the proposal would have very limited visual influence on the wider Conservation Area.
19. I also note that the Council approved a similar scheme at No 321 Brockley Road in January 2007. I accept that there has been a change to the development plan in the intervening period and that the Government has introduced the Framework. However, during this time there has been no

change to the statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 for special attention to be paid to the desirability of preserving or enhancing the character and appearance of a Conservation Area.

20. I therefore conclude on this second main issue that the proposal would leave the character and appearance of the Conservation Area unharmed and therefore preserved. Accordingly I do not find conflict with: London Plan Policies 3.5, 7.4 and 7.6; Core Strategy Policies 15 and 16, DMLP DM Policies 31, 32 and 36; or the Lewisham Residential Standards SPD, which, amongst other matters, reflect the above statutory duty and require development to be of the highest architectural quality.

Other matters

21. Whilst reference is made regarding a lack of affordable housing, I have no evidence that the appeal proposal is promoted as such therefore I am unable to take this benefit into account in my decision. Similarly, although the affordability of refurbishment has been raised, I have not been provided with any financial viability assessment to support the appellant's position on this matter. Moreover, I have no evidence to demonstrate a lack of demand for 3 or 4 bedroom flats in this location, thereby significantly reducing the weight I am able to afford to any such assertion.
22. I note the appellant's concern relating to a lack of contact by the Council, however, this is not a matter for this appeal, which I have determined afresh and on its planning merits.

Conclusion

23. Although I have found that the proposal would preserve the character and appearance of the Brockley Conservation Area, I have found that the proposal would not provide acceptable living conditions for future occupiers. For this reason, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector