
Appeal Decision

Site visit made on 31 May 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 27 June 2017

Appeal Ref: APP/N5660/W/17/3169923
25 Villa Road, London SW9 7ND

- 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 S Oakes against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/05596/FUL, dated 27 September 2016, was refused by notice dated 19 December 2106.
 - The development proposed is creation of 2 flats (1x1 bed & 1x2 bed) at ground floor and lower ground floor together with cycle storage and bin storage.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal, in the absence of a legal agreement, would make adequate provision for car-free housing.
 - The effect of the proposal on housing provision within the Borough.
 - Whether the proposed development would preserve the character and appearance of the Brixton Road Conservation Area.
 - The effect of the proposal on the living conditions of future occupiers of the flats with particular regard to accommodation space.
 - The effect of the proposal on the living conditions of nearby residents with particular regard to outlook.
 - Whether or not the proposal makes adequate provision for cycle storage.

Reasons

Car free housing

3. The appeal property is a mid-terrace, three storey plus basement building located on the north side of Villa Road with accommodation also in the roof space. It was originally constructed as a dwelling. The appellant indicates that it comprises three flats with a two bedroom flat at the ground floor and basement level, a one bedroom flat at first floor level and a two bedroom flat at second and third floor level.
-

4. The appeal relates to the ground floor and basement floors of the building only and proposes the conversion of the existing two bedroom flat into a two bedroom flat at ground floor level and a one bedroom flat at basement level.
5. The property is located within an area having a Public Transport Accessibility Level (PTAL) of 6 which indicates that it has very good accessibility to public transport, and is within a Controlled Parking Zone with limited space on the frontage for car parking. The Council indicate that, as the planning obligation has not been provided to secure that the flats would be occupied on a car permit free basis, the proposal would be contrary to Policy T7 of the Lambeth Local Plan 2015 (Local Plan). This policy, amongst other things, requires proposals to provide minimal parking provision in areas with good public transport accessibility and be car-free, including permit-free, in such areas.
6. The appellant is agreeable to the development being car-free, but no planning obligation has been submitted. A car-free housing scheme seeks to restrict the ability for future occupiers to have parking permits which are provided under other legislation and may require alterations to the local traffic order to exclude occupiers of the property from being eligible to apply for one.
7. In the absence of a submitted planning obligation, the appellant has suggested that a planning condition could be imposed that prevents future occupiers of the flats from being entitled to a residents parking permit. I have considered the suggested condition against the advice given in paragraph 206 of the National Planning Policy Framework (the Framework) and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance.
8. Whilst the appellant provides a model condition, I am mindful that such a condition would not be easily enforceable because the Council cannot unilaterally withhold requests for parking permits. In this regard, I recognise that a planning condition requiring residents not to apply for a parking permit may not be possible to enforce.
9. Consequently, I find that requiring a condition rather than a planning obligation in respect of a commitment to car free housing would not achieve the desired outcome. Under such circumstances, if the proposed development were to go ahead, there would be scope for future residents to apply for, and receive, parking permits. This would be likely to result in the proposal contributing to parking stress and congestion in the area.
10. Although the scale of the development proposed is limited, I nonetheless consider that a failure to secure car-free housing in this instance, without appropriate justification, would have the real potential to detrimentally undermine the Council's approach to this issue, thereby causing material harm to the character of the area, the safe and efficient use of the local highway network and the living conditions of local residents. As such, given the particular circumstances of the site, I am satisfied that it would be necessary to ensure that the proposed flats remained car-free for the lifetime of the development.
11. Accordingly, in the absence of an appropriate mechanism to secure a car-free status for the residential units proposed, I conclude that the proposal would not make adequate provision for car-free housing and would be liable to contribute unacceptably to parking stress and congestion. Accordingly, it would be

contrary to Policy T7 of the Local Plan which seeks to promote sustainable and efficient travel, including securing car-free development in certain areas. It would also not meet the aims of the Framework, in not encouraging the use of more sustainable modes of transport.

Housing provision

12. The Council suggest that the proposal would be contrary to Policy H6 of the Local Plan. This policy, amongst other things, indicates that the Council will protect dwellings suitable for occupation by families from conversion into flats. The supporting text to this policy explains that dwellings suitable for occupation by families' means houses, purpose built maisonettes and duplex dwellings with ground-floor access to a rear garden, with three or more bedrooms. The Council consider that the ground floor and lower ground floor comprised a self-contained three bedroom unit that would be suitable for family accommodation.
13. There is little doubt that the appeal property was originally constructed as a single dwelling house and has previously been converted into three flats at some point in the past. The appellant suggests that the property was converted into flats in 1993. However, there is disagreement between the main parties as to whether the former unit on the ground and lower ground had two or three bedrooms.
14. The Council suggest that the appeal property has never had a specific planning permission for its conversion into flats and it has been subdivided over time. It asserts that the approved plan (Ref 0604 9000) submitted with a planning application that was granted permission in 2013 for a series of minor internal and external works (Ref 13/02180/FUL) shows a single unit comprising of two bedrooms on the lower ground floor and one bedroom on the ground floor. The appellant suggests that this plan shows proposals for two separate accommodation units, each of one bedroom.
15. A further application (Ref 14/000322/VOC) contained an amended plan (Ref 0604 9000 Rev B) which the appellant suggests also shows two separate units. The Councils evidence indicates that a further application granted permission in 2014 for alterations to the rear outrigger and rear elevation of the property (Ref 14/06006/FUL) present the ground and lower floor as a single two bedroom unit.
16. The appellant has also provided evidence from a former resident of the appeal property from 1991 to 2011 who identifies that the property was converted into three self-contained flats in 1993 with Flat A being a two bedroom flat on the ground and lower ground floors. The existing floor plan (Ref 002 P1) submitted with the appeal application also show ground and lower ground floors as a single unit comprising of two bedrooms.
17. I have no conclusive evidence that demonstrates beyond reasonable doubt that the ground and lower ground floor was formally a self-contained unit of three bedrooms or indeed whether there was ever any evidence of a planning permission for this. It appears to me that the 2014 permission (Ref 14/06006/FUL) was the latest evidence that was formally considered by the Council and showed the ground and lower ground floor as a two bedroom self-contained unit.

18. Taking into account the 2014 permission and the evidence provided by the former resident, on the balance of probability, and in the absence of any other clear and convincing evidence to the contrary, I conclude that there is insufficient evidence to demonstrate that the ground and lower ground unit was converted and occupied as a three bedroom unit and was more probably a two bedroom unit. Consequently, in not comprising family accommodation, the proposal would not be contrary to Policy H6 of the Local Plan.

Character and appearance

19. The Council indicate that the proposed bin storage arrangements would result in visual clutter that would appear incongruous in relation to the rest of the terrace. Owing to the design of the terrace block with front light wells and steps leading to the front door, there is little opportunity to store refuse bins within the confines of the properties and consequently most bins appear to be left out on the street which causes the area to have a generally cluttered and untidy appearance.
20. The proposal would involve the construction of an enclosed bin store at ground level within the existing light well area with a capacity for two large bins. This would eliminate the need for bins associated with the two proposed flats to be stored on the street and would therefore reduce street clutter rather than add to it.
21. I accept that the proposal would involve the construction of a small enclosure at the front of the property that would slightly interrupt the flow of the frontages along the terrace. However, the only alternative appears to be to leave bins on the street and further add to the existing clutter. In my view, the small scale nature of the bin enclosure would have a lesser impact on the character and appearance of this part of the conservation area than the random storage of bins on the street. The design of the bin enclosure could be the subject of a planning condition were I minded to allow the appeal.
22. Taking these factors into account, the proposal would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the Framework. As a result there would be no conflict with Policies H6, Q5, Q7 and Q22 of the Local Plan. These policies, amongst other things, require proposals to respect local context, preserve the character of appearance of the Conservation Area and ensure that refuse storage arrangements do not adversely affect the quality of the street scene.

Living conditions – future occupants

23. The Council indicates that the floor area of the single bedroom and the width of the double bedroom in the lower ground floor flat would fail to meet the requirements of the Governments Technical Housing Standards – Nationally Described Space Standard (2015) (NDSS) which have been adopted in Policy 3.5 of the London Plan (2016). These require that a single bedroom should have a floor area of at least 7.5m² and be at least 2.15m wide and that a double (or twin bedroom) should have a floor area of at least 11.5m² and be at least 2.75m wide.

24. The appellant suggests that the proposed single bedroom would have a floor area of 8.3m² and a width of 3.36m thereby exceeding the requirements as prescribed in the NDSS. The appellant also indicates that the proposed double bedroom would have a floor area of 11.6m² and a width of 3.15m, thereby also exceeding the requirement of the NDSS. I have no evidence to indicate that the appellant's calculations of floor space or room widths may not be correct nor do I have any evidence of any measurements or calculations that the Council may have undertaken.
25. Based on the evidence before me, the proposal would meet the requirements of the NDSS. Consequently, there would be no conflict with Policy 3.5 of the London Plan (2016) or H5 of the Local Plan. These policies, amongst other things, require that proposals should accord with the principles of good design and reflect the space standards set out in the NDSS.

Living conditions – nearby residents

26. The Council indicate that in the absence of accurate plans showing existing and proposed elevations it is not possible to establish what alterations have been made, or are proposed to be made, to the property and therefore it is not possible to assess the impact of the proposal on the living conditions of nearby residents.
27. However, other than the proposed bin and cycle storage areas, the appeal relates to a change of use of the ground and lower ground floors only. No extensions or elevational changes to the property are proposed.
28. The planning history of the site as provided by both parties identifies that there has been recent permissions granted for alterations to the property. I have no evidence of the design details of these previous permissions or the extent to which they have been undertaken, or otherwise, in accordance with the approved plans. In any event, these are not matters that are before me. It is a matter for the Council in the first instance to consider whether the external changes made to the building accord with the approved plans.
29. Consequently, I have no evidence to suggest that the proposed change of use would cause any demonstrable harm to the living conditions of nearby residents. Moreover, the Council's reason for refusal with regard to this issue relies on matters that are not before me in this appeal.

Cycle storage

30. The proposal would provide for cycle storage facilities at the lower ground floor level and would be located in an existing enclosed space beneath the stairs leading from the street to the ground floor entrance of the property. The appellant indicates that this can cater for the storage of three cycles.
31. The Council indicate that the proposal does not clarify how many cycle parking spaces are to be provided and that parking storage would need to be horizontal within a secured and covered store. The Council suggest that the proposal would be contrary to Policy Q13 of the Local Plan which, amongst other things, encourages cycle storage in unobtrusive but accessible locations such as down the side of properties or at the rear.
32. The provision of covered cycle storage space for up to three cycles in a covered and accessible location would, in my view, constitute adequate provision for the

proposed two flats. I have no evidence to indicate why horizontal stage of cycles is required or where this is a requirement of any adopted policy. In making adequate provision for cycle storage there would be no conflict with Policy Q13 of the Local Plan.

Conclusion

33. The site is located in a highly accessible location and would make a modest contribution to the local housing stock and mix of accommodation within the area. I have also found that the proposal would not result in the loss of a family sized dwelling, would preserve the character and appearance of the Conservation Area, would provide for acceptable living conditions for the future occupiers and provide adequate arrangements for cycle parking. These are all matters that weigh in its favour. However, none of them is sufficient, individually or cumulatively, to outweigh the harm identified in respect of its impact on on-street parking and the failure to secure car-free housing.
34. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR