
Appeal Decision

Site visit made on 27 June 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 25 July 2017

Appeal Ref: APP/A5840/W/17/3170200

52 Surrey Road, London SE15 3AT

- 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 Nicola Miller against the decision of the Council of the London Borough of Southwark.
 - The application Ref 16/AP/4895, dated 2 December 2016, was refused by notice dated 31 January 2017.
 - The development proposed is the construction of a rear dormer extension including 2x roof lights to the front elevation with raised ridge height and conversion of existing dwelling property to form 2 x 2-bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form indicates no name for the applicant and the agent did not identify himself as the applicant. However it has been confirmed this was an error and that the appellant, identified in my second bullet, was the applicant.

Main Issue

3. The main issue is the effect of the development on the provision of dwellings suitable for occupation by families in the area.

Reasons

4. The appeal property is a two-storey, mid-terrace house with a rear outrigger and comprises three first-floor bedrooms, two ground-floor living rooms and an integral garage. The garage is not an original feature and its incorporation into the building necessitated moving the front door into the centre of the existing front bay.
5. The proposal is for the conversion of the property into two two-bedroom flats to be accommodated on three floors. This would be achieved by raising the height of the roof ridge, the construction of a rear dormer and the addition of two roof lights in the front pitch. The plans also include a proposal to reinstate the bay as a window and to replace the garage door with two front doors.
6. The flat identified as Unit 1 would be mainly ground-floor accommodation with the second bedroom on the first floor of the outrigger, and would have an area of roughly 80 square metres. Unit 2 would occupy the remainder of the first floor

with additional accommodation on the second floor in the proposed roof extension. This unit would have an area of roughly 78 square metres. These dimensions would appear to meet the Council's minimum floor area standards for two-bedroom flats.

7. Strategic Policy 7 of the Southwark Council Core Strategy 2011 (the Core Strategy) and Saved Policy 4.3 of the Southwark Plan 2007 (the Local Plan) together seek to ensure the provision of a range of dwelling sizes to meet the borough's housing needs. To support this aim Strategic Policy 7 states that development should provide more family housing with three or more bedrooms, although this is primarily in reference to new developments of ten or more houses. Policy 4.3 states that conversion of a single dwelling into two or more dwellings would not be permitted where the original net internal floor space is 130 square metres or less.
8. Paragraph 3.3 of the Southwark Council 2015 Technical Update to the Residential Design Standards 2011 (the Technical Update) supplements Policy 4.3 of the Local Plan. It reiterates that permission should not be given for the conversion of houses with a floor space of 130 square metres or less and explains that this is to protect the supply of small family homes, for which there is a known need. As a Supplementary Planning Document, the Technical Update is a material consideration to which I attach significant weight.
9. The Council and appellant broadly agree that the net internal floor space of the existing building is approximately 122.5 square metres. This indicates that the proposal would not be in accordance with Policy 4.3 of the Local Plan.
10. The appellant also asserts that the existing dwelling should not be considered a small family home, as referred to in the Technical Update, because it has space large enough to meet the minimum standards for a five-bedroom or six-bedroom property. I accept there is no definition of a small family home in either the Core Strategy or the Local Plan, though The London Plan's glossary does state that a family home is generally defined as having three or more bedrooms.
11. Table 1 of the Technical Housing Standards - Nationally Described Space Standard 2015 (the National Standard) prescribes a minimum gross internal space of 84 square metres for a two-storey, three-bedroom dwelling, which the existing building comfortably exceeds. The appellant accepts that the proposal would result in the loss of a three-bedroom dwelling but argues that the two two-bedroom units that would replace it should be considered as small family homes because they would meet the National Standard for four-person, two-bedroom units.
12. However, the Technical Update clearly equates the protection of small family homes with properties having 130 square metres of space or less. The National Standard provides minimum guidelines for gross internal space and exceeding those guidelines does not necessarily prevent a property being considered as a small family home. Nevertheless, it is clear that a two-bedroom property does not fall within the general definition of a family home in The London Plan whatever its floor space.
13. Small family homes must clearly be family homes and therefore I consider that a minimum number of three bedrooms is required. In addition a small family home should be defined by reference to overall size and not just the number of bedrooms. Policy 4.3 of the Local Plan, informed by the Technical Update, achieves this balance by providing a cut-off point after 130 square metres.

Whilst the internal floor space falls just below this I do not consider it to be *de minimis*; to disregard any shortfall would undermine the efficacy of the policy.

14. The conversion would result in an additional housing unit for which there is no doubt a demand. The additional housing unit would provide modest assistance to the Council in achieving its target for the increase in the supply of residential accommodation, but would result in the loss of a family home. It is clear from Strategic Policy 7 of the Core Strategy that the Council seeks to maximise the number of properties with three or more bedrooms to provide for families in the area. I have no evidence before me to demonstrate that the demand for two-bedroom units is such that two units would outweigh the overall benefit to the community of retaining a family home as part of the range of housing available for occupation in the area.
15. Therefore, I conclude that the development would not be in accordance with Strategic Policy 7 of the Core Strategy or Policy 4.3 of the Local Plan as informed by the Technical Update. The appellant refers to policies contained in the Peckham and Nunhead Area Action Plan 2014 (the Action Plan), which form part of the development plan framework. However, I have no evidence before me that demonstrates any conflict between the Action Plan and Policy 4.3 of the Southwark Plan 2007.
16. I have also been referred to the judgments of *Laura Cummins*¹ and *ex parte Milne*² in that a proposal does not have to accord with each and every policy in a development plan; it is enough that it accords with the development plan as a whole. However, there is nothing before me to suggest that a proposal cannot properly be refused due to conflict with one or more development plan policies.

Other Matters

17. I accept the alterations to the existing garage door and alteration to the bay window would be of benefit to the character of the remainder of the terrace. However, in January 2017 permission was granted (Ref 16/AP/4691) *for the construction of a rear dormer extension including three roof lights to the front elevation*. This also included alterations to the front elevation to reinstate the bay window and replace the garage door with a front door.
18. I have seen no evidence to suggest that if this appeal fails the earlier permission would not be implemented and a more sympathetic front elevation may arise in any event.
19. I have also considered that in its current form the dwelling could not be considered as affordable housing because of the prevailing market value. While the cost of renting or purchasing a two-bedroom flat might be less than the cost of a three-bedroom house, affordable housing is specifically defined in Annex 2 of the National Planning Policy Framework (the Framework). To meet the definition of affordable housing specifically requires that the dwelling be let or sold below the market rate. I have no evidence before me that appellant intends to let or sell on such terms and thus give little weight to the affordable housing argument.
20. Paragraph 17 of the Framework refers to brownfield development as the reuse of previously developed land. The development would retain the original structure and use of the building and I consider the scheme would be a continued use

¹ Laura Cummins and London Borough of Camden, SSETR and Barrett Homes Limited [2001]

² R.v Rochdale MBC ex parte Milne [2000] & City of Edinburgh Council v. Secretary of State for Scotland [1997]

rather than a reuse of the land. However, in terms of sustainability, I have seen no evidence to show that the conversion would be more sustainable than the retention of the building as a three-bedroom family home.

21. Finally, the difference in the standards between one London borough and another are matters for local policy to reflect local needs. It is not for me, under a section 78 appeal, to determine whether the policies of other London boroughs are consistent with The London Plan. I have seen no evidence that leads me to determine that Policy 4.3 of the Local Plan is inconsistent with The London Plan.
22. None of these matters, on their own or in combination, outweigh the harm I have identified.

Conclusion

23. For the reasons given above, and taking into consideration all other matters raised, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR