
Appeal Decision

Site visit made on 18 August 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 05 September 2017

Appeal Ref : APP/F5540/C/16/3158857

Land at 185 Bedfont Lane, Feltham, TW14 9NH

- 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 Khadim Chaudhary against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The notice was issued on 1 September 2016.
- The breach of planning control as alleged in the notice is the conversion of the property into two self-contained flats without planning permission.
- The requirements of the notice are (i) cease the use of the property as two self-contained flats; (ii) remove all but one of the bathrooms and associated bathroom facilities; (iii) remove all but one of the kitchens and associated kitchen facilities; and (iv) remove all the resultant debris from the land.
- The period for compliance with the requirements is three 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.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. The Appellant confirms that the kitchen on the first floor and partition doors have been removed and that the site is currently in use as one dwelling. But I must consider the breach as it existed at the time of issue of the notice.
2. The Appellant asserts that the property has never been occupied as 2 separate units and therefore the alleged breach of planning control has not occurred. But there is no ground (b) appeal before me. Whilst I have the power to consider a hidden ground (b) appeal the onus of proof would be on the Appellant and there is no supporting evidence before me on this issue. I therefore do not consider this issue in determining this appeal.
3. The Appellant also suggests that no planning permission is required for the works as they are internal and not within the definition of development. But there is no ground (c) appeal before me and in any event the alleged breach concerns use of the property. I shall therefore determine the appeal under grounds (a) and (f).

Ground (a) appeal and deemed application

Main Issues

4. The main issues in the determination of this appeal are the effect of the development on (1) the living conditions of (i) occupiers of nearby properties with particular regard to noise and disturbance, parking and rubbish and (ii) current and future occupiers with regard to the adequacy of private amenity space and internal floor space and (2) the supply of family housing within the Borough.

Living conditions

5. The appeal site is a two storey semi-detached property in a predominantly residential area. The conversion from a single family dwellinghouse comprises two separate flats – a two bedroom flat on the ground floor and a one bedroom flat on the first floor.
6. Development plan policies (including policy 3.5 of the London Plan and policy SC6 of the Local Plan) mirror the National Planning Policy Framework (the Framework) in seeking adequate living conditions for occupiers of development and their neighbours.
7. The notice asserts that the development is likely to generate higher levels of visitors, movement, refuse and general disturbance and that this disturbance and likely associated parking, activity and rubbish would harm living conditions for neighbours.
8. But there is no evidence before me to support this argument and I note that in refusing an application for planning permission for the conversion of the property into 2 self contained flats the Council did not identify this as a ground for refusal. In fact in the officer's report it specifically identified no harm to the living conditions of neighbours.
9. On the evidence before me I do not consider that the likely comings and goings associated with the conversion would generate substantially higher levels of visitors or movement than a single dwellinghouse. I am not persuaded that the use as two flats would be likely to create harm to the living conditions of nearby residential properties by reason of noise and disturbance or increased rubbish. There is also no evidence before me to suggest that harm would be caused to highway safety by reason of an increased demand for parking.
10. Turning to the living conditions of current and future occupiers. The property has a rear garden area which can be accessed by occupiers of the first floor flat via a pedestrian alley adjacent to the site. Whilst I agree with the parties that the arrangement for access is not ideal I do not consider it to cause undue harm to the living conditions of current and future occupiers of the first floor flat.
11. There is no dispute that the ground floor flat has adequate internal floor space. The issue between the parties concerns the first floor flat which has an internal floor area of 42 sqm. There is no dispute that it meets the standards for a one bedroom – one person unit but not for a one bedroom – 2 person unit.
12. There is nothing before me to cast doubt on the Appellant's representation that the first floor flat is a one person unit. When the Council visited the property

they record it was unoccupied. I therefore conclude that there is no failure to comply with the development plan and no harm to the living conditions of current or future occupiers of the first floor flat by reason of internal floor space area.

13. For the reasons stated above I conclude that the development accords with the development plan and does not cause harm to the living conditions of neighbours by reason of noise or disturbance, parking or rubbish or the living conditions of current or future occupiers of the first floor flat with regard to private amenity space or internal floor space.

Housing stock

14. Local Plan Policy SC6 concerns conversions and sub-division of existing housing. It seeks to meet housing need without having an adverse impact on the character of an area and residential amenity and lists specific criteria to be met before conversion or sub division will be considered acceptable. One of the criteria is to meet a minimum net original floor area threshold of 130 sqm.
15. There is no dispute that the total internal floor area is less than 130 sqm. This criteria of policy SC6 is therefore not strictly met. But it is relevant to consider the extent of harm caused by this breach.
16. One of the other criteria listed in policy SC6 is to provide at least one family sized unit (two bedroom – four persons or more) at ground level. There is no dispute that the ground floor unit in this case meets this description.
17. Other criteria in policy SC6 concern internal and external space standards, standards of amenity for future occupiers. I address these issues earlier in the decision and find no harm.
18. I therefore conclude that although there the development does not meet the minimum floor area stated in policy SC6 on balance there is no undue harm to the character of the area or residential amenity. Granting permission in this case would not undermine the Council's principle of seeking to retain family housing stock as it turns on the specific circumstances of this appeal.
19. For the reasons stated above I conclude that the development satisfies the development plan and the Framework and does not harm the Council's objectives for creating a balanced housing stock.
20. No conditions are proposed by the Council in the event that the appeal is allowed. I have considered the Planning Practice Guidance. As I have not identified any harm no conditions are necessary.

Conclusion

21. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered

Formal Decision

22. 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 1990 Act as amended for the development already carried out, namely conversion of the property at 185 Bedfont Lane, Feltham,

TW14 9NH as shown on the plan attached to the notice into two self- contained flats.

S. Prail

Inspector