



Appeal Decision

Site visit made on 23 January 2018

by M Seaton DipTP MRTPI

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

Decision date: 15 February 2018

Appeal Ref: APP/G5180/W/17/3178953

9-10 St. Clare Court, Foxgrove Avenue, Beckenham, BR3 5BG

- 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 D Sengupta against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/00758/FULL1, dated 20 February 2017, was refused by notice dated 12 May 2017.
 - The development proposed is the conversion of basement storage into 1 bedroom flat (resubmission of planning application reference: 16/03932/FULL1).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - whether the proposals would make adequate provision for the living conditions of future occupiers of the accommodation, having regard to light, and ventilation and ceiling heights; and,
 - whether the proposed development would safeguard the living conditions of the neighbouring occupiers of Flat 8a, 5-8 St Clare Court, having regard to privacy, and also in respect of the privacy of future occupiers of the proposed residential unit.

Reasons

3. The appeal site is occupied by a substantial detached building which is comprised of two separate 2 bedroom flats. Foxgrove Avenue is located within a predominantly residential area, with a mix of private residences and purpose built blocks of flats. Access to the rear of the appeal site is achieved via a sideway which slopes downwards between the appeal property and the neighbouring building to a communal garden stretching across the rear of the appeal site and neighbouring blocks at 1-4 & 5-8 St Clare Court.

Living conditions – future occupiers

4. The Council has highlighted concern in respect of the living conditions of future occupiers. In particular, the impact of the proposed floor to ceiling heights, and the availability of natural light to the proposed accommodation have been cited as of particular concern.

5. I have been directed to Table 3.3 of The London Plan, which sets out minimum space standards for new dwellings, and which supports Policy 3.5 in addressing the quality and design of housing developments. I note that the proposed 1 bed 2 person flat would comfortably exceed the minimum space standard for the Gross Internal Area (GIA) of such a unit of 50m². Nevertheless, the Council has highlighted the Notes to Table 3.3, with specific reference to Note 3, which requires development to meet the minimum ceiling height of 2.3m for at least 75% of the GIA, as set out in the nationally described space standard. I am also mindful that, as a consequence of the heat island effect of London, and recognising the density and flatted nature of most residential development, a minimum ceiling height of 2.5m for at least 75% of the gross internal area is strongly encouraged, in terms of light, ventilation and sense of space.
6. The level of excavation to facilitate the proposed basement accommodation is indicated to achieve a floor to ceiling height of 2.4m, which would exceed the 2.3m requirement of the nationally described space standard, but would not meet the strongly encouraged minimum ceiling height as a means of addressing London's heat island effect. However, it is evident from the wording of the Note attached to Table 3.3 of the London Plan, and as reflected by Standard 31 of the Mayor of London's Housing Supplementary Planning Guidance (SPG) 2016, the achievement of a 2.5m minimum ceiling height is set out as an aspiration rather than a requirement. In this respect, I have been mindful of the appellant's stated willingness to meet the 2.5m standard through an amendment to the scheme, but also the Council's contention that it would fundamentally alter the proposed development as applied for. Nevertheless, in this instance and given the overall size of the accommodation and rooms, I am not persuaded that a failure to achieve a 2.5m ceiling height would result in an unacceptable impact on future occupiers, or that there would be an unacceptable impact on ventilation and a sense of space.
7. Turning to the availability of natural light, I am satisfied that the rear-facing lounge and bedroom would possess appropriately-sized windows/glazed doors to provide adequate levels of light for future occupiers. In respect of the kitchen window, I have carefully considered its location and the potential availability of natural light as a consequence of its north-facing orientation and the proximity of the neighbouring building at 5-8 St Clare Court. Whilst I assess that the size of the window would be perfectly reasonable for the room, on the basis of my observations of the position and context of the window, I would agree with the Council's assessment that the proposed north-facing kitchen window would benefit from a reduced level of natural light, which would have an adverse effect on the quality of the living conditions available for future occupiers.
8. I note that in disputing this conclusion, the appellant has contended that the kitchen should not be regarded as a habitable room. However, my attention has not been drawn to any authority or definition in support of this, albeit that I acknowledge that the Council has not disputed this conclusion. Nevertheless, I have had regard to the core planning principles as set out in the National Planning Policy Framework (the Framework), which includes a requirement for a good standard of amenity for all existing and future occupants of land and buildings. In this respect, I consider that the reasonable size of the proposed kitchen would be likely to lead to more frequent occupation and use in the future than a much smaller equivalent, and I therefore regard it as appropriate that the amenity of future occupiers is assessed in this manner.

9. I am therefore satisfied that whilst the ceiling height of the proposed flat would be acceptable, the proposal would not make adequate provision for the living conditions of future occupiers of the accommodation, having regard to light. There would as a consequence be conflict with saved Policy BE1 of the London Borough of Bromley Unitary Development Plan 2006 (the UDP), which seeks to ensure that accommodation is of a reasonable quality and respects the amenity of future occupants and ensure their environments are not harmed by inadequate daylight. Furthermore, the proposals would not accord with the core planning principles set out at paragraph 17 of the Framework, which refers to the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions – privacy of neighbouring and future occupiers

10. The proposed kitchen and living room would incorporate windows looking towards the neighbouring basement accommodation at Flat 8a, 5-8 St Clare Court, across the alleyway between the properties. The Council has cited privacy concerns over the relationship between the windows with regard to the potential for mutual overlooking between the proposed and existing residential accommodation.
11. In respect of the window to the living room, the submitted plans would seem to indicate this to be a secondary opening, with the main glazed windows and doors situated on the rear elevation. I have noted the appellant's contention that this window could be obscurely glazed and at least in part fixed, which I would agree would be a reasonable response to addressing concerns over mutual overlooking without compromising the living conditions of either property.
12. Turning to the proposed kitchen window, from the location indicated on the submitted plans, its position would be broadly opposite an existing bedroom window on the neighbouring property. Whilst I am mindful that the privacy available to the neighbouring bedroom window is already somewhat compromised by its outlook directly on to the existing communal alleyway, the potential for permanent direct overlooking from only a few metres away from the kitchen window would result in a severe impact on the privacy of neighbouring occupiers. Whilst I have already addressed the appellant's contention that the kitchen should not be regarded as a habitable room, I am not persuaded that a reliance on blinds in the kitchen window would provide satisfactory or acceptable mitigation to the additional loss of privacy, which would also have the potential to be experienced in reverse by occupiers of the proposed kitchen.
13. The proposal would not therefore safeguard the living conditions of the neighbouring occupiers of Flat 8a, 5-8 St Clare Court, having regard to privacy, or in respect of the privacy of future occupiers of the proposed residential unit. This would result in conflict with saved Policy BE1 of the UDP, which seeks to ensure that development respects the amenity of occupiers of neighbouring buildings and those of future occupants and ensure their environments are not harmed by inadequate privacy. Furthermore, the proposals would not accord with the core planning principles set out at paragraph 17 of the Framework, which refers to the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

14. The appellant has cited the conversion of the basement to form Flat 8a, 5-8 St Clare Court as forming a precedent for the proposed development. I observed the adjacent occupied residential accommodation at the time of my visit, and in particular noted the reliance placed by some of the accommodation on windows into the alleyway. However, whilst the proximity between the buildings would clearly be the same as for the proposed flat, the broadly south-facing elevation combined with the absence of a mutual loss of privacy between the properties quite clearly represents a different situation to that which would affect the proposed development. As such, and in the absence of any other compelling evidence to support the contention, I do not consider that the existing development has set a precedent for the proposal.
15. I have had careful regard to the appellant's concerns over procedural aspects of the Council's dealings with the planning application, and in particular the failure of the Council to seek amendments to the scheme during the course of the application. However, these are not matters that are pertinent to the planning merits of the appeal and have not therefore had any significant bearing on my decision-making.
16. Interested parties have raised other concerns, including in respect of the overdevelopment of the site, potential for noise and disturbance during the construction period, impact on the existing parking environment within the street, and the suitability of existing drainage infrastructure to accommodate the propose unit. However, whilst I have been mindful of these submissions, as a consequence of my conclusions on the main issues, the determination of this appeal has not turned on these matters, and there has not therefore been any need to address them.

Conclusion

17. I accept that the provision of an additional unit of accommodation would have the potential to make a limited contribution towards the supply of housing in the local area, a factor to which I would attract some limited weight in support of the proposed development. However, I have found the development to not be in accordance with the Development Plan for the reasons as set out, and I am satisfied that despite the limited benefit, that this would not outweigh the adverse impacts.
18. For the reasons above, the appeal is dismissed.

Martin Seaton

INSPECTOR