The Planning Inspectorate

Appeal Decision

Site visit made on 3 June 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 29/07/2019

Appeal Ref: APP/B0230/W/19/3223894
92, Pembroke Avenue, Luton LU4 9BJ

- 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 W Hussain against the decision of Luton Borough Council. The application Ref 18/01873/FUL dated 14 December 2018, was refused by notice dated 11 February 2019.
- The development proposed is the conversion of a single family dwelling to 1 No. 2 bedroom flat and 1 No. 1 bedroom flat.

Decision

1. The appeal is allowed, and planning permission is granted for the conversion of a single family dwelling to 1 No. 2 bedroom flat and 1 No. 1 bedroom flat at 92, Pembroke Avenue, Luton LU4 9BJ, in accordance with the terms of the application Ref 18/01873/FUL dated 14 December 2018 and the plans submitted with it and, subject to the following condition:

    1) Notwithstanding what is shown on the above plans, refuse bins shall be stored on the eastern side of the building.

Procedural and preliminary matters

2. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issues in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the different parties involved.

3. On 19 February 2019, the Government published the Housing Delivery Test measurement for each local planning authority (LPA), including a technical note on the process used in its calculation. The LPA and the appellant have been given an opportunity to comment on this matter but have not done so.

4. Similarly, both parties have been given the opportunity to suggest a condition relating to bin storage but neither have responded.

5. On my site visit, I was able to see that the appeal property is already in use as two flats.

Main Issues

6. The main issues are (i) the effect of the development on housing needs; (ii) the effect on the living conditions in the area, and especially for the occupiers of No's 90 and 94 Pembroke Avenue, with any consequent effect on the character and appearance of the area and (iii) whether the development provides adequate living conditions for the occupiers of the flats in terms of available space.

Reasons

Site and proposal

7. The appeal building is situated in a residential area of two and three storey brick built, mainly twentieth century properties with a mix of semi-detached and terraced units. The majority have hard surfaces in front of them which are used for car parking.

8. The appeal property is a three-storey, end of terrace with a hard amenity space in front of it. It has already been converted to form 2 flats as detailed in the appeal description. Several of the adjoining properties have bins stored in their front amenity spaces; the appeal property stores bins at the side. It has one entrance door at the front, and it has a similar appearance to the rest of the other three storey properties of which it forms a part: it is not apparent from its appearance that it is two flats and not a single dwellinghouse.

Housing needs

9. The LPA Policy LLP15 of the Luton Local Plan (2017 (LP) aims to provide for the housing needs of the Borough in accordance with the Strategic Housing Market Assessment (SHMA), the latest of which was published in 2018. The LPA states that the SHMA highlights the large need for three bedroomed family houses and points to both their under provision in recent years and a large overprovision of one bedroom flats. On this basis, it opposes the loss of a three bedroom family home.

10. However, the Government's Housing Delivery Test measurement states that the Council is able to demonstrate that it has more than a 5 year supply of deliverable housing land and that provision, when compared to its target, gives a figure of 193%. Even so, the LPA states that there is a shortage of sites suitable for three bedroom properties; but even if this is the case, the replacement of one family home by two flats will not make any material difference to the strategic housing needs of the area.

11. I therefore conclude that the conversion of the dwellinghouse into two flats will not significantly harm the housing requirements of the area as expressed in policy LLP15 of the LP, which aims to meet the housing needs of Luton and the Luton housing market area, or with policy LLP1 of the LP which requires development to accord with local plan policies and which supports sustainable development.

Living conditions in the area

12. The two flats of the appeal building are not discernibly different in appearance to the houses in the same terrace. The appellant says that no external changes have been made. There is only one front door to the building: occupants share the available front amenity space.

13. Nevertheless, the LPA considers that '*the impact on the character of the area is not just determined solely in visual terms but also the activities associates with the conversion to flats, including the comings and goings resulting from increased number of households within the building'*. It considers that the use of the building by separate occupiers gives rise to an intensification of use by increasing journeys for work, shopping and leisure purposes, and to other noise generating activities such as emptying bins, people conversing and an increase in opening and closing of car doors. The LPA considers that this leads to an increased level of noise and disturbance in the area creating significant harm, especially to the occupiers of No's 90 and 94 Pembroke Avenue, and which adversely affects the character and appearance of the area.

14. However, the premises could accommodate the same number of people if it were still one dwellinghouse. There is no evidence before me to support the case that the current arrangement gives rise to a significant increase in comings and goings which detract from the living conditions in the area, or for the occupiers of No's 90 and 94 Pembroke Avenue, through increased levels of noise and disturbance. In addition, there is no discernible difference between the appeal property and that of the adjoining houses. I find that there is no significantly adverse impact on the character and appearance of the area, either physically or socially.

15. I conclude that the use of the property as two flats is not contrary to LP policy LLP1 which aims for sustainable development and adherence to local plan policies, or with LP policy LLP 15 which is concerned with the housing mix. I further conclude that the use of the premises in this way is not contrary to policy LLP25 of the LP or with chapter 12 of the Framework which aim to promote good design in character with the area concerned.

Living conditions for the occupants of the flats

16. One flat has a floor area of 29.6m2: this compares to a minimum of 39m2 as advised in the Written Ministerial Statement - *Technical housing standards - nationally described space standard* (March 2015) (NDSS). The other flat has an internal floor area of 70m2 compared to the minimum standard in the NDSS of 58m2. The available amenity space for the two flats exceeds the NDSS minimum standard. The site has a rear garden of approximately 100 m2 whereas the NDSS minimum requirement is for 11m2.

17. However, the NDSS only applies in those LPAs where it has been adopted by a local plan policy which explains how it will be applied. In this case, there is no such policy. I therefore attach limited weight to it.

18. The smaller of the two flats has a living room which was originally the front lounge. It utilises the original bathroom and it uses the original dining area to provide a bedroom and a separate kitchen. While the flat is compact, I find that its size is not so cramped as to provide inadequate and unsatisfactory living conditions for its occupants.

19. I therefore conclude that living conditions for the occupants of the two flats accord with LP policy LLP1 which aims for sustainable development; with policy LLP15 which is concerned with the housing mix in the Borough; with policy LLP25 and also with chapter 12 of the Framework, both of which stress the need for good design.

Other matters

20. The LPA is concerned that the conversion of the dwellinghouse into two flats sets an undesirable precedent, making it difficult to oppose similar proposals. The appellant has provided evidence of other conversions as examples of such a precedent having been established, one of which was allowed on appeal[1]. However, I have no details of the actual circumstances surrounding the quoted permissions. In any event, I have determined the appeal on the particular circumstances of the case before me.

21. The LPA is also concerned about noise transmission between the two flats and the possible lack of suitable noise insulation. However, this is a matter dealt with by Building Regulations which require that noise insulation is installed between different units of accommodation when a house is converted into flats.

22. These matters do not alter my conclusions on the main issues.

Conditions

23. I have imposed a condition to ensure the development is in accordance with the approved plans in the interests of certainty.

24. The LPA states that '*The submitted details show a bin store on the front garden, which is not considered appropriate as it would detract from the appearance of the area. However, this issue could be resolved by way of condition seeking to relocate the bin store in the passage area located along eastern boundary of the site'.* I noted on my site visit that bins are actually stored at the side of the house and therefore, I have imposed such a condition in the interests of the visual appearance of the area.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Steven Hartley

INSPECTOR

[1] Appeal Ref: APP/B0230/W/16/3166304