



Appeal Decision

Site visit made on 16 July 2019

by D H Brier BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2019

Appeal Ref: APP/M54500/C/18/3208028 60 Silverston Way, Stanmore HA7 4HR

- 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 Dr Nilesh Patel against an enforcement notice issued by the Council of the London Borough of Harrow.
- The enforcement notice was issued on 15 June 2018.
- The breach of planning control as alleged in the notice is the change of use as a single dwelling to use as three self-contained flats.
- The requirements of the notice are:
 1. Cease the unauthorised use.
 2. Remove all but one kitchen from the land.
 3. Remove all but 2 bathrooms from the land.
 4. Remove all the walls and partitions erected to divide the original dwelling into three self-contained flats.
 5. Remove from the land all debris resulting from compliance with requirements 1-4.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed.

Reasons

Main Issue

1. I consider the main issue is whether the living conditions of the occupiers of the flats would be adversely affected.
2. Planning policies for the area are contained in the London Plan (TLP), the Council's Core Strategy (HCS) and Development Management Local Plan (HDMLP), the Mayor of London's Supplementary Planning Guidance (MLSPG) and the Council's adopted Supplementary Planning Document Residential Design Guide (RDG). Also relevant is the National Planning Policy Framework (The Framework).
3. The appeal property is a semi-detached house which has been converted into 3 flats, 2 on the ground floor and one on the first floor. Referring to TLP Policy 3.8 and HCS Policy CS1, the Council raise no objection in principle to the conversion of the property to 3 flats. Their concern, as expressed in the reasons for issuing the notice, focuses on qualitative matters appertaining to the flats, both internally and externally.

4. On the first issue, TLP Policy 3.5C indicates, amongst other things, that new dwellings should have adequately sized rooms and convenient and efficient room layouts. TLP Table 3.3 sets out minimum sizes, something that is reiterated in the RDG. HDMLP Policy DM26 indicates that proposals will be required to comply with TLP minimum space standards. The RDG states that the vertical stacking of rooms should ensure that bedrooms do not overlap kitchens and bathrooms on other floors. And, where possible, the horizontal arrangements of rooms should avoid bedrooms adjoining neighbouring living rooms.
5. As regards the size of the accommodation, the Council indicate that the layout and room sizes of ground floor flat 1 and the first floor flat both exceed the minimum space standards. And, while dedicated storage space is less than the required minima in all 3 flats, it is recognised that there is sufficient space to accommodate storage in them nonetheless. The point in contention concerns ground floor flat 2. Both parties agree that its gross internal floor area is 37m² – 37.25m² according to the appellant. But, while the Council say it is a one double bedroom 2 person flat for which a minimum space of 50m² would be required, the appellant contends it is a single person studio flat for which, as the accommodation includes a shower room, the minimum requirement is 37m².
6. I accept that the living room and kitchen area in ground floor flat 2 could be said to be incorporated into one space. However, I am unable to concur with the appellant's view that the accommodation accords with the definition of a studio flat. The bedroom has its own door and appeared to me to be physically distinct from the rest of the living space, only being linked to it by a passageway. In addition, the floor area of the bedroom exceeds that required for a double room set out in the Technical Housing Standards – nationally described space standard¹. In the light of this, as a matter of fact and degree, I consider it reasonable to regard ground floor flat 2 as a 1 bedroom 2 person flat, in which case its floorspace is well below the 50m² requirement for such accommodation.
7. Turning to the disposition of the accommodation within the property, as I see it, the relationship between the 2 ground floor flats is far from satisfactory. As the bedroom of ground floor flat 2 adjoins the dining area and part of the kitchen of ground floor flat 1, this could well mean that the occupiers of ground floor flat 2 would be disturbed by activity in the next door flat. I do not accept that potential noise emission from the parts of ground floor flat 1 that adjoin ground floor flat 2's bedroom would necessarily be less than from its living room. The possibility that occupiers of ground floor flat 1 could choose to spend significant periods of time in its dining and kitchen areas cannot be discounted. This could well prove disturbing to the occupiers of the neighbouring flat, especially if activity here were to occur late at night. Upgrading the shared wall, on the lines indicated by the appellant, could help alleviate this matter to a degree, but I am not satisfied that such a measure would be sufficient to overcome the essentially unsatisfactory nature of the layout of the 2 neighbouring flats relative to each other.
8. As to outdoor amenity space, HDMLP Policies DM1 and DM26 require the provision of adequate amenity space for future occupiers. While the appellant's

¹ Published by Department for Communities and Local Government

plans indicate that the rear garden of the property would be split into 2 portions, as I understand it, the resultant space would only be for the benefit of the 2 ground floor flats. there is nothing to indicate that any amenity space would be provided for the upstairs flat 3.

9. My attention has been drawn to a recent planning permission granted for the conversion of a dwelling elsewhere in the Borough where the upper floor flat did not have any outdoor amenity space. Although I can understand why this matter has been highlighted, as each case falls to be considered on its own particular merits, it is not something to which I am inclined to attach a great deal of weight. Mindful that the RDG indicates that the Council will seek to ensure that all flats have access to a garden, I regard the absence of any space for the occupiers of flat 3 as another disadvantage which adds to my concern.
10. The Framework expects planning decisions to ensure healthy living conditions, achieve good design and create better places to live. For the reasons set out above, I do not consider the development in question meets these legitimate expectations. My conclusion is that the living conditions of the occupiers of the accommodation would be adversely affected and the development in question would be contrary to the relevant provisions of the development plan and the RDG.

Other Matters

11. The third reason for issuing the notice refers to the visual clutter arising from bin storage in the front garden of the property. And the fourth cites 'inappropriate' on-site parking provision. Judging from the Council's submissions which refer to 'maximum' standards in TLP and the HDMLP, I take 'inappropriate' to mean excessive, albeit one of the concerns expressed by local residents is the amount of on-street parking attributable to the use in question.
12. At first sight, these matters appear to be separate from each other, but in this instance, it seems to me that they are closely related. Nearly all of the frontage of the property is taken up by a paved forecourt about 9.3m wide and 6.3m deep. At the time of my site visit 3 wheelie bins were stationed here. In this location they are a prominent and rather intrusive feature in the local street scene. The presence of the bins, together with their essentially functional form and appearance is readily apparent to passers-by. Bin storage is expressly addressed by HDMLP Policies DM26 and DM45, and mindful that 3 bins are likely to be required for each of the 3 flats as well, in the absence of any effective screening, I agree with the Council that this would make the forecourt of the property appear very cluttered to the detriment of the local street scene.
13. That said, I consider the problem could be overcome by the provision of a suitably designed bin store, albeit it would probably have to be sited in front of the appeal property. This measure, which could be accompanied by a requirement to provide some landscaping here – something the appellant is prepared to do – could be covered by a suitably worded condition.
14. The provision of a bin store would reduce the amount of space available for parking to the extent that it would be likely to fall within the parameters of TLP Policy 6.13 and DMP Policy DM42. Judging by the appellant's plan of the forecourt, it seems to me that this area could be configured in such a manner that cars parked here would not seriously impinge upon the front rooms of the appeal property or its main entrance, and this is another matter that could be

covered by condition. The same applies to the provision of cycle stores – a point accepted by the Council.

15. Having had regard to all the other matters raised, and despite my favourable conclusions regarding the issues stemming from the third and fourth reasons for issuing the enforcement notice, when the case is viewed in the round, none of these matters are sufficient to outweigh the considerations which led me to my conclusion on the main issue.

Overall Conclusion

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal Decision

17. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act.

D H Brier

Inspector