

Appeal Decisions

Site visit made on 24 October 2019

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Date of decisions: 21 November 2019

Appeal A Ref: APP/K5600/C/18/3215813 **6 Redfield Lane, London SW5 0RG**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
 - The appeal is made by Mr S P Coles against an enforcement notice issued by the Council of the Royal Borough of Kensington and Chelsea.
 - The enforcement notice was issued on 12 October 2018 under ref. E/18/00361.
 - The breach of planning control as alleged in the notice is "*Without planning permission, the sub-division (sic) of the property into two separate self-contained residential units.*"
 - The requirements of the notice are to:
 - "(i) Cease the use of the property as two separate residential units;
 - (ii) Re-instate (sic) the property as a single dwelling house;
 - (iii) Remove the door between the ground floor and the lower ground floor/basement levels as shown on appendix 1 attached."
 - The period for compliance with these requirements is "*Three calendar months*".
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/K5600/W/18/3215812 **6 Redfield Lane, London SW5 0RG**

- 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 Stephen Coles against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application ref. PP/18/04246, dated 20 July 2018, was refused by notice dated 21 September 2018.
 - The development proposed is "*Conversion of single house into 2 flats.*"
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Decisions

Appeal A Ref: APP/K5600/C/18/3215813

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B Ref: APP/K5600/W/18/3215812

2. The appeal is dismissed.
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Background and matters of clarification

3. The appeals concern the tallest building in a residential terrace on the southern side of Redfield Lane, a narrow one-way street at this point. Following the construction of a single storey basement extension, pursuant to the grant of planning permission issued under ref. PP/16/03774, there are now 5 floors of accommodation within no. 6 Redfield Lane, below a roof terrace. Without the benefit of planning permission, the single dwelling has been subdivided to create 2 flats. The plans show that each flat would have 3 bedrooms. The parties have referred to the flat spread across the basement and lower ground floors as Flat 6A and to the flat on the 3 floors above as Flat 6. I shall do likewise.
4. The site is within the Earl's Court Village Conservation Area. The enforcement notice and planning decision notice make no reference to this designated heritage asset. This is understandable as I am told by the Council that no additional external alterations were proposed under the planning application the subject of Appeal B. None were specified in the alleged breach of planning control in the enforcement notice or in the description of the proposal on the planning application form. I can see no reason why the development would fail to preserve or enhance the character or appearance of the conservation area. Whether or not any of the previous alterations to the elevations remain unauthorised is a matter that could be investigated by the Council outside the confines of these appeals.
5. A revised internal floor plan (numbered 083-P-525 Revision A) for Flat 6A was submitted with the appeals. Since this drawing shows internal changes only and would not produce anything other than 2 flats as described on the face of the enforcement notice and the planning application form, and the Council has had an opportunity to make comments upon it, I have taken it into account in determining these appeals.
6. It is not clear why the Council chose to include a reason for refusal relating to parking demand and traffic congestion in the planning decision notice and not within the reasons for issuing the enforcement notice. Still, that matter is plainly before me and of planning significance and has been referred to by both main parties and by some of the third parties.
7. The appeals need to be determined on the basis of the most up-to-date development plan policies. The Council adopted a new Local Plan in September 2019 which has replaced the Consolidated Local Plan July 2015. The parties were given an opportunity to comment on this change to the development plan background.

Appeal A, ground (a) and the deemed planning application and Appeal B

8. The ***main planning issues*** are whether Flat 6A would provide good living conditions for its occupiers with particular regard to outlook and access to daylight and sunlight and whether the development would adversely affect highway safety as a result of an increase in the demand for car parking.

9. The **development plan** includes the London Plan and the Council's Local Plan September 2019. Policy 3.5 from the London Plan covers the *Quality and design of housing developments*. The most relevant Local Plan policies are Policy CL5 *Living Conditions*, Policy CH3 *Housing Size Mix and Standards* and Policy CT1 *Improving alternatives to car use*. The Mayor's Housing Supplementary Planning Guidance and the National Planning Policy Framework and relevant planning practice guidance are material planning considerations which I have taken into account. I am not clear why the Council in its email of 30 October 2019 chose to refer to Policy CH 3 part (b) of the Consolidated Local Plan 2015 as this sought to resist the net loss of both social rented and intermediate affordable housing floor space and units throughout the borough. This was not relevant to the issues at hand.
10. On **living conditions**, the Council indicates that Flat 6, over the 3 upper floors, would provide a high quality, 3-bedroom flat in all aspects of daily living. I saw no reason to disagree and I make no further comment on this flat. The Council's concerns relate to Flat 6A.
11. It seems to be common ground that Flat 6A meets all the relevant internal and external space standards, has good living conditions across its upper floor which contains a dining area/kitchen to the front and a lounge to the rear. That the fixtures and fittings are provided to a high standard and there is direct access from the lounge to the rear garden and to the private communal garden beyond known as Providence Patch are also clearly positive factors in terms of living conditions.
12. However, despite the innovative designs in the layout, the main ones being a small courtyard/light well towards the rear and a tall void area at the front, my on-site judgment was that the 3 bedrooms in the basement would provide a standard of living conditions significantly below what future occupiers could reasonably expect from a self-contained dwelling unit. The outlook from all 3 bedrooms is very poor and constrained, with a distinct sense of enclosure being evident owing to the setting below ground level. The amount of daylight and sunlight reaching the basement would be very limited at all times even to the extent that it would not be consistent with the use for 3 bedrooms. No independent and professionally prepared sunlight and daylight assessments have been submitted to alter that view.
13. The contemporary design and the good-sized bedrooms do not mitigate those adverse internal conditions. Upon its construction, the basement may have been suitable for the study, gym, cinema room and shower room proposed and intended for the then single dwelling at 6 Redfield Lane under ref. PP/16/03774 but it does not work well for the primary accommodation currently in place there. The claustrophobic, gloomy and depressing internal environment within the 3 bedrooms at basement level would not be indicative of the good living conditions, acceptable housing standards or effective design processes sought by the relevant development plan policies.
14. I conclude on this issue that Flat 6A does not provide good living conditions for its occupiers with particular regard to outlook and access to daylight and sunlight. This outcome conflicts with the aims of Policy 3.5 from the London Plan and Policies CL5 and CH3 from the Local Plan September 2019.

15. On **car parking**, the whole borough is subject to one Controlled Parking Zone and therefore demand for parking from new development will not necessarily be focussed in the area surrounding it. That is the case here, especially as there is no on-site parking and there are yellow line parking restrictions in place on this part of Redfield Lane. Local Plan Policy CT1 says the Council will require all new additional residential development to be permit-free.
16. The appellant is willing to enter into a legal agreement to restrict access for car parking permits in perpetuity for Flat 6A. No such legal agreement has been forwarded with the appeals or the planning application. The need for one was flagged up in the Design and Access Statement July 2018. Having regard to the relevant advice in the planning practice guidance (Paragraph: 010 Reference ID: 21a-010-20190723), I am not convinced that such an agreement should or could be secured by a planning condition as suggested by the appellant. In this case, the development has already commenced and no exceptional circumstances (for example the need to deliver a complex development scheme) have been offered.
17. Whilst I accept that provisions for on-site cycle parking could be met through a planning condition, with no mechanism before me to ensure that the residents of the additional dwelling would not apply for car parking permits, I cannot be sure that the development would not add to the car parking pressures and traffic congestion experienced in the borough. These pressures are linked to highway safety concerns as car drivers would make various manoeuvres, in invariably busy traffic conditions, searching for parking places along roads in the locality. I conclude on this issue that the development would adversely affect highway safety as a result of an increase in the demand for car parking, in conflict with Local Plan Policy CT1.
18. The appellant says that the **revised internal floor plan** would ensure that all habitable rooms are at lower ground floor level with the basement being reserved for non-habitable uses. This is not entirely correct as "Reception Room 2" is shown at basement level. This would be habitable living accommodation at basement level with poor outlook and lighting conditions.
19. The "Store" and "Utility Room" in the basement appear out of all proportion with the one-bedroom flat shown. The Council is therefore correct to query whether what is shown is really the intended use of the basement area, bearing in mind 3 sizeable bedrooms are shown on the original plans. In a similar vein, I see that (as revised) the sole bedroom, which could not be further way from the bathroom, has been forced into arguably the brightest room that being the south-facing rear lounge where there is extensive glazing and access to the rear garden.
20. The revised internal layout is unlikely to be desirable or realistic for future occupiers or owners and, in any event, I have not been advised of any reasonable mechanism to ensure that the layout could be controlled in perpetuity when future changes to the internal floor plan would not usually amount to development. Even if the revised drawing did show an acceptable and realistic internal living environment, it would still not address the second main planning issue relating to the increase in the demand for car parking.

21. In reaching an **overall conclusion**, I am mindful that the development makes a modest contribution to the supply of homes in the borough and that this is a positive factor in favour of the appeals. However, this does not clearly outweigh the harm being caused to living conditions and highway safety or the related conflict with the development plan policies cited above. For the reasons given above and having had regard to all other matters raised, I conclude that Appeal A (on ground (a) and the deemed planning application) and Appeal B should not succeed.

Andrew Dale

INSPECTOR