
Appeal Decisions

Site visit made on 7 January 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/R5510/C/19/3229263

6 Badgers Close, Hayes, Middlesex UB3 1LQ

- 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 Biswanth Ghoorun against an enforcement notice issued by the Council of the London Borough of Hillingdon.
- The enforcement notice was issued on 18 April 2019.
- The breach of planning control as alleged in the notice is the unauthorised conversion and material change of use of the dwellinghouse into two self-contained residential units.
- The requirements of the notice are:
 - i. Cease the use of the dwellinghouse as two self-contained residential units.
 - ii. Remove all but one kitchen from the dwellinghouse to include oven, hob, extractor unit, sink, work surfaces, kitchen style cupboards, hot and cold water supply and foul waste drainage pipework.
 - iii. Remove all internal partitions and lockable doors dividing the dwellinghouse into two separate self-contained residential units to allow free internal passage to all areas.
 - iv. Remove all but one internal staircase from the dwellinghouse.
 - v. Remove from the land all debris, items, appliances, fixtures and fittings, building materials, plant and machinery resulting from compliance with points (ii) to (iv) above.
- The period for compliance with the requirements is three calendar months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (b) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

The appeal on ground (b)

1. The ground of appeal is that the breach of planning control alleged in the enforcement notice has not occurred. In order to succeed on this ground it would need to be demonstrated that the material change of use of the dwellinghouse into two separate residential units has not occurred. The appellant contends that the property remains as a single dwelling and has never been used as two separate dwellings since planning permission was refused for the conversion from a single dwelling house into two self-contained flats.
2. The evidence from the Council states that the appellant has previously confirmed that the property has been sub-divided and that he occupied the main house and the side extension was occupied by other people. Furthermore, on 12 February 2018 a retrospective planning application was submitted for a development which included the conversion of the single

dwelling to two self-contained flats. The retrospective nature of that application, which was subsequently refused by the Council and upheld at appeal, is a clear indication that the development has occurred.

3. The plans submitted with the retrospective application and my site observations are further evidence that the property has been occupied as, and is capable of being occupied as, two self-contained residential units. There are two separate locked accesses into two residential units and both are physically separated by internal partitions, with their own living areas, kitchens, bathrooms, staircases and bedrooms.
4. The plans submitted in support of this appeal, including amended plans, also demonstrate clearly how the property has been set out as two separate units. Therefore, although it does not appear that both were occupied at the time of my site visit, the property the subject of the enforcement notice has been changed from a single dwellinghouse into two self-contained residential units. Therefore, the appeal on ground (b) must fail.

The appeal on ground (a)

5. The ground of appeal is that planning permission should be granted. The main issues are:
 - whether the development provides acceptable living conditions for occupants, with particular reference to the standard of accommodation provided and outdoor amenity space; and
 - the effect on the safety of highway users as a consequence of parking provision.
6. The appellant intends to revise the layout of the property to achieve more suitable living conditions. However, there is no mechanism for incorporating the proposed amendments into the application which is deemed to have been made under ground (a) which is that planning permission should be granted for what is alleged in the notice. Planning permission cannot be granted for a modified development or subject to a condition specifying amended plans in these circumstances. If an appellant thinks that amending their proposal will overcome the local planning authority's objections, they should normally make a fresh planning application.
7. The appellant has accepted that the sub-division of the property has resulted in a sub-standard form of development and, as such, offers little evidence to support the Council's concerns with respect to the internal living area, the external amenity space and the resultant living conditions for occupants. Therefore, on this issue and with respect to the standard of accommodation provided and outdoor amenity space the development fails to provide acceptable living conditions for occupants. As such it is contrary to Policy 3.5 of the London Plan, Policies BE19, BE20, BE23 and H7 of the Hillingdon Local Plan Part Two: Saved UDP Policies (November 2012) (the LP Part 2), The Mayor's adopted Supplementary Planning Guidance – Housing (March 2016), the Technical Housing Standards – Nationally Described Space Standards (March 2015) and the Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document - Residential Layouts July 2006.
8. Policy AM7 of the LP Part 2 relates to traffic generated by proposed developments and Policy AM14 relates to new development and car parking

standards. The Council will not grant permission for any developments whose traffic generation is likely to prejudice the free flow of traffic or conditions of general highway or pedestrian safety, among other objectives. In doing so, the Council will consider whether the traffic generated by developments is acceptable in terms of the capacity and functions of existing and committed principal roads only. New development will only be permitted where it is in accordance with the Council's adopted car parking standards.

9. With respect to the appeal property, I understand that there is a single designated car parking bay nearby. Other than that it is proposed that any additional car parking requirements are provided by non-designated on-street parking in the locality. The appellant has also stated that the ownership and use of a vehicle is discouraged in the London Plan in locations that give good transport links in the locality, but there is no indication of how this would be achieved and controlled with this development. There is insufficient evidence before me to show that the Council's adopted car parking standards should not be met in this case. As such I find that the development is contrary to Policy AM14 of the LP Part 2.
10. At my site visit I noted the presence of a number of unrestricted on-street parking opportunities in the immediate vicinity of the site. Although I recognise that in some circumstances inadequate parking may lead to harmful conditions for pedestrians and other highway users there is insufficient evidence presented to show that this is the case with respect to this particular development. As such the development does not conflict with Policy AM7 of the LP Part 2.
11. Therefore, with respect to the appeal on ground (a), although I find that there is insufficient evidence of harm to the safety of highway users as a consequence of parking provision, I have found that the development fails to provide acceptable living conditions for occupants. That is the primary consideration in this case. As such the appeal on ground (a) must fail.

Conclusion

12. 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

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

A A Phillips

INSPECTOR