



Appeal Decision

Site visit made on 17 December 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2020

Appeal Ref: APP/H5390/C/19/3225499
145 Stevenage Road, London SW6 6PB

- 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 K Zefi against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
 - The enforcement notice, numbered 2018/01062/COMPWK, was issued on 26 February 2019.
 - The breach of planning control as alleged in the notice is without planning permission, conversion of the property to use as two self-contained flats.
 - The requirements of the notice are:
 1. Cease the use of the property as two self-contained flats and restore the property into a single dwelling house by carrying out the following:
 2. Remove the kitchen and all associated fittings from the loft.
 3. Remove the internal wall which separates the front hallway and front room at ground floor level as well as all other associated partitions which facilitate the use of the property as two flats.
 - The period for compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) 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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Formal Decision

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.

Preliminary Matters

2. Policy HO2 of the Hammersmith and Fulham Local Plan 2018 (LP) sets out the Council's approach to the conversion of dwellings into two or more dwellings and is relied upon by the Council in its statement of case. This policy was not listed amongst the LP policies cited in the reason for issuing the Notice. However, the appellant is aware of the policy objections to the development and has considered the implications in his appeal statement. I have been provided with a copy of the policy and I am satisfied that no injustice has been caused.
3. The reason for issuing the notice refers to the unacceptable quality of accommodation in the ground floor flat. It then goes on to refer to the inadequate internal space for the upper flat. It is clear from the Officer's report that the concern with the quality of accommodation relates to the upper floor

flat and therefore the reference to the ground floor flat is an error. The appellant has provided evidence in relation to the quality of accommodation of both the flats in his appeal statement and therefore I am satisfied that he has not been prejudiced.

The ground (a) appeal and the deemed application

4. The ground of appeal is that planning permission should be granted for the development. The main issues are as follows:
 - The effect of the development on the supply of family housing;
 - Whether the living conditions for the occupiers of the upper flat are adequate in relation to internal space standards.

Supply of family housing

5. The development has resulted in the conversion of a single dwelling into two flats. The ground floor flat has one bedroom and has access to the small rear garden. The upper floor flat occupies the first and second floors and at the time of my visit had three rooms which contained beds on the first floor, while the second floor was in use as a kitchen/dining/living room.
6. Policy HO2 of the LP sets out the circumstances when the conversion of an existing dwelling into two or more dwellings will be permitted. In particular, part (a) of the policy requires that the net floor area of the original dwelling should be more than 120 square metres, and new housing appropriate for families should have access to garden or amenity space.
7. The original floor area of dwelling was less than 120 square metres and therefore the first requirement of the policy is not met. The upper floor flat is of a size that is capable of accommodating a small family, but has no access to a garden or other outdoor amenity space. It is therefore not suitable for occupation by a family, as required by LP Policy HO2. As the original dwelling had the use of the rear garden, albeit constrained as an amenity space due to its size, the development has resulted in the loss of family housing.
8. The development has thus had a harmful effect on the supply of family housing, and is thereby in conflict with Policies HO2 and HO11 of the LP, insofar as they seek to control the conversion of houses and ensure a high quality of development.

Living conditions

9. LP Policy HO11 seeks to ensure that new dwellings are of a high standard of design and meet the 'Nationally Described Space Standards' (NDSS). Key Principle HS2 of the Hammersmith and Fulham Supplementary Planning Document 2018 (SPD) sets out the London Plan internal space standards for new dwellings. The appellant states that the upper flat is intended to provide a one bedroom/2 person unit with a gross internal floor area of 62.77 square metres, which would meet the internal space standards set out in the SPD.
10. However, I saw on my site visit that three rooms on the first floor contained beds. The smallest room is very small, but the other two are more spacious, and I have no doubt that it is not a one bedroom/2 person flat. This accords

with the findings of the Inspector in dismissing an appeal against refusal of planning permission for the two flats.¹

11. The appellant states that the smallest bedroom has a floor area of 10.7 square metres, which is above the minimum size standard for a double bedroom set out in SPD Key Principle HS3. However, even if I were to discount this room on the basis of the appellant's argument that it was intended to be used as a study, the flat would still be a two bedroom/3 person flat arranged over two floors. On this basis the minimum space standard would be 70 square metres. With a gross internal floor area of 62.77 square metres the flat would fall well below this. The shortfall would be even more substantial as a two bedroom/4 person flat or a three bedroom flat.
12. Taking into account the lack of access to any external amenity space for a family dwelling required by LP Policies HO4 and HO11, the development fails to provide adequate living conditions for the occupiers of the upper flat in relation to internal space standards. I therefore find that it is in conflict with LP Policy HO4, SPD Key Principles HS2 and HS3, insofar as they seek to ensure that converted flats provide adequate internal and external living space.

Conclusion in relation to the ground (a) appeal

13. I appreciate that the development has provided an additional dwelling and this accords with the Council's aim to boost the supply of housing. However, this does not override the harm that has been identified in relation to the main issues.
14. The site is within Fulham Reach Conservation Area (CA). The Enforcement Notice is not directed at any external changes to the building and I am satisfied that no harm is caused to the character and appearance of the CA.
15. For the reasons set out above, I conclude that the appeal on ground (a) should fail and the deemed application for planning permission should be refused.

Ground (g) appeal

16. This ground of appeal is that the period for compliance with the notice is unreasonably short. The notice provides for a 9 month compliance period. The appellant argues that 12 months would be more reasonable due to the need for an ongoing tenancy agreement to run its course, notice to be given, and for the tenant to find alternative accommodation. However, there is a balance between bringing the identified harm to an end without necessary delay, and the interest of the appellant. I consider that 9 months is adequate to enable the tenant to look for suitable accommodation and for the remedial works to be carried out.
17. The appeal on ground (g) therefore fails.

N Thomas

INSPECTOR

¹ Appeal ref APP/H5390/W/18/3222533