



Appeal Decision

Site visit made on 26 November 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/N5090/C/18/3205860

Land at 55 Colin Crescent, London NW9 6EU

- 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 Ayaz Yousuf against an enforcement notice issued by the Council of the London Borough of Barnet.
- The enforcement notice was issued on 23 May 2018.
- The breach of planning control as alleged in the notice is without planning permission, the conversion of the property into three self-contained flats.
- The requirements of the notice are: -
 1. Cease the use of the property as self-contained flats.
 2. Restore the property to the state in which it was prior to the breach as per the "Pre-existing ground floor plan", drawing number PL-100-001, "Pre-existing first floor plan", drawing number PL-100-002 and "Pre-existing second floor plan", drawing number PL-100-003, included as part of refused planning application reference 18/1560/RCU, decision date 09.05.2018; by permanently removing from the property:
 - a) All kitchen units, sinks, cookers and food preparation areas from rooms other than that shown in the room labelled "Kitchen" in drawing number PL-100-001;
 - b) All bathroom and shower rooms including baths, sinks, WCs and showers other than that labelled "WC" or "Shower" in drawing numbers PL-100-001, PL-100-002 and PL-100-003;
 - c) The partition walls and doors behind the main front door at ground level that divides the ground floor from the upper floors.
- The period for compliance with the requirements is 6 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 (the 1990 Act).

Summary decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

The Notice

1. I have powers under Section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the enforcement notice. The breach of planning control alleged within section 3 of the enforcement notice is '*without planning permission, the conversion of the property into three self-contained flats*'. However, I observed at the site visit that access to the second floor of the property is via the ground floor door that provides access to the first floor flat (shown as flat 2 on the submitted drawings). As such, there is no separate access to the second floor except through the first floor flat. Moreover, the kitchen that was in place on the second floor at the time the enforcement notice was issued has since been removed and the Council suggest in its

statement of case that the property is still sub-divided into at least two self-contained units.

2. In light of the above, the Council were given the chance to comment on whether the description of the alleged breach would be more appropriately worded as '*without planning permission the conversion of the property into two self-contained flats*' and whether the correction could be made without injustice to any party.
3. The Council had no objections to the amended description and considered that no injustice would be caused by the correction. As such, I intend to replace the word '*three*' in paragraph 3 of the enforcement notice with the word '*two*'. I consider that this correction can be made without injustice to the parties.

Procedural Matters

4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the sections relevant to this appeal have not materially altered. As such, in the circumstances of this case I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeal on the basis of the current Framework.
5. The appellant has stated within his evidence that the breach is clearly beyond the 4 years of a continued use and hence the Council should not be enforcing the change. Nevertheless, the appellant has not made an appeal on ground (d), that at the date the notice was issued no enforcement action could be taken. As such, I have dealt with the appeal on the basis that there is only a ground (a) appeal and deemed planning application.

The ground (a) appeal and deemed planning application

Main Issues

6. The main issues are: -
 - The effect of the development on the character and appearance of the area;
 - The effect on the living conditions of nearby occupiers with regard to noise and disturbance;
 - The effect on the living conditions of existing and future occupiers of the development with regard to the quality of the accommodation and private amenity space.

Reasons

Background

7. In May 2018 the Council refused planning permission¹ (2018 application) for the conversion of the appeal property into 2 self-contained flats. The Council's Delegated Report associated with that application states that the development had already been implemented. It also stated that the property has been extended by way of a rear roof dormer, 2 front rooflights and a single storey rear extension and that it is presumed that the developer relied on permitted

¹ Ref No: 18/1560/RCU

development rights in regard to these extensions. I have no reason to dispute these findings.

8. The physical layout of the flats is shown on the plans submitted in association with the 2018 application. I acknowledge that the amount of beds in each of the flats, does not accord with those submitted plans. However, it was also not clear if the upper flat is currently occupied or being renovated based on the general lack of furnishings. As such, I have dealt with the appeal on the basis of the physical layout of the flats as shown on the 2018 application plans.
9. Policy DM01 of Barnet's Local Plan Development Management Policies (DMP) states, amongst other things, that conversion of dwellings into flats in roads characterised by houses will not normally be appropriate. The Supplementary Planning Document: Residential Design Guidance October 2016 (SPD) explains the reasoning for DMP Policy DM01 by stating, in broad terms, that conversions can harm the character of areas by changing external appearance and increasing activity.

Character and appearance

10. 55 Colin Crescent is a semi-detached dwelling in a street of similar properties. The street generally has a suburban character. It would appear from the evidence before me that any external alteration to the building to facilitate the conversion to 2 flats has been limited. Even if, the dormer window and single storey extensions were carried out to facilitate the development I observed that numerous other properties in the vicinity of the site have similar extensions. There is no evidence to suggest that the parking area to the front of the dwelling has been altered and there is sufficient space at the side of the main building for refuse bins to be stored. The majority of dwellings in the vicinity have similar arrangements for parking and bin storage. As such, they do not appear out of place in this area. Furthermore, there is no strong physical evidence of the conversion to 2 flats and nothing that harms the appearance of the area.
11. I appreciate that if permitted, cumulatively, a significant number of conversions could change the character of Colin Crescent. The Council allege that the subdivision of the appeal building into 2 flats intensifies its use and results in increased coming and goings. However, the flats, with the layout shown on the 2018 application plans would have a bedroom each and the evidence before me indicates that the dwelling had 4 bedrooms before the development occurred. It would be reasonable to expect therefore that the building is/could be occupied by the same or a smaller number of occupants than when it was one house.
12. Moreover, the evidence before me indicates that due to the personal circumstances of the appellant and his family the flats have facilitated the separation of parts of his household that all lived in the property before it was converted. Consequently, it is likely that there has been no significant intensification in the use of the appeal building as a result of the development and that it has not nor would it materially alter the comings and goings from it. Furthermore, I have been supplied with no substantive evidence to suggest that the development would attract occupants that would be more transient or generate substantially more activity than those who could occupy the property if it was one house.

13. I acknowledge that the majority of properties in the surrounding area appear to be houses. Nevertheless, taking all the above considerations together leads me to the view that the development does not introduce a use at variance to the established character and appearance of its surroundings. Therefore, the development does not harm the character and appearance of the area and accords with DMP Policy DM01 and the guidance in the SPD in this respect. It also accords with Policy CS1 and CS5 of Barnet's Local Plan (Core Strategy) Development Plan Document September 2012 (CS) which together seek the highest standards of urban design and to protect local context and the distinctive local character.

Living conditions – nearby occupiers

14. I have found above that, it is likely that there has been no significant intensification in the use of the appeal building as a result of the development and that it has not nor would it materially alter the comings and goings from it. While it may be the case that future occupiers of the flats could have different lifestyles resulting in movements at different times of the day, the same could be said of members of the same household of a single house. Therefore, any noise and disturbance that might result from the 2 households would be unlikely to be significantly different to that from one large household that could occupy the extended property.
15. Moreover, there is little evidence relating to any noise or disturbance issues being caused by the occupants at the property and I have not been provided with any objections on this matter from nearby residents.
16. For the above reasons, I find that the development does not result in a materially harmful level of noise or disturbance that would affect the living conditions of nearby occupiers. As such, it is not in conflict with DMP Policies DM01 and DM04 and CS Policies CS1 and CS5 which together seek to prevent harmful impacts on residential amenity.

Living conditions – occupiers of the development

17. Based on the layouts shown on the 2018 application plans the internal layout of each flat would meet the minimum standards set out in Appendix 2 of the SPD and Policy 3.5 of the London Plan (LP). I acknowledge that if the layouts of the flats were to be altered so that each flat had 2 bedrooms neither of them would meet the standards cited above. I am satisfied that if I allow the appeal that conditions would ensure that the layout and use of the flats can be controlled.
18. There is access to the garden along the side of the property for the upper flat and access to the rear for the ground floor flat. There is no evidence before me to indicate that the garden would not meet the size specified in the SPD. There is adequate space to the side and front of the property for off street parking and refuse storage.
19. Consequently, I consider that the development does not/would not cause harm to the living conditions of the existing and future occupiers, with particular regard to the quality of the accommodation and private amenity space. The proposal would accord with DMP Policies DM01 and DM02, CS Policies CS1 and CS5, LP Policy 3.5 and the SPD in so far as these policies and guidance require that development will be expected to demonstrate compliance with national

standards and to ensure that new homes should be capable of providing a good quality living environment.

Conditions

20. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
21. I consider that as the development has largely been completed the Council's suggested Condition 2 is not necessary. The suggested condition 3 is necessary in the interests of the living condition of nearby occupiers and existing and future occupiers of the development. I have amalgamated suggested Condition 1 and Condition 3 to avoid duplication.

Conclusion

22. For the reasons given above I conclude that the appeal should succeed on ground (a) and I will grant planning permission in accordance with the application deemed to have been made under section 177(5) of the 1990 Act, which will now relate to the corrected allegation.

Formal Decision

23. It is directed that the enforcement notice be corrected:

- by the deletion of the word "three" and its replacement with the word "two" in paragraph 3 of the enforcement notice.

Subject to this correction the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the conversion of the property into two self-contained flats at land at 55 Colin Crescent, London NW9 6EU, subject to the following condition:

- 1) The property shall be used in accordance with drawings: PL-050-001; PL-050-011; PL-050-0012; PL-050-013, as two self-contained flats under Class C3(a) and no other purpose (including any other purpose in Class C3 or Class C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

D. Boffin

INSPECTOR