
Appeal Decision

Site visit made on 28 January 2020

by S Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/C5690/C/19/3230088

116 - 118 Lewisham Way, London SE14 6PD

- 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 S Suresh Kumar (T.U. Investments Limited) against an enforcement notice issued by the Council of the London Borough of Lewisham.
 - The enforcement notice was issued on 15 April 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the premises to use as two self-contained flats.
 - The requirements of the notice are 1. Cease the use of the basement as two self-contained flats. 2. Remove all kitchen and bathroom fixtures and fittings from both of the self-contained flats situated in the basement. 3. Remove all internal partition walls installed to facilitate the current use of the basement as two self-contained flats. Remove all materials, debris, waste and equipment resulting from compliance with requirements 2-3 from the land.
 - 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 Act). 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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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the Act.

Ground (a) - The deemed planning application

Main Issue

2. The main issue is whether the development provides a good standard of accommodation in terms of internal space, outlook, natural light and ventilation.

Reasons

3. The basement of Nos 116-118 Lewisham Way has been converted to provide two self-contained flats both of which have access to private outdoor space to the rear. The plans provided by the appellant show Flat A to have a studio flat layout with room for a single bed provided within the kitchen/living room and a separate shower room. The plans show that Flat B would have a separate bedroom and shower room with the living room and separate kitchen to the rear. To the front, and separated from the accommodation, the plans show an

area for each flat described as storage. The flats are accessed via a short stairway from Lewisham Way which is to the front of the property.

4. DM Policy 32 of the Lewisham Local Development Framework Development Management Local Plan 2014 (DMLP) requires development to meet the minimum space standards to conform with the London Plan to ensure housing provides accommodation of, amongst other things, a good size, allowing for a good outlook and with main habitable rooms receiving direct sunlight and daylight.
5. Each flat is served by a window and French doors on the rear elevation which faces south west. These openings allow a good outlook and a good level of light to the main habitable living area (incorporating the sleeping area) for Flat A and to the main habitable living area within Flat B. Although the outlook from the front of Flat B is limited, this is not a main habitable room and therefore I find this level of outlook acceptable. Flat A, in contrast, is single aspect with only the main door to the flat located to the front. However, given that no habitable rooms are proposed at the front of the accommodation, I do not consider the outlook of Flat A to be compromised to the detriment of future occupiers.
6. To ensure new accommodation is of a good size, Table 2.3, which forms part of DM Policy 32 of the DMLP, provides the minimum internal space standards required for new housing developments (including conversions). I noted at my site visit that the accommodation was laid out differently to that shown on the plans which accompany the appeal. Flat A and B both had two bedrooms with a double bed in each. Accommodation at this level, two bedroom/four person, would require a GIA of 70 sqm or 61 sqm for two bedroom/three person accommodation.
7. The appellant argues that the layout would be altered to comply with the accompanying plans which show each flat as providing accommodation for one person. The flats would measure 'approximately 44 square metres (sqm)' gross internal area (GIA) thereby complying with the space standards that require a minimum GIA of 37 sqm.
8. In this instance, although the floor area would comply with the minimum internal space standards, the provision of units of accommodation for one person would conflict with DM Policy 32 of the DMLP which does not support the delivery of single person dwellings, other than in exceptional circumstances. I have not been provided with evidence detailing '*exceptional circumstances*' and consequently I find that the proposal would be unacceptable due to this conflict with the development plan.
9. Furthermore, although both flats provide a good level of accessible outdoor space, the single aspect of Flat A could give rise to issues concerning natural ventilation. DM Policy 32 of the DMLP requires detailed justification as to why dual aspect is not possible and a detailed demonstration that adequate lighting and ventilation can be achieved. Although I am satisfied that there would be adequate natural light to both flats due to the quantum of glazing to the main habitable space at the rear of the unit and the orientation of the property, I have no evidence to support whether adequate natural ventilation would be achievable.

10. Overall, given the deficiencies in some areas of the scheme as detailed above, I have found that the proposal would conflict with the standards used to assess whether new housing development provides an appropriate level of residential quality required by DM Policy 32 of the DMLP. The proposal would also conflict with the overall amenity protection aims of Policy 3.5 of the London Plan 2016 (the LP) which requires the highest quality developments both internally and externally, and with advice contained within the National Planning Policy Framework (the Framework) which, amongst other things, seeks a high standard of amenity for future users and healthy living conditions.

Other Matters

11. There is no dispute that the site is within a well-populated accessible urban location where the principle of development is supported. I have also been referred to and acknowledge the fact that there are many basements within the locality that have been converted to provide residential accommodation. However, I do not have full details of these other converted basements and so I cannot be certain of the individual circumstances or judge whether they are comparable or what led to these proposals being accepted by the Council, if indeed they were. In any case, I have determined the appeal on its own merits.

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.

S Hanson

INSPECTOR