

Appeal Decision

Site visit made on 21 January 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 March 2020

Appeal Ref: APP/P5870/W/19/3241234
42A Benhill Avenue, Sutton SM1 4DA

- 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 J Perry against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2019/01208, dated 10 July 2019, was refused by notice dated 23 October 2019.
 - The development proposed is the alteration and conversion of mini cab office into a bedsit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on the living conditions of the occupiers of the proposed development with regard to noise and the size of the proposed flat.

Reasons

Noise

3. The proposal relates to the conversion of the ground floor of the existing building at the appeal site to enable its use as a studio flat. The front part of the building was formerly used as a taxi office and the rear part has been used for storage purposes associated with the car repair use that is occurring at the land and buildings to the rear of the site.
4. The submitted Planning Noise Assessment (PNA) identifies that traffic noise arising from the use of Benhill Avenue and noise associated with the use of the adjacent land and buildings is audible at the site. The PNA goes on to conclude that the noise from the adjacent commercial operation would have a significant adverse effect on the living conditions of future occupiers. Accordingly, the PNA includes mitigation recommendations to enable suitable internal living conditions to be achieved.
5. However, the open-plan development shown on the submitted plans appears to be different to the development that has been assessed by the PNA, which includes an internal wall and door that divides the bedroom from the living space. The PNA identifies that the area of glazing, room sizes and room acoustic conditions affect the degree of reduction in noise transmission that is achieved. The inconsistency between submissions indicates that the development is likely to be different in at least some of these respects. As such, it is not possible to be satisfied that the

PNA represents an accurate assessment of the development proposed or the likely success of the proposed mitigation.

6. Therefore, as it would not be certain that the mitigation would be effective, it would not be reasonable to rely on that mitigation through the imposition of a condition. In this context, the absence of mitigation would cause the significant adverse effect of the adjacent noise source to be detrimental to the living conditions of future occupiers.
7. Both main parties acknowledge that there are flats at first floor. Whilst the effect of the external noise environment is likely to be similar, I have not been provided with details of what mitigation was or was not provided to those flats. Furthermore, even if the noise within them were not at an unacceptable level, this would not justify further harm. This is also the case in relation to the flats at Clarson Court that have been brought to my attention. In any event, due to the orientation and positioning of the flats at Clarson Court relative to the car repair use and the junction of Benhill Avenue and Throwley Way, the noise environment is likely to be different to this proposal.
8. For the reasons given above, the development would have an unacceptable effect on the living conditions of future occupiers with particular regard to noise. The proposal is therefore contrary to policy 29 of the Sutton Local Plan 2016-2031 (SLP) which states that development does not have an adverse effect on the living conditions of future occupiers as a result of, amongst other things, noise.

The size of the Proposed Flat

9. Policy 9 of the SLP requires that development accords with the internal space standards that are set out within the London Plan (2016) which, in turn, states that development should comply with the Nationally Describes Space Standards – Technical Housing Standards (THS). As a studio flat with a shower room instead of a bathroom, the THS states that the Gross Internal Area (GIA) of the flat should exceed 37 square metres. Furthermore, paragraph 8 of the THS defines GIA as the total floor space measured between the internal faces of perimeter walls.
10. The submissions show that a storm porch extension at the rear of the building would be proposed which would result in the flat measuring 38.01 square metres. However, the proposed storm porch would not feature a complete external wall or perimeter wall and would not, therefore, enclose the building. As such, this should be excluded from the calculation of the GIA. Excluding this part of the building, it appears that the flat would not be of adequate size to comply with the THS.
11. For the reasons given above, the development would have an unacceptable effect on the living conditions of future occupiers with particular regard to the size of the flat. The proposal is therefore contrary to Policy 9 of the SLP which requires residential development to comply with the standards that are set out above.

Other Matters

12. Insufficient quantitative evidence in relation to housing supply within the Borough has been provided to support the assertion of the appellant that inadequate windfall sites are being brought forward. However, the proposal would represent a small boost to housing supply and a windfall development on a small site, which is encouraged by paragraph 68 of the National Planning Policy Framework and the London Housing Strategy. Notwithstanding this, as paragraph 127 of The Framework also requires development to create places with a high standard of amenity for future users, I do not find that the housing supply benefit of the proposal outweighs the harm that has been identified.

13. Furthermore, whilst the appellant has identified that a need exists for affordable housing of this size, as there is no mechanism in place to secure the occupation of this flat as affordable housing, I cannot conclude that this proposal would address that need.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR