



Appeal Decision

Site visit made on 23 June 2020

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2020

Appeal Ref: APP/G5180/C/19/3242165

Land at 21 Langley Road, Beckenham BR3 4AE

- 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 Eli Sufrin of Thornton Heath Properties Limited against an enforcement notice issued by the Council of the London Borough of Bromley.
 - The enforcement notice, numbered 17/00204/CHANGE, was issued on 22 October 2019.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of a single dwelling house used as an HMO (6 person) to an HMO (6 person) and its conversion of the ground floor to include 2 self-contained one bedroom flats.
 - The requirements of the notice are:
 - a) Cease the use of the self-contained ground floor flats, 1A and 1B at 21 Langley Road,
 - b) Revert 21 Langley Road to a single dwelling house
 - The period for compliance with the requirements is six 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. 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. It is directed that the enforcement notice is corrected by:
 - Deleting requirement a) and substituting the following 'Cease the use of 1A and 1B 21 Langley Road as self-contained flats'.
 - Deleting requirement b).
2. Subject to the corrections, 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 Matter

3. In addition to the concerns regarding the living conditions of the two flats, the Council's statement refers to the kitchen and one of the rooms in the HMO as being substandard. However, the enforcement notice only attacks the two ground floor flats and I have therefore not had regard to the living conditions of the HMO.

Matters concerning the notice

4. The notice attacks the creation of two self-contained one bedroom flats, and it follows that the requirements seek the cessation of their use. For clarity requirement a) should be corrected by rewording to clarify that their use as self-contained flats should cease.
5. There is a right under Section 57(2) of the Act to revert to the last lawful use following the issue of an enforcement notice. The positive requirement to revert to use as single dwelling is therefore excessive, and I shall correct the notice by deleting that requirement. I am satisfied that these corrections will not cause injustice to the parties, and I shall therefore use my powers under Section 176(1).

The ground (a) appeal and the deemed planning application

6. Having regard to the reasons for issuing the enforcement notice and the Council's statement, the main issues are as follows:
 - Whether the development results in satisfactory living conditions for occupiers of Flats A and B having regard to internal space standards, natural daylight and outlook;
 - The effect of the development on road safety and the convenience of neighbouring residents with regard to parking provision.

Living conditions

7. I saw on my site visit that most of the ground floor of the property is divided into two flats, A and B. The layout is indicated on the drawing which is labelled as 'existing' and has a reference 193.1-P-100 Rev A. Flats A and B are both annotated as having a floor area of 37 square metres.
8. Policy 3.5 of the London Plan 2016 (LP) sets out minimum space standards for new dwellings. A one bedroom flat with a single person bed space should have a minimum gross internal floor area of 37 square metres, or 50 square metres if it has two bed spaces. This reflects the standards in the Mayor's Housing Supplementary Planning Guidance March 2016 (SPG 2016), the Nationally Described Space Standards and Policy 4 of the Bromley Local Plan 2019 (BLP).
9. At the time of my site visit Flat A was furnished and I saw that the bedroom was of a sufficient size to accommodate a double bed. Flat B was unfurnished, but I note that the bedroom to Flat B is of a similar size. This points towards both of the flats being designed to accommodate two people. They should therefore have a minimum floor area of 50 square metres and should also provide storage space to comply with the policies outlined above. I have not been given details of the actual gross floor area of each flat, but the appellant does not dispute that they are below 50 square metres. I saw that the kitchen/living area of each flat is relatively small and lacks storage space. As a result, the flats provide cramped accommodation for two person occupation.
10. The flats are deep in plan, so that the main outlook is to the rear from the bedrooms. The living areas to both flats are lit only by a high level rooflight. Although these are openable and provide adequate natural light, they do not provide any outlook. As main habitable rooms they do not therefore provide suitable living conditions for occupiers.

11. The appellant has put forward an alternative layout¹ which would create one large flat and a separate communal kitchen serving the HMO. Section 177(5) of the Act sets out that the deemed planning application derives its terms directly from the words of the allegation, that is the matters stated as constituting a breach of planning control. I can only grant planning permission for the whole or part of that development. The amended layout provided by the appellant is a different development and is not within the scope of the matters set out in the notice. Accordingly, my decision is based on the matters set out in the notice, and I have not considered the planning merits of the appellant's alternative layout.
12. For the reasons set out above, I find that the flats do not provide satisfactory living conditions for future occupiers with regard to internal space standards and outlook. The development is therefore in conflict with Policy 3.5 of the LP, Policies 4, 9 and 37 of the BLP and the guidance in the SPG 2016, which seek, amongst other things, to ensure that new housing meets minimum space standards and provides a high quality and healthy living environment for future occupiers.

Parking provision

13. The site is located close to public transport and shops, including the railway station at Elmers End. Langley Road is a one-way residential road with unrestricted parking on both sides for most of its length. The property includes a driveway which provides parking for approximately two cars in a tandem arrangement.
14. At the time of my site visit, which was mid-morning on a weekday, there were few available on-street parking spaces on Langley Road, but several in the surrounding streets. I acknowledge that my site visit took place during the current pandemic lockdown, when it might be expected that there would be a higher level of parking in residential roads during the day than would normally be the case. However, it would be reasonable to assume that demand for on street parking spaces would also be relatively high during evenings and weekends.
15. Planning permission has been granted² to demolish a garage to the side of the building and erect a one bedroom dwelling. Construction work was taking place at the time of my site visit. Although I have not had sight of the approved plans, the Council explains that one parking space was shown for the new dwelling and one for the HMO, which at that time was understood to include three bedsits, and that this level of provision was acceptable. There is now a greater number of HMO rooms. The Council has not specified how many parking spaces should be provided to meet the needs of the six rooms of the HMO, the flats and the permitted one bedroom flat.
16. The appellant has provided a revised layout for the front garden³ which indicates a total of two parking spaces and a cycle store with ten spaces. It is not clear to me that this would result in additional car parking provision over and above that shown for the 2017 permission. The two additional flats are likely to result in some additional parking demand, over and above the existing

¹ Drawing no. LRB-THA-PR-XX-100-P3

² 17/02002/FULL1

³ Drawing no. LRB-THA-PR-XX-010-P2

parking demands generated by the property and the permitted one bedroom flat. The parking survey provided by the appellant accompanied the application in 2017 and may not reflect current parking conditions. However, I have seen no firm evidence that on street parking in the area is under such pressure that the parking demand generated by the two additional flats could not be accommodated on the surrounding roads.

17. I am not therefore satisfied that the development is harmful to road safety and the convenience of neighbouring residents with regard to parking provision. As a result, it is not in conflict with LP Policy 6.13 and BLP Policies 4, 30 and 32, insofar as they seek to ensure that adequate parking is provided in residential development and that road safety is not significantly affected.

Conclusion

18. Although I have found in favour of the appellant in relation to the second main issue, this does not override the harm I have identified in relation to the living conditions of the occupiers. I therefore conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

N Thomas

INSPECTOR