



Appeal Decision

Site visit made on 13 July 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2020

Appeal Ref: APP/N1730/W/19/3242857

39A Kingsway, Blackwater, Camberley GU17 0JJ

- 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 Andrew Hill (APE Properties Ltd) against the decision of Hart District Council.
 - The application Ref 19/01912/FUL, dated 19 August 2019, was refused by notice dated 24 October 2019.
 - The development proposed is described as 'Retrospective: change of use from one x one-bedroom flat to two x one bedroom flats, non-material amendments to elevations, one additional car parking space'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my site visit, it is apparent that the development applied for has already been carried out. I have determined the appeal accordingly.
3. In addition, during the determination of the appeal I was made aware that the Hart Local Plan (Strategy and Sites) 2032 (LP) was adopted on 30 April 2020. This forms part of the adopted development plan for the Council and its decision notice refers to Policies H1, H6, NBE4 and NBE10 of the LP. The decision notice also refers to a number of policies from the Hart District Council Local Plan (Replacement) 1996-2006 (LPR). However, the Council has confirmed that the only policy from this Plan which remains saved and relevant to this appeal is Policy GEN1. I am required to determine this appeal having regard to the development plan and national policy which are in place at the time of my decision and have done so on this basis.

Main Issue

4. The main issue is whether or not satisfactory living conditions are provided for occupants of the ground floor flats, with particular regard to floor space provision, access to daylight, access to suitable external amenity space and outlook.

Reasons

5. No 39A is a two storey property in a residential area. Its use as a separate residential dwelling was approved under a Certificate of Lawfulness in 2014 and it was then extended to form a single three-bedroom house. Following this, planning permission was granted for the change of use of this property to three

separate one-bedroom units under application Ref. 18/01699/FUL. This permission allowed for two units at first floor level and one unit at ground floor level. However, the ground floor of the property has now been split to form two separate dwellings. The proposal seeks permission for this sub-division.

Floor Space

6. The Government's 'Technical housing standards – nationally described space standards' sets out the minimum space requirements for all new residential units. Policy H6 of the LP states that where planning permission is required development proposals for new homes must meet these standards. In this instance, it is therefore appropriate to consider this appeal based on the nationally described space standards.
7. For the purposes of this assessment, it would appear that the two ground floor flats are both one-bedroom units capable of accommodating two people. The national standards require that such units have a minimum gross internal floor area of 50sq.m. From the evidence, the ground floor flat to the front of the property (Flat 1) has an internal floor area of around 34sq.m. The ground floor flat towards the rear (Flat 2) has an internal floor area of around 27sq.m. Consequently, both ground floor dwellings fall considerably below the identified minimum acceptable standards of accommodation in terms of quantity. I therefore find that their overall living space is unacceptably cramped.
8. I note that the ground floor flats have a similar floor area compared to flats granted at the first floor of No 39A. My attention has also been drawn to a similar development at No 18 Myrtle Drive. However, such developments were granted prior to the adoption of the LP. Consequently, the circumstances in which they were assessed were not directly comparable to the appeal scheme, which I have assessed on its own merits and in the light of current planning policy.

Outlook

9. A close boarded fence of around two metres in height has been constructed to the rear of No 39A to separate it from associated off-street car parking spaces. This fence is positioned within close proximity of the only windows at Flat 2. Consequently, the outlook from within Flat 2 is unduly oppressive and enclosed. This is particularly so from within the kitchen/living space, for which a patio door is the only source of outlook.

Access to Daylight

10. Flat 1 is a single aspect property. However, it's north east facing windows will receive some sunlight each morning during part of the year. As such, I am satisfied that direct sunlight will enter at least one habitable room at Flat 1 for part of the day. It therefore affords suitable living conditions in this regard.

External Amenity Space

11. All of the flats at No 39A appear to have a communal area of outdoor external amenity space. This provides a sitting out area and, in my view, is suitable for the combination of activities associated with four flats of this size, such as leisure and the drying of clothes. On this basis, and as I have no evidence to show that the proposal would breach any prescriptive policy standards for the size of external amenity areas, the scheme is acceptable in this regard. There

is also no conflict with Policy GEN1 of the LPR insofar as it seeks to ensure proposals cause no material loss of amenity to adjoining residential uses through the creation of shared facilities.

Overall Findings – Living Conditions for Occupants

12. Drawing together the threads of the above assessment, the ground floor flats provide suitable daylight and access to external amenity space for occupants. However, the proposal provides unsatisfactory living conditions in terms of the quantum of internal floor space at Flat 1 and Flat 2 and outlook at Flat 2. It therefore conflicts with Policy H6 of the LP insofar as it seeks to ensure that new housing has sufficient internal space to improve residents' quality of life. I have been referred to Policies H1 and NBE10 of the LP. However, these deal with housing mix to foster mixed and balanced communities and low carbon developments respectively. They are therefore not relevant to this main issue.
13. Turning to the National Planning Policy Framework (the Framework), I appreciate that this promotes the effective use of land to meet the need for homes. However, this should not be at the expense of providing a high standard of amenity for existing and future users. I have found that the proposal does not achieve this. There is therefore conflict with the social objective of the Framework insofar as it seeks to support healthy communities by providing homes that meet the needs of present and future generations.

Other Consideration – Special Protection Area

14. The appeal site is within 5km of the Thames Basin Heaths Special Protection Area (SPA), a European designated site. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this instance, it would appear that the Council would require mitigation in the form of access to a Suitable Alternative Natural Greenspace and a financial contribution towards the managing and monitoring of mitigation projects.
15. In any event, the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage¹. As the competent authority, if the proposal had been acceptable in other respects it would have therefore been necessary for me to go back to the parties to seek further information in order to undertake an AA for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Planning Balance

16. The Government is seeking to significantly boost the supply of housing. However, whilst in an accessible location, the development for a single additional dwelling at the site makes only a minimal contribution to the Council's housing stock. Similarly, the economic benefits associated with it are also minimal. In this context, I give limited weight to these social and economic benefits.

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

17. I have found that the proposal affords suitable living conditions for occupants in terms of daylight and access to external amenity space. It is also acceptable in some other respects. For example, in terms of its impact on highway safety and on the character and appearance of the area. However, these are requirements of the development plan and are therefore neutral factors in the overall balance.
18. On the other hand, the scheme provides unacceptable living conditions in terms of the quantum of internal floor space at Flat 1 and Flat 2 and outlook at Flat 2. This attracts significant weight against the scheme.
19. Overall, the adverse effects would outweigh the benefits associated with the provision of one additional dwelling at the site. The proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

20. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR