
Appeal Decision

Site visit made on 24 September 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2020

Appeal Ref: APP/H5960/C/20/3248392
24A Kettering Street, London SW16 6QA

- 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 Andrew Sharpe against an enforcement notice issued by the Council of the London Borough of Wandsworth.
- The enforcement notice was issued on 17 January 2020.
- The breach of planning control as alleged in the notice is the conversion of an existing 3-bed flat into 2 x separate self-contained flats (1 x 3 bed and 1 x 1 bed).
- The requirements of the notice are:
 1. Cease use of the property as 2 x flats and return it to its previous use as 1 x 3 bed flat.
 2. Remove from the site all debris arising from compliance with step 1 above.
- The period for compliance with the requirements is three (3) months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

The appeal on ground (a)

1. The appeal is that planning permission should be granted for what is alleged in the notice. The main issues are:
 - i. whether the development has resulted in the loss of family accommodation;
 - ii. whether the development gives rise to adequate living conditions with particular reference to size;
 - iii. whether satisfactory provision is made for the disposal of refuse and recyclables;
 - iv. whether there is satisfactory provision for cycle parking; and
 - v. whether sufficient water saving measures are in place.

Reasons

2. The appeal site is the first floor and loft area of an existing mid-terraced residential property. The first floor and loft have been refurbished and converted into two flats; the first floor comprising a studio flat and the three bedroom flat covers the remainder of the first floor and the loft. Before the conversion, it is my understanding that the property was used as one three bedroom flat.

3. The site is situated in a predominantly residential area which comprises terraces of mainly two storey residential properties, some of which have been converted to flats. The appeal property is within walking distance of local bus services, shops and other local services and facilities.

Family Housing

4. Policies DMH2 of the Wandsworth Local Plan Development Management Policies Document Adopted March 2016 (the DMPD) relates to residential conversions and states that the conversion of existing properties with less than 150 square metres of habitable floorspace will only be permitted where the property is unsuitable for family accommodation, among other considerations. The appellant contends that there are compelling reasons why the original flat was not suitable for family accommodation.
5. It is argued that as a result of the mix of dwelling houses and flats, character of Kettering Street as a busy highway and the nature of the first floor and loft space accommodation does not easily lend itself to use by families. However, the original flat included a rear garden and is situated within a well-established residential neighbourhood. In addition, it benefits from good access to public transport facilities, local parks, supermarkets, shops and other services. Furthermore, at my site visit I did not find Kettering Street to be particularly busy. Although I understand that was only a snap shot in time, the street itself is a typical suburban residential street with a range of accommodation, including family housing and flats.
6. I do not accept that the configuration of the first and loft space flat would have been unsuitable for families. Therefore, I find no compelling reasons to conclude that the original property was not suitable for family housing. Given the size of the two flats that now exist (a point I will discuss later in this decision) the accommodation is far less suitable for families than the original single three bedroom flat.
7. The appellant has identified that Policies H1 and H2 of the Draft London Plan (DLP) are relevant. These seek to increase the housing supply target for Wandsworth and smaller sites have a much greater role to play, stipulating that Boroughs should apply a presumption in favour of particular types of housing, including proposals to increase the density of existing residential areas within PTAL (Public Transport Access Level) of 3-6 or within 800 metres of a tube station, rail station or town centre boundary. The policy goes on to state that this may be achieved through residential conversions, among others. This is a draft policy which gives it limited weight and does not necessarily mean that all existing properties are suitable for conversion to smaller properties; particularly when there are further concerns about the quality of the accommodation to be provided and the range of facilities provided within the residential site.
8. I understand that the site is within a relatively sustainable location with good access to services and facilities, but given the relatively small size of the original flat at well-below 150 square metres, there is a clear policy argument that it is not suitable for conversion because the original was in my opinion ideally suited to be family housing.
9. Therefore, I conclude on this issue that the development has resulted in the loss of family accommodation, contrary to the provisions of Policy DMH2(a) of

the DMPD where there is no argument in the light of Policies H1 and H2 of the DLP which outweighs the objection to the conversion that has been carried out.

Living Conditions

10. There is no dispute between the main parties that both flats fall short of the respective minimum sizes for flats as set out in Policy DMH 6 of the DMPD and the Technical Standards – Nationally Described Space Standards (2015) set out in Policy 3.5, Table 3.3 of the London Plan. Whilst the appellant recognises this shortfall, he considers that the development is of exemplary design and contributes to other objectives and policies. Policy DMH4 of the DMPD also requires internal space standards to be met.
11. The overall objective of the space standards is to ensure that housing is of adequate quality. Both flats do have relatively high ceilings and are dual aspect. However, I observed at my visit that the flats are cramped, lack circulation space and feel enclosed, restricted and lack a sense of spaciousness. I dispute that the design of the properties is exemplary, but rather is a fairly standard residential conversion providing inadequate quality accommodation in terms of space.
12. The development does provide an additional unit of residential accommodation, but as a consequence of its sub-standard nature I conclude that the development fails to give rise to adequate living conditions with reference to size. There is insufficient evidence before me that there are specific circumstances why such sub-standard accommodation should be accepted in this instance. Consequently, it conflicts with Policies DMH4 and DMH 6 of the DMPD, Policy 3.5 of the London Plan and the Nationally Described Space Standards.

Refuse and recycling

13. Policy DMS1(f) of the DMPD requires new development to be adequately served by waste management facilities. The appellant has confirmed that the arrangements with respect to waste disposal and recycling are no different to the previous situation. At my site visit I observed that refuse and recycling is stored in the small yard area to the front of the property. Council guidance specifies that two flats require suitable space for four dustbins plus four clear recycling sacks and, ideally, this should be located in one waste cupboard per flat.
14. No additional storage has been provided for the additional flat and consequently, the development fails to make satisfactory provision for the disposal of refuse and recyclables, contrary to Policy DMS1(f) of the DMPD.

Cycle parking

15. Policy DMT2(ii) of the DMPP requires there to be one cycle parking space per one bedroom unit and two for all other sized units. At my site visit I observed a cycle parked in the ground floor hall area, but no designated cycle parking spaces have been provided for the residential units. Therefore, although the site has good access to public transport facilities, the development fails to make satisfactory provision for cycle parking and is in conflict with Policy DMT2(ii) of the DMPD.

Water saving measures

16. Policy DMS3 requires that all new dwellings should be designed to ensure that a maximum of 105 litres of water is consumer per person per day in line with Building Regulations requirements. There is insufficient evidence before me that this requirement has been met. The appellant this matter can suitable be controlled by condition. However, in the absence of any evidence to indicate that the requirement may be achieved I am left to conclude that as it stands the development does not make sufficient water saving measures in conflict with Policy DMS3.

Other matters

17. Tenants have provided an email which supports the proposal. I have taken this into account but their comments on the acceptable rental levels, proximity to transport links and their comment that the flat is nice and comfortable do not persuade me that the development should be approved.
18. I have noted that the Council has stated that the first floor studio flat does not have access to a dedicated garden area and therefore fails to comply with Policy DMH7 of the DMPD which relates to the provision of residential gardens and amenity space. However, that issue is not identified in the enforcement notice as a reason for the Council's action and therefore, I consider that there cannot have been sufficient concern to justify their action on this ground.

Conclusion

19. For the reasons given above I conclude that the development is in conflict with the development plan as a whole and the appeal on ground (a) should not succeed.

The appeal on ground (g)

20. The ground of appeal is that the time given to comply with the requirements is too short. The 3 months given would be sufficient to cease the use of the property and return it to its previous use and remove all resultant debris from the land.
21. The appellant is seeking a compliance period of six months in order to serve notice on the existing tenants and allow them the time to find alternative accommodation. There is insufficient evidence before me to show why the period set out in the enforcement notice is too short and, in any case I find that the time for compliance is sufficient given the ongoing harm I have identified above with respect to the loss of family accommodation, the living conditions of occupants and the facilities provided.
22. Therefore, the appeal on ground (g) fails.

Conclusion

23. 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.

A A Phillips

INSPECTOR