



Appeal Decisions

Site visit made on 6 October 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal A: Ref APP/Y5420/C/20/3249502

28 Pellatt Grove, London N22 5PL

- 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 David Ross against an enforcement notice issued by the Council of the London Borough of Haringey.
- The enforcement notice was issued on 26 February 2020.
- The breach of planning control as alleged in the notice is without planning permission the subdivision of the ground floor rear flat into two self-contained flats.
- The requirements of the notice are to:
 1. Cease the use of the ground floor other than as three self-contained flats;
 2. Remove from the property any internal dividing doorways and partitioning facilitating the use of the ground floor rear flat as two self-contained flats;
 3. Remove from the site all debris arising from compliance with steps 1 and 2.
- The period for compliance with the requirements is 4 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. Since the prescribed fees have been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act fall to be considered.

Appeal B: Ref APP/Y5420/W/20/3253719

Flats 1C & 1D, 28 Pellatt Grove, Wood Green, London N22 5PL

- 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 David Ross (Ross Estates) against the decision of the Council of the London Borough of Haringey.
- The application Ref HGY/2020/0668, dated 21 February 2020, was refused by notice dated 17 April 2020.
- The development proposed is erection of a single storey rear extension to facilitate the retention of two no. self-contained studio flats Class C3, plus associated internal alterations to the layout of the existing flats. (Part Retrospective).

Decisions

Appeal A

1. It is directed that the enforcement notice be varied by replacing "Four (4) months" by "Twelve (12) months" in section 5 due to the appeal succeeding to that extent under ground (g).
2. Subject to this variation, the appeal is otherwise dismissed and 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.

Appeal B

3. The appeal is allowed and planning permission is granted for erection of a single storey rear extension to facilitate the retention of two no. self-contained studio flats Class C3, plus associated internal alterations to the layout of the existing flats at Flats 1C & 1D, 28 Pellatt Grove, Wood Green, London N22 5PL in accordance with the terms of the application, Ref HGY/2020/0668, dated 21 February 2020, subject to the following conditions:
- 1) The development hereby permitted shall be carried out in accordance with the following approved plans (save for compliance with approved details submitted pursuant to condition 4): PTOVE-E201; PTOVE-E202; PTOVE-E301; PTOVE-E302; PTOVE-E401; PTOVE-E402; PTOVE-L201; PTOVE-L301; PTOVE-L400; PTOVE-L401; PTOVE-P201; PTOVE-P205; PTOVE-P301; PTOVE-P305; PTOVE-P401; PTOVE-P405.
 - 2) Flat 1C shall not be occupied by more than 1 person.
 - 3) Flat 1D shall not be occupied by more than 1 person.
 - 4) Unless within 6 months of the date of this decision schemes detailing (a) the location and design of bicycle storage for use by the occupiers of Flats 1C & 1D and (b) the location and provision of refuse storage and collection receptacle(s) for use by the occupiers of Flats 1C & 1D are submitted in writing to the local planning authority for approval, and unless the approved schemes are implemented within 6 months of the local planning authority's approval, the occupation of Flats 1C & 1D shall cease until such time as the schemes are approved and implemented.
- Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained,
- In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Preliminary Matters and Background

4. The appeal building is comprised of a ground floor, first floor and second floor. It is sub-divided into multiple self-contained residential units benefitting from planning permission granted upon appeal in 1990¹.
5. The development associated with each appeal before me concerns the subdivision of the ground floor rear two-bedroom flat into two self-contained studio flats (Flats 1C & 1D), which has already occurred and has existed for some time according to the appellant. Appeal B also proposes the erection of a single storey rear extension to Flat 1D and internal alterations to the layout of both flats.
6. At the time of my site visit, Flat 1D was unoccupied and unfurnished.
7. The appellant has submitted a completed, signed Unilateral Undertaking (UU) relating to car free parking and highway works in respect of Appeal B.

¹ T/APP/Y5420/A/90/160826/P5

Appeal B; Appeal A ground (a) and the deemed planning application

Main issues

8. The main issues in both appeals are:

- The living conditions of current and future occupiers of Flats 1C & 1D;
- The living conditions of neighbouring occupiers, as regards noise and disturbance.

Reasons

9. According to the evidence (noting the tenancy agreement dated 28 October 2019, and the House in Multiple Occupation licence application made by the appellant on 26 November 2019), Flat 1C is occupied as a 2-person home. The internal floorspace is significantly below that laid out as minimum in the London Plan (2016) (LONP), and notwithstanding a relatively large garden shared with Flat 1D, I do not consider that there is sufficient space internally for healthy living taking into account the need for living and circulation space as well as a reasonable amount of furniture. However, the reduced space needed by a single occupant would in my judgement be adequate and would meet the minimum standard within the LONP.
10. The use of Flat 1D as a 1-person studio flat also in my judgement represents sub-standard accommodation as the private living space is too small, based on the above same considerations, even for a single person notwithstanding the ready access to the large shared communal garden. I do not accept that the shortfall of around 3 square metres is *de minimis* as this is a proportionately significant amount of space in the context of the meagre size of the accommodation, and the LONP requirements are to be regarded as minima. This weighs heavily against the deemed application under Appeal A. However, the proposed extension under Appeal B would provide important additional space to the main living area of the flat and would meet the minimum requirement in respect of single occupation.
11. Given that the layout of the flats, notwithstanding their division, is under both appeals broadly similar to as approved in 1990 and is partly a product of the building which had been extended before that date, I give very limited weight to the Council's arguments that the flats have awkwardly shaped rooms or that the layout is liable to cause noise and disturbance across the building including through the 'stacking' effects alleged. Very limited substantive evidence has been produced by the Council to support its arguments on these matters, and I am not persuaded that the flats in the appeal schemes represent sub-standard accommodation in these respects or that there is a material risk of causing noise and disturbance through their layouts.
12. Access to the flats is the same as before the subdivision, and notwithstanding that the comings and goings under both appeal schemes are associated with two households instead of one, the low level of occupation associated with the small residential units does not in my view cause additional material noise and disturbance in the context of a building which is already shared by a substantial number of households and occupants.
13. In conclusion, the development under Appeal A in providing undersized accommodation causes significant harm to the living conditions of its current

and future occupants. As such it is contrary to Policies SP2 and SP11 of the Haringey Local Plan Strategic Policies 2013-2026 (2013) (LP), Policy DM12 of the Haringey Development Management Development Plan Document (2017) (DPD) and Policy 3.5 of the LONP which together seek to ensure quality housing which meets minimum space standards. Therefore, the appeal under ground (a) and the deemed planning application do not succeed. The development under Appeal B, while otherwise unacceptable for the same reasons with Flat 1C occupied by more than 1 person, can be made acceptable by the imposition of a planning condition suggested by the appellant limiting occupancy to 1 person. Since Appeal B does not conflict with the development plan with this condition, I impose it in granting planning permission for the development.

Other matters

14. The appeal schemes represent a net gain of 1 home in a highly accessible area, contributing to the Council's overall housing delivery objective in Policy SP2 of the LP supported by the National Planning Policy Framework objectives of increasing the supply of housing and making efficient use of land.
15. I assign limited weight to the Council's appeal argument that a 2-bedroomed home has been lost, as I would apply greater weight to the loss of a 3-bedroomed (plus) home which is normally associated with 'family-sized' accommodation. I also note that Policy DM16 of the DPD referred to by the Council is concerned with the residential conversion of 'larger family' homes and the supporting text refers to family houses as being of 3+bedrooms.
16. The UU submitted by the appellant restricts eligibility of the occupiers of the flats from obtaining parking permits and secures the removal of the vehicular cross over to the front of the property. While highlighted as issues in the delegated officer report, these are not significant contested issues between the parties and not determinative of the appeals.
17. The above benefits in favour of the appeal developments do not outweigh the significant harm and conflict with the development plan I have identified in respect to the ground (a) appeal under Appeal A, and do not alter my conclusion in respect of it.
18. An interested party has raised concerns that the Appeal B development is within the Trinity Gardens Conservation Area (CA). I have applied the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the CA by attaching considerable importance and weight to that desirability. However, the only external feature of the proposed development is a modest single storey rear extension finished in white render to match the existing and in my judgement would have no adverse impact on the CA. Therefore, the proposal preserves the character and appearance of the CA.

Conditions, Appeal B

19. In granting permission in Appeal B, in order to protect living conditions I am attaching planning conditions limiting the number of occupants of the studio flats to one in each case. In the interests of good planning and for the avoidance of doubt, I am also attaching a condition specifying the drawings.

20. A condition is imposed to ensure that required details for bicycle storage and refuse storage and collection are submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the approval and implementation of the matters before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Appeal A Ground (g)

21. To succeed under this ground, the appellant must satisfy me that the period for compliance specified in the notice falls short of what reasonably should be allowed.
22. I place significant weight on submitted evidence showing that the current 2 tenants of Flat 1C have an agreement which expires on 31 August 2021. Taking into account the associated expectation of those occupiers that they will occupy their home until that date, and will need time to look for alternative accommodation, I will vary the compliance period from 4 to 12 months. I have also taken into account what the appellant has said about the possible need to pursue possession proceedings should the tenants not leave on or before the end of the tenancy agreement, and the need for time to complete the required work upon their departure. However, 12 months gives the appellant a reasonable time to comply, including several weeks beyond the end of the tenancy agreement, and a longer period would not be proportionate taking into account the ongoing planning harm.
23. Article 8 of the First Protocol to the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, is engaged due to potential loss of a home for the appeal site's occupiers due to conflict with planning policies. Therefore, I have undertaken a proportionality assessment and considered whether the objectives of the planning policies could be met by a less intrusive action. However, the policies seek to protect the occupiers of residential dwellings from sub-standard accommodation and their objective cannot otherwise be achieved other than ensuring that minimum standards are met. The effect of the policies is to benefit the interests and well-being of persons occupying dwellings, and the implementation of their requirements in respect to the appeal property would not be excessive or disproportionate taking all into account.

Conclusions

24. For the reasons given above I conclude that Appeal A should not succeed except to the extent under ground (g). I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.
25. For the reasons given above I conclude that Appeal B should be allowed, and I grant planning permission with conditions.

Andrew Walker

INSPECTOR