

Appeal Decision

Site visit made on 18 December 2020

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06/01/2021

Appeal Ref: APP/L5240/W/20/3255791

Flat 1, 97 Birchanger Road, South Norwood, London SE25 5BH

- 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 Miss Krystal Geddes against the decision of the Council of the London Borough of Croydon.
 - The application, Ref. 19/0329/FUL, dated 8 July 2019 was refused by notice dated 9 January 2020.
 - The development proposed is retrospective consent for the conversion of part of the ground floor from a double living room to a one bed (one person) flat.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of part of the ground floor from a double living room to a one bed (one person) flat, at Flat 1, 97 Birchanger Road, South Norwood, in accordance with the terms of the application, Ref. 19/0329/FUL, dated 8 July 2019.

Main Issue

2. The main issue is the adequacy of the living conditions for existing and future occupants of the flat, with particular reference to floorspace and private amenity areas.

Reasons

3. The Council's concern is that the accommodation fails to meet the standards for a 1 bedroom / 1 person flat having regard to Policy DM10.4 of the Croydon Local Plan 2018 ('the Local Plan'), the Council's 'Suburban Residential Development' SPD 2019 and Policy 3.5 of the London Plan 2016 (as amended).
 4. Turning firstly to living space, under the adopted standards a 1 bedroom 1 person flat requires a Gross Internal Area (GIA) of 39sqm. The Council says firstly that the flat has a GIA of only 32sqm (as does the Design and Access Statement submitted with the application), and secondly that because at the time of the officer's visit it appeared to be occupied by two persons, the actual requirement is 50sqm.
 5. However, the initial measurement of the flat excluded the hall and at 2sqm this increases the GIA to 34sqm and thereby slightly reduces the deficiency when assessed against the adopted standard. Following my
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inspection of the premises I am also prepared to accept the appellant's evidence that the unit is intended for occupation by only one person.

6. Nonetheless, the flat does fall short of the floorspace standard unless it can be regarded as being exempt under paragraph 3.36 of the London Plan. This says that single person dwellings of less than 37sqm may be permitted if the development proposal is demonstrated to be of exemplary design and contributes to the achievement of other objectives and policies of the Plan.
7. The Council accepts that the flat is finished internally to a reasonable standard but argues that there is nothing to indicate that it is 'exemplary'. A subjective judgement has to be made on this issue and from my inspection I formed the view that in the context of its modest role towards the lower end of the housing hierarchy, it would be difficult to improve on either the quality of the accommodation as regards both the flat's fixtures & fittings and the organisation of its living space. In addition the flat has a dual aspect with good natural light and ventilation. And the bay window in the bedroom makes a significant positive contribution to the quality of the living space.
8. Leaving the issue of floorspace temporarily aside, the flat has a rear door that opens out onto a communal courtyard with a garden at the far end of a passageway adjoining the remaining ground floor area of the building. As neither the garden or courtyard area is included in the flat's lease, the Council has concluded that there is no private amenity or play space and that this is contrary to Local Plan Policy DM10.4. Whilst this is technically correct, on a practical and day to day basis the occupier of the flat can share the courtyard with the resident in neighbouring ground floor flat. This area does have its limitations, but is at least suitable for the purposes of sitting out of doors and getting fresh air and sunlight.
9. Taken as a whole I consider that it is arguable whether Flat 1 is in clear conflict with the adopted housing standards. Furthermore, there is a more fundamental point to be considered. The lawful use of the whole of No. 97 is as an HMO, but since 2016 the actual use of the premises has changed. In addition to the formation of Flat 1 itself as a self-contained unit, the above-mentioned neighbouring ground floor flat to the rear now has a status as a lawful development. In addition, the Council has not challenged the appellant's evidence that the first floor of the former HMO has been converted to two self-contained flats, with one of them granted permission.
10. In these circumstances, I do not consider that rigid adherence to the adopted standards in respect of Flat 1 would achieve anything other than negative consequences. Dismissal of the appeal and subsequent enforcement would only result in the loss of the appellant's home and the floorspace likely to become unused. This would run wholly counter to the other objectives and policies of the London Plan as referred to in

paragraph 6 above. This is particularly the case as notwithstanding the modest shortfall in floor area, I regard the layout and living conditions of the flat to be of a high standard and not demonstrably outside the reasonable definition of 'exemplary'.

11. In summary, I consider that any conflict with the Local Plan, the Council's 'Suburban Residential Development' SPD 2019 and Policy 3.5 of the London Plan 2016 (as amended) would not be harmful. And for the reasons I have set out above in favour of allowing the appeal, together with the flat's good Public Transport Accessibility Level (PTAL) of 4, I also conclude that conversion of the former HMO to a self-contained flat 1 bed 1 person flat is sustainable development as defined in Government policy in the National Planning Policy Framework 2019.
12. The appeal is therefore allowed.

Martin Andrews

INSPECTOR