



Appeal Decision

Site visit made on 21 January 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2021

Appeal Ref: APP/F5540/W/20/3258783

41 Swanscombe Road, Chiswick, London W4 2HL

- 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 F Pons (One Lords Court Ltd) against the decision of Council of London Borough of Hounslow.
 - The application Ref 01102/41/P7 dated 17 June 2020, was refused by notice dated 20 August 2020.
 - The development proposed is change of use and subdivision of existing Small HMO (Use Class C4) to form three self contained flats (Use Class C3). Erection of single story extensions to lower and upper ground floors.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposal is acceptable in principle having regard for the relevant Local Plan Policies and (ii) the impact of the proposal upon the living conditions of future occupiers.

Reasons

Principle

3. The appeal site is a mid-terraced, three-storey, property with a small, enclosed garden to the rear. The proposal seeks to change the use and subdivide the existing property into three self-contained flats following single storey extensions to the lower and upper ground floors. The refusal reasons relate solely to the use of the appeal site as self-contained flats and the amenity of future occupiers. The Council do not raise objection with the proposed extensions within their reasons for refusal. For this reason, the appeal will focus upon the main issues as outlined above.
4. London Borough of Hounslow Local Plan 2015 (LP) Policy SC6 specifically relates to management of building conversions and sub-division of existing housing. The appeal site is currently utilised as a small house in multiple occupation (HMO) (Use Class C4) which is a use which can be undertaken, without formal planning consent, under permitted development¹. Similarly it could be converted, back to a single dwelling, under the same category of permitted development. As a result of the lack of requirement for formal

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2 Part 3 Class L

planning consent for such changes I concur with the Council that the proposal should still be considered as a house.

5. LP Policy SC6 is stated to be concerned with conversion of buildings and subdivision of housing stock so regardless of whether the parties contend that the site should be assessed, legally as a starting point, as a small HMO or a single house I still find that LP Policy SC6 is the starting point for assessing the principle. The proposal is for a change of use to three self-contained flats which is, therefore, the conversion of a building.
6. There are some minor discrepancies within the submissions as to the existing floor areas but, either way, both parties concur that the original internal floor area falls short of the policy starting point. The Council's delegated report sets out that the original internal floor area of the appeal site is estimated to be in the region of 107.1 sq./m. LP Policy SC6 is clear that development proposals should have a minimum 130 sq./m net *original* internal floor area to be considered suitable for conversion or subdivision. The appeal site only exceeds this threshold due to previously approved extensions.
7. In addition the proposal, as one-bedroom flats, does not provide a family unit. Despite this, even if I had accepted the appellant's contentions that this requirement should be given less weight due to the existing use as a small HMO, and that the proposal would not result in the loss of a single family dwelling, the proposal still fails to meet the required minimum original floor area set out in the relevant policy. The development fails to satisfy the requisite provisions to be eligible for conversion and the principle of the proposal is unacceptable.
8. I note the Council do state that the proposed subdivision is unlikely to significantly alter the residential relationship between the application site and neighbouring properties. Overall, the proposal would be contrary to LP Policy SC6 which requires a minimum original internal floor area of 130 sq./m to be considered suitable for subdivision and/or conversion as well as requiring provision of a family unit.
9. The National Planning Policy Framework 2019 (the Framework) is a material consideration, however, the starting point for the determination is the Local Plan in accordance with S38(6) of The Planning and Compulsory Purchase Act 2004. I acknowledge that the Framework seeks to significantly boost housing supply but the Framework does not change the statutory starting point for determination. I have no evidence before me which justifies a departure from the adopted LP in this case.

Living conditions of future occupiers

10. The submitted plans do show the proposed bedrooms as accommodating a double bed. This has led to the Council assessing the proposal as 1-bedroom, 2-person, units whilst the appellant contends the flats are intended to be occupied as 1-bedroom, 1-person, units.
11. Based upon the plans before me the proposals present as double bedrooms, however, I would not say it is unusual for single occupants to favour double beds. In addition the proposal is working within existing room dimensions into which a double bed happens to fit regardless of intended occupancy. The appellant's original planning statement suggests that the proposal would be

marketed towards single parent professionals living in the local area who look after their children at the weekends.

12. The Technical Housing Standards – Nationally Described Space Standard 2015 (space standards) offer a breakdown of space requirements. The number of bedrooms and bed spaces (persons) dictates over minimum gross internal floor areas and storage (sq./m). Giving the proposal the benefit of the doubt, as 1-bedroom 1-person units, the proposed flats would meet the minimum gross internal area as required by space standards.
13. The ground floor flat is noted as being 37 sq./m, however, space standards allow a minimum 37 sq./m where the 1-bedroom 1-person unit has a shower room instead of a bathroom. Based on one bedspace (person) the bedroom does not need to meet the required 11.5 sq./m floor space for a double bedroom. The proposal would therefore provide sufficient internal amenity space for future residents based on 1-person units.
14. Regardless of whether the units are for one or two people LP Policy SC5 states that, for flats, there is a minimum requirement of 5 sq./m of outdoor space for each 1-2 person dwelling. Whilst the proposed upper floor flat and proposed lower ground floor flat would both meet this requirement (the latter is stated to benefit from the entire garden as private amenity space (23.4 sq./m)) the proposed ground floor flat would fail to meet this standard providing only just over half (2.6 sq./m). In addition LP Policy SC5 (figure SC5.2) requires communal external space to be provided as no less than, for each flat (up to three habitable rooms) – 25 sq./m, less a reduction for the area of private space provided for each flat. No communal space is provided within the proposals.
15. The proximity of the proposal to public parks is noted, however, I do not find that this outweighs the overall lack of communal space combined with proposed ground floor flat only having just over half the required private amenity space. The current global pandemic has highlighted, more than ever, the importance of adequate amenity space within people's homes. Overall the proposal fails to provide adequate amenity space and is therefore contrary to the requirements of LP Policy SC5 which requires proposals to provide a combination of private outdoor space and communal open space for each flat. The proposal would also be contrary to LP Policy CC2 which requires development proposals to have a positive impact on amenity of future occupiers.

Other Matters

16. The new London Plan seeks to support well-designed new homes on smaller sites but this does not justify proposals which are not acceptable in principle or contrary to policy in terms of design, application of standards and requisite provisions relating to eligibility for proposals. LP Policy SC6 establishes the principle of subdividing dwellings to contribute to the Borough's housing supply but the policy is clear as to the qualifying criteria. Such policies are designed to ensure a high standard of amenity for occupiers with good design being a key component within the Framework.
17. The appellant has submitted details as to a proposal at 21 Coombe Road (P/2016/1072) which granted consent for two self-contained flats following conversion from an office. Each case must be considered on its own merits and

whilst I note the officer comments relating to a lack of amenity space for the upper flat at that site, even if I had taken the same approach this appeal proposal at 41 Swanscombe Road would still be dismissed as it is not acceptable in principle for the reasons outlined above.

18. The appellant's statement of case stated that they consider impact upon character and appearance of the area and accessibility as main issues to be considered within this appeal. These matters do not form part of the stated refusal reasons. The Council have not raised issue with regard to transport/accessibility nor character and appearance as confirmed in their delegated report. I have no evidence before me to conclude differently but a lack of objection on such matters is a neutral consideration. The main issues within this appeal are as set out at the start of this decision letter.
19. I note that there are a number of objections to this proposal. The Council have not raised any issues relating to loss of privacy, loss of light, loss of recycling space, overshadowing or street stress/parking. I have no reason to conclude differently and had the proposal been found acceptable in other regards a condition could have been applied to ensure suitable waste and recycling provision as part of the proposal.
20. Given that the site can legally be utilised as a small HMO without formal consent as a fallback, which will generate comings and goings between unconnected occupants, I do not find the proposal would create increased noise and disturbance which would be to the detriment of the living conditions of neighbouring properties. Fear of a precedent is not a reason for refusal – each case must be considered on its own merits.

Conclusion

21. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR