



Appeal Decision

Site visit made on 16 February 2021

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

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021.

Appeal Ref: APP/C5690/W/20/3256008

173 Perry Hill, London SE6 4HE

- 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 Dr Simon George, George Enterprises (UK) LLP against the decision of the Council of the London Borough of Lewisham.
 - The application, Ref. DC/20/116396, dated 6 April 2020 was refused by notice dated 2 June 2020.
 - The development proposed is retrospective planning approval for the conversion of 173 Perry Hill to ground floor and 1st floor flats.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of 173 Perry Hill, London to ground floor and first floor flats in accordance with the terms of the application, Ref. DC/20/116396, dated 6 April 2020 and subject to the condition that the use of the building shall be in the form shown on the following approved plans: Drawing Nos: Lond173PH001 & Lond173PH002.

Background and Main Issue

2. The appellant's statement explains the background to the appeal. In summary he purchased the first floor flat in April 2019 unaware that it did not have the benefit of planning permission. An application was subsequently made for a Lawful Development Certificate ('LDC') for the existing sub-division. However, although there is some evidence that the development probably occurred at some point between 2014 and 2016 this could not be verified and was insufficient for the LDC application to succeed.
3. Notwithstanding the change of use being unlawful, the appellant has paid Council tax for the first floor flat since his purchase. The appellant now wishes to sell the flat and the appeal application has been submitted to regularise the conversion to facilitate its sale.
4. The main issue is the effect of the conversion from an established single family dwellinghouse to two self-contained flats on the delivery of housing choice in Lewisham and the Council's aim to build mixed, balanced and sustainable communities.

Reasons

5. DM Policy 3 of the Lewisham Development Management Local Plan 2014 states that the Council will refuse permission for the conversion of a single family house into flats except where environmental conditions mean that the house is not suitable for family accommodation. This could be either because the dwelling is adjacent to noise nuisance or other environmentally unfriendly uses, or a lack of external amenity space suitable for family use. This policy is supported by other policies in the Lewisham Core Strategy and the London Plan.
6. The officer's report on the application states that the conversion is in conflict with the aforementioned DM Policy 3. The grounds of appeal refer in some detail to Government policies in the National Planning Policy Framework 2019 ('the Framework') to encourage the effective use of land for housing development. However, nothing I have read or indeed seen on my visit to the site persuades me that the Council was not entitled to refuse retrospective permission for the conversion to two self-contained flats.
7. That said, I must also consider whether the conflict with DM Policy 3 is actually harmful. From my inspection of the premises I saw that the first floor flat has been converted to provide high quality accommodation. As regards size, there are three bedrooms, two double and one single. A more than adequate bathroom and open plan kitchen / living room complete the accommodation. The gross internal area ('GIA') of 74sqm is the same figure referred to in the Nationally Described Space Standards ('NDSS') as being that required for a 3 bedroom 4 person flat. (The inclusion of the hall and staircase within the 74sqm may slightly reduce the flat below the minimum, but I consider this acceptable given the quality of the conversion).
8. This space and layout equates to family accommodation, for example 2 parents and 2 children, or perhaps a single parent and 3 children. At the time of my visit the flat was occupied by the current tenants with adults and children living as a family. Thus although the original large dwelling house is no longer available for a large family, the present arrangement caters for a smaller family. On the ground floor there is the other flat, which as a 2 bedroom 3 person apartment with a GIA of 64sqm exceeds the 61sqm minimum under the NDSS. This too could accommodate a small family, say 2 parents with 1 child or 1 parent with 2 children.
9. Having regard to the above, I consider that although in technical conflict with DM Policy 3 the development does deliver housing choice in Lewisham and is consistent with the Council's aim to build mixed, balanced and sustainable communities and the similar objectives of Government policy in the Framework. Furthermore, the appellant is correct to argue that the sub-division has been achieved with minimum alterations and is in a form that would easily permit a reversion to a single dwellinghouse. And as one house it would be particularly suitable for a family with an elderly relative, who with the first floor kitchen could achieve a degree of independence.
10. A neighbour has objected to the conversion on the grounds of increased noise and disturbance and traffic. This would view carry weight if the conversion had led to several flats in the building, but the probability is that the current subdivision will have no greater impact than occupation by one larger family. And bearing mind that the two flats have been at No. 173 for at least 3 years

and in all likelihood for twice that period, there is no evidence before me that this arrangement has caused problems.

11. The objector also raised an issue of precedent but I have reached my decision on the individual merits of the development. And although not the determining factor in the appeal, I also recognise that the circumstances of the appellant's ownership summarised in paragraphs 2 & 3 above are such that regard might reasonably be had to Paragraph: 007 Reference ID: 17b-007-20140306 of the Government's Planning Practice Guidance ('options to tackle breaches of planning control in a proportionate way').
12. For the above reasons the appeal is allowed. I shall impose a condition linking the accommodation to the approved plans for the avoidance of doubt and in the interests of proper planning.

Martin Andrews

INSPECTOR

