The Planning Inspectorate

Appeal Decision

Site visit made on 19 April 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2021.

Appeal Ref: APP/G5180/W/20/3261858
Ground floor flat, 42 Maple Road, Penge, London, SE20 8HE

- 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 Atkins against the decision of London Borough of Bromley Council.
- The application Ref DC/20/00259/FULL1 dated 15 January 2020, was refused by notice dated 3 September 2020.
- The development proposed is the continued use of the ground floor of 42 Maple Road as two self contained dwellings.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of this application the London Plan 2021 (a Replacement Plan) has been published by the Mayor. This London Plan replaces all previous versions and, therefore, the London Plan 2016 policy that is referred to within the refusal reason and the submissions is no longer in force. The draft new London Plan (intend to publish) is clearly referred to within the Council's submissions. Given the nature of the refusal reason, the main issues and the other documents upon which the refusal reason is based it is not considered, on this occasion, that the publication of the new London Plan directly changes the assessment of this appeal.

Main Issues

3. The main issues are the impact of the proposal upon the amenity of current and future occupiers with regard to unit size, outlook and restricted daylight and sunlight.

Reasons

4. The appeal site is a semi-detached property, in a primarily residential area, and specifically relates to the ground floor of the building only. The proposal is submitted as retrospective however, this does not change the basis for determination of the proposal.

Unit Sizes

5. The Nationally Described Housing Standards 2015 (NDSS) submitted with this appeal require a 1-bedroom, 1 -person, studio to have a Gross Internal Area (GIA) of 39 sq./m (37 sq./m where a shower room is provided). A 1-bedroom, 2-person, unit should have a GIA of 50 sq./m (over one storey) or 58 sq./m

(over two storeys). A storey is, for the avoidance of doubt, a part of a building comprising all rooms that are on the same level/the level of a building.

6. The submitted plans (dwg no. 42MR/01) state that the flats have a gross floor area of 56 sq./m (flat A) and 40 sq./m (flat B) respectively. Flat A, within the stated 56 sq./m, is acknowledged by the appellant to include the storage area in the cellar. Discounting the cellar/store flat A would have a remaining GIA of around 40 sq./m.

7. Whilst I did not enter the cellar as part of my site visit it is stated that this is for storage and this is indeed noted as a cellar store on the submitted plans. It is therefore not intended to be habitable space. The main objective of the NDSS is to ensure new dwellings have appropriate accommodation, and space, as a residential unit for day to day living activity. I do not find it is in the spirit of the NDSS to include what is nearly a third of overall GIA (16 sq./m) in the form of a below ground storage cellar (with no windows) in order to try to meet the overall standards. Whilst the NDSS does not directly deal with the matters raised within this proposal it is undoubtedly careful in its approach to inclusion of areas used for storage, within GIA, as demonstrated in the approach set out in the technical standards.

8. Notwithstanding this flat A is stated to be a 1 bedroom, 2-person, flat by the appellant. Whichever way I view this I find that the proposal does not meet the requirements of the NDSS. As a 1 bedroom, 2-person, flat it should have a GIA, under the NDSS, of 50 sq./m over one-floor. Removing the cellar the flat has a GIA of 40 sq./m. Approaching it a different way, applying the appellant's contention that the cellar space should be included, I find this then creates accommodation over two-storeys, increasing the GIA requirement to 58 sq./m under the NDSS. The proposal would thus also fall short of this by 2 sq./m.

9. I find, therefore, that flat A would not meet the standards required for internal space as set out within the NDSS. Flat B, giving it the benefit of the doubt as a 1-bedroom, 1-person unit, as stated by the appellant would meet the requirements of the NDSS in terms of GIA.

Outlook, Daylight and Sunlight

10. The refusal reason is based upon the provision of a bedroom with no form of outlook as well as restricted daylight and sunlight. The bedroom in question is located within the unit known as flat B demonstrated on dwg no. 42MR 19/01. As part of my site visit I entered flat B and went into the bedroom. The bedroom is accessed via an internal door, off the main living space, where access is gained to both the shower and WC which are either side of the access. The bedroom also has its own internal door.

11. The only source of natural light for the living space is the bay window to the front elevation (facing Maple Road) and two small windows either side of the entrance door (facing onto Melvin Road). As a result of the overall layout the only source of natural light to the bedroom is therefore the roof light, which is over an area utilised for storage, off the main area of the bedroom, which was separated off by curtains. Environmental Heath (Housing) are clear, for the bedroom in flat B, that they find the roof light is inadequate as a result of its size, ventilation and outlook. Even if limited weight was given to some standards/criteria included by the Council within their assessment I find, with sensible judgement alone, that the roof light is inadequate.

12. My site visit was undertaken on a bright, sunny, day and I find that, even on a such a day, the room was very dark and required the light to be turned on. Even with the lighting on the room still presented as dark and enclosed. The appellant acknowledges the outlook is restricted. I do not find that the bedroom within flat B still has plenty of natural light and find that this, combined with restricted outlook, would have a harmful effect on the amenity of the current and future occupier of flat B.

13. Standard 32 of the Mayor's Housing Supplementary Planning Guidance 2016 (SPG) is noted to require provision of direct sunlight into one habitable room for part of the day. The proposal is acknowledged to comply with this element of the SPG, however, standard 24 of the SPG is clear in its requirement for all new dwellings to meet the NDSS which, as outlined above, the proposal does not with specific regard to flat A.

14. The proposal would be contrary to Bromley Local Plan 2019 (LP) Policy 4 which requires developments to achieve a high standard of design and layout and meet minimum space standards, LP Policy 9 which permits conversions where the resulting accommodation will provide a high quality living environment for intended occupiers and LP Policy 37 which requires proposals to respect the amenity of future occupants ensuring they are not harmed by inadequate daylight or sunlight.

Planning Balance

15. The appellant submits that the Council are unable to demonstrate their five-year housing land supply. This is not disputed in the Council's statement of case. In accordance with paragraph 11 d) ii) of the National Planning Policy Framework 2019 (the Framework) planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

16. The retention of the two units (as opposed to occupation of the site as a single self-contained maisonette) would be a modest contribution to housing supply for the area in the form of one extra unit. There would be modest economic and environmental benefits as a result of occupant(s) within the additional unit created by the subdivision. Smaller units of this nature do of course have importance for lower income groups and/or single occupants within areas such as London. This does not, however, override the strong emphasis on good design and a high standard of amenity regardless of whether the current tenants are said, by the appellant, to confirm they are content with the quality of accommodation provided.

17. The Framework is clear in its policy emphasis on good design and its role in creating better places to live and work as well as seeking to ensure that developments create places that have a high standard of amenity for existing and future users. Good design is a key aspect of sustainable development and, on this occasion, I do not find the proposal is well designed with regard to daylight, sunlight and outlook and as well as failing to meet the standards required by the NDSS. More effective use of land is encouraged within the Framework however, I have no evidence to suggest that the subdivision of the existing semi-detached building as a whole does not already represent the most effective use of the appeal site. Furthermore, higher density

development should not be at the cost of good design or fail to provide good residential amenity.

18. As a result of this I find the proposal fails to present as sustainable development and that the adverse impacts of granting consent would significantly and demonstrably outweigh the very limited benefit of an additional one-bedroom unit created by subdivision of the ground floor flat at the appeal site.

Conclusion

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

Eleni Randle

INSPECTOR