



Appeal Decision

Site visit made on 15 June 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2021

Appeal Ref: APP/N5660/W/20/3249742
250 Abercairn Road, London SW16 5AL

- 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 Rob Griffiths against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/03462/FUL, dated 16 September 2019, was refused by notice dated 9 January 2020.
 - The development proposed is described on the application form as 'alteration of single dwelling to 2.no apartments. One ground floor and one first floor'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of the original application the London Plan 2021 (a Replacement Plan) has been published by the Mayor. This London Plan replaces all previous versions. The draft new London Plan 2019 (intend to publish) is clearly referred to within the Council's submissions. One policy from the draft London Plan 2019 is cited within one of the refusal reasons. A copy of the new London Plan was also submitted with the Council's statement. Therefore, and as the main parties have had an opportunity to comment on this matter and I am therefore satisfied that neither has been prejudiced in this regard.
3. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, as the main parties have had an opportunity to comment on this matter, I am satisfied that neither party has been prejudiced in this regard either.
4. On 22 September 2021 a new Local Plan for Lambeth was adopted by the Council. As a result, I afford the policies within the newly adopted plan full weight. In addition, as the appellant has had an opportunity to comment on this matter, I am satisfied that they have also not been prejudiced in this regard.
5. The Council have described the development as 'Retrospective application for the conversion of the property into 2 self-contained flats, together with provision of car parking space, refuse and cycle storage.' I note that the appellant has also utilised a similar description on their appeal form. I consider that this revision provides an accurate description of the proposal and I have therefore determined the appeal on this basis.

6. In their statement the Council have said that they wish to withdraw the element of the second reason for refusal which refers to lack of privacy to the ground floor occupiers as they consider that this could be adequately mitigated by the imposition of a suitably worded condition. I agree with this assessment and I have therefore not referred to this element in my reasoning below.

Main Issues

7. The main issues are:
- the effect of the proposed development on the supply of family housing in the area;
 - the effect of the proposed development on the living conditions of its occupiers having regard to the provision of internal floorspace;
 - whether the proposed development promotes sustainable transport; and
 - whether the submitted plans are sufficient to allow an accurate comparison of the existing development and the proposed development.

Reasons

Supply of family housing

8. Policy H6 of the adopted Lambeth Local Plan (LLP) aims to prevent the loss of family housing in areas under conversion stress and where such suitable family dwellings are not on the main road network have an internal floorspace area of less than 130 square metres (sqm) as originally constructed.
9. In their statement the Council have estimated that, based on the information they have relating to previous planning applications, the appeal property had an area of approximately 86.5 sqm as originally constructed. The appellant has not challenged this figure. Consequently, the proposal leads to the loss of a family home that had an internal floor area of less than 130 sqm as originally constructed.
10. I note the appellant's point that the appeal property is not within an area of conversion stress with their estimate of the proportion of the total number of planning applications in the area that are conversions being approximately 6%, a point which the Council have acknowledged. However, this does not necessarily mean that the stock of family housing in the area is high or that the criteria within policy H6 are not applicable in this case.
11. I therefore conclude that the proposal fails to meet the requirements of policy H6 of the LLP thereby causing material harm to the supply of family housing in the area.

Living Conditions

12. According to the submitted plans, the proposal provides approximately 109 sqm of internal floorspace for the ground floor flat, a two bedroomed unit capable of accommodating four persons with around 64 sqm being provided for the first floor flat, also capable of accommodating two bedrooms/four persons.
13. Policy D6 of the published London Plan (LP) states that the minimum gross internal floor area (GIA) for a single storey two bedroomed flat capable of accommodating four persons is 70 sqm. Consequently, the proposed ground floor flat exceeds the minimum requirement. However, the proposed first floor

flat does not. As a result, it fails to provide an adequate amount of internal floorspace for its occupiers.

14. I note the appellant's point that the proposed first floor flat is a two bed roomed flat capable of accommodating three persons, not four meaning that it exceeds the related minimum requirement of 61 sqm as set out in policy D6. However, the submitted plans clearly show each of the two proposed bedrooms having double beds and the dining table having four seats making it likely that the flat accommodates four people rather than three.
15. I therefore conclude that the proposed development materially harms the living conditions of its occupiers having regard to the adequate provision of internal floorspace thereby failing to meet the requirements of policy D6 of the LP and policies Q2 and H6 of the LLP.

Sustainable Transport

16. The parties agree that the appeal site is in a location with a Public Transport Accessibility Level (PTAL) score of 3 which means that the proposal's occupiers benefit from a moderate access to local public transport services. The appeal property has two off-street parking spaces which the Council state have an acceptable impact on local parking stress as it would be unlikely that the residents would need to park on the street. This would meet several criteria of policy T6 of the LLP.
17. However, even so, policy T6 also requires that new residential developments promote and provide car club membership for all residents. The supporting text to policy T6 also states that planning obligations will be used to secure this. Indeed, the Highway Authority have sought a legal agreement and planning obligation for the provision of one car club membership for the first floor flat.
18. Policy D4 of the LLP also states that s106 legal agreements can be used to ensure that development proposals provide or fund local improvements to mitigate the impact of the development and/or additional facilities and requirements made necessary by the development including car clubs.
19. Consequently, in the absence of a legal agreement to secure the promotion and provision of car club membership for the proposal's residents I cannot be sure that it meets the requirements of policies T4 and T6 in this regard.
20. I note that the appellant would be willing to accept a suitably worded condition to secure the provision of car club membership for the proposal via a unilateral undertaking. However, having regard to the Planning Practice Guidance¹, the imposition of a positively worded condition requiring the appellant to enter into a planning obligation is unlikely to be enforceable.
21. I therefore conclude that the proposed development fails to promote and provide car club membership for its residents thereby also failing to meet the requirements of policies T4 and T6 of the LLP.

Accuracy of submitted plans

22. The Council have raised a concern in relation to the accuracy of the submitted plan Existing – As Approved Drawing, drawing no. 17 / 250C / P 401 in that it does not represent an accurate depiction of the existing property due to the

¹ Paragraph: 010 Reference ID: 21a-010-20190723

retrospective nature of the appeal scheme. However, as the scheme is retrospective, it could be argued that the existing plans represent the appeal property before the work was undertaken with the proposed plans representing the current 'on the ground' situation in relation to the property, which to my mind, makes it clearer as to what work has been undertaken retrospectively.

23. As a result, I conclude that the submitted plans are sufficient to allow an accurate comparison of the existing development and the proposed development.

Conclusion

24. The proposal does not accord with the development plan when read as a whole and there are no material considerations which indicate a decision otherwise than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR