



Appeal Decision

Site visit made on 7 December 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 5TH January 2022

Appeal Ref: APP/G5180/W/20/3249091

20 Southey Street, Penge London SE20 7JD

- 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 Mrs Helen Smith against the decision of the Council of the London Borough of Bromley.
 - The application Ref: DC/19/04132/FULL1 dated 23 September 2019, was refused by notice dated 18 December 2019.
 - The development proposed is conversion of a storage building to residential (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has disputed the validity of the appeal as, in its view, it relates to a very similar scheme for which an enforcement notice has been served and an appeal dismissed. This concern has been taken into account but given the change in the scheme from a three bedroom to a two bedroom unit, this appeal has been accepted and I have no reason to take a different view.
3. The conversion from commercial to residential has taken place in part, although there are further proposed changes and alterations to the existing building. I shall therefore consider the proposal on the basis of the submitted plans before me.
4. There have been a number of previous schemes which have been refused planning permission, including two appeal decisions relating to the property. A proposal to convert the unit to a three bedroom unit was dismissed in September 2018 under the Ref: APP/G5180/W/18/3194482 and a subsequent enforcement appeal in September 2019 under the Ref: APP/G5180/C/18/3213655 did not succeed in respect of grounds (a) and (f) but did succeed under ground (g) to the extent that the period for compliance was extended to six months. The enforcement notice and appeal also related to the conversion of the unit to a three bedroom dwelling.
5. Since the application was determined, the National Planning Policy Framework (Framework) has been revised in July 2021. However, I do not consider that the changes directly affect the appeal proposal before me, but all references are to the July 2021 Framework.

Main Issues

6. The main issues in this appeal are:

- a) Whether the proposed dwelling would offer a satisfactory standard of living accommodation for future residents.
- b) The effect of the proposed development on the living conditions of neighbouring residents.

Reasons

Issue a) Living Conditions for Future Residents

7. The appeal building is currently vacant, although I understand that it was originally a storage building and at the time of the site visit, part of it has been converted to residential use. It directly adjoins a two storey commercial building on part of its western side, currently in use as a microbrewery and the rear gardens of residential properties in Raleigh Road along its eastern side. It is accessed from Southey Street to the north and lies to the rear of a flatted development fronting Southey Street and the rear of commercial and residential properties to the south west on the High Street. It therefore lies in a mixed-use area with both commercial and residential uses, in the immediate vicinity. No issue is raised over the principle of a residential use and given the surrounding uses and the proximity of the site to local facilities, I agree that a residential use would, in principle, be acceptable.
8. The building is long and narrow with a blank western elevation along the party wall with the commercial building. A number of openings would be introduced along the eastern elevation to serve the main living space and the two bedrooms; these are indicated to be clear glazed at the bottom up to the height of the boundary fence and obscure glazed above. The existing window serving the main living space would be changed to full glazed doors, opening onto the small, covered porch/amenity area. The two bedrooms would have glazing along one side, opening out onto a small courtyard. There would be a rooflight over the access corridor.
9. Given the long and narrow shape of the building and its constrained site, with residential properties very close by, the opportunities to introduce windows and outdoor space to create a satisfactory living environment are limited. Nonetheless and whilst I recognise that this is a conversion rather than a new build, the creation of a high quality internal and external environment remains a key objective.
10. Whilst there would be new windows proposed along the eastern elevation these would not materially improve the outlook from the main living room and the bedrooms, as the clear glazed section would look directly onto the narrow passageway and boundary fence, which would be approximately 1m or less from the windows. The long main living space would have double doors at the northern end, but the outlook would remain limited towards the covered porch/amenity space. This space is small in size and partly serves as the entrance area to the unit, with a very limited outlook.
11. There would be a further small area of amenity space between the two bedrooms, but this again would be limited in size and the outlook would be restricted because of the layout and the proximity of the boundary fence.

12. No detailed technical information has been provided to me regarding the levels of daylight and sunlight in respect of the internal accommodation. However, I am not convinced from my site visit and given the constraints of the site, that the proposed fenestration changes would be sufficient to deliver a good quality of natural light to all the internal living spaces.
13. I therefore conclude that the proposed arrangement would not create a satisfactory environment for future residents; it would be a gloomy and claustrophobic internal space with limited natural light, poor outlook and limited usable amenity space. Although it would meet the minimum internal space standards set out under Table 3.3 of the London Plan and exceed the minimum amenity space standard in physical terms in the London Housing SPG, it would not provide a high quality environment for future occupiers. This would conflict with Policies 4 and 10 of the Bromley Local Plan, Policy 3.5 of the London Plan and the London Housing SPG as well as Paragraph 130 f) of the Framework, all of which, amongst other matters, seek a high quality residential environment for future occupiers.
14. The Council's reason for refusal refers to inadequate ventilation, but there is no further information available in this regard. Given that each of the main rooms would have opening windows, I do not consider that this matter, on its own, would justify refusal of planning permission. However, it does not outweigh the conclusions I have already reached under this issue.

Issue b) Living Conditions for Neighbours

15. The appeal property on its eastern side adjoins the rear gardens of terraced properties in Raleigh Road. These are two storey dwellings with relatively modest rear gardens. Subject to the imposition of conditions, as invited by the Appellants, regarding the glazing and opening arrangements of the proposed new windows along the eastern elevation of the appeal property, I consider that it would be possible to safeguard the living conditions of the neighbours, from overlooking and loss of privacy from these new windows.
16. However, I am not persuaded from the limited information before me that it would be possible to ensure that there would be no overlooking and loss of privacy from the new courtyard proposed to be introduced between the two bedrooms for those neighbours immediately adjacent in Raleigh Road. The plans show a high level planted trellis which may be intended to address this point, but the details are not clear and it has not been demonstrated that this would have the intended effect to remove any overlooking or loss of privacy. I have considered whether a condition could be imposed to require further details prior to occupation, but there would in my view be no certainty that a planted trellis could or would be maintained to serve its intended purpose and that a suitable condition could be imposed which would be enforceable in perpetuity.
17. The proposed arrangements for the northern courtyard are not entirely clear from the submitted plans, as the elevations and sections do not match. However, it would appear that the existing wall dividing the courtyard from the side passageway neighbouring the gardens in Raleigh Road would be replaced in whole or in part with a planted trellis. In that scenario, the concerns I have raised above regarding the proposed courtyard between the two bedrooms would equally apply to the courtyard leading off the living space.

18. In an urban location such as this, I do not consider that the ability for neighbours to see lights from neighbouring properties would result in material harm to their living conditions. Furthermore, given the relatively small size of the residential unit, I also do not consider that there would be any justification for withholding planning permission on the grounds of noise and disturbance to the neighbours in Raleigh Road, particularly taking into account the commercial use of the site. However, this does not override my findings in respect of overlooking and loss of privacy.
19. I am not therefore satisfied that there would not be material harm to the living conditions of some of the neighbours in Raleigh Road, as a result of the proposed development, with particular regard to overlooking and loss of privacy. This would conflict with Policy 37 of the Bromley Local Plan and Policy 7.6 of the London Plan together with Paragraph 130 f) of the Framework, all of which seek to ensure a high standard of amenity for all existing occupiers.

Planning Balance

20. The Appellant has set out that the Council cannot currently demonstrate a five year housing land supply and whilst I appreciate that the Council is making efforts to address this, the Council has not indicated that it has a five year housing land supply. I have therefore undertaken a planning balance assessment on the basis that this reflects the position that the Council finds itself in.
21. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, 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. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.
22. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. In the context of the development plan I have found that the proposed development would be contrary to Policies 4,10 and 37 of the Bromley Local Plan as well as Policies 3.5 and 7.6 of the London Plan, in respect of providing a high quality living environment for future occupiers and to protect the amenities of existing neighbours. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework and I attach substantial weight to them.
23. Paragraph 60 of the Framework refers to the government's objective to boost significantly the supply of housing, and paragraph 69 confirms that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. In this instance, the proposal would contribute one additional unit.
24. When judged against some of the core planning principles the proposal would perform well in that it would be in a mixed use area with good access to facilities and services. In terms of the component dimensions of sustainable development, there would be a social benefit in providing an additional unit. Economic advantages would also arise from the construction and occupation of this unit.

25. However, creating a good quality living environment for both existing and future occupiers is a key aspect of sustainable development, as set out under the Framework. The harm I have concluded would be significant and as a result the social and environmental roles of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

26. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR