



Appeal Decision

Site visit made on 12 January 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal Ref: APP/G5180/W/21/3277923

9 St. Clare Court, Foxgrove Avenue, Beckenham, Kent BR3 5BG

- 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 Pard Thandi against the decision of London Borough of Bromley.
 - The application Ref DC/20/01663/FULL1, dated 6 May 2020, was refused by notice dated 9 March 2021.
 - The development proposed is conversion of lower ground floor storage into a two bedroom apartment. New steps leading to flat entrance and existing steps extended to communal garden and private patio area. New lightwell to front and rear of property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice and appeal form rather than application form as this better captures the extent of works proposed beyond the building.
3. Planning permission has been granted on appeal for conversion of the basement into one studio flat¹. This permission has not been implemented and has expired but is nonetheless a material consideration. Several previous proposals for residential use of the basement have been refused permission.

Main Issues

4. The main issues are:
 - (a) the effect of the proposal on the amenities and character of the area and
 - (b) whether the proposal would provide satisfactory living conditions for future occupiers.

Reasons

Character and amenities

5. The appeal relates to a detached 2-storey building in use as two flats, nos. 9 and 10 St. Clare Court, with separate entrances, one to the front and the other to the southern side. Land levels fall from the front of the site to the rear. A partially excavated basement can be accessed from a small door in the rear wall to the building.

¹ DC/18/01012/FULL1 and APP/G5180/W/18/3205524

6. Two wider 2-storey buildings of flats to the north, nos. 1-4 and 5-8a are part of the same development. They share a communal rear garden and both already have a basement conversion to provide an additional 2-bedroom flat. There is a wide hard surfaced ramped pathway to the northern side of the appeal building leading to the communal garden. This also provides access to the entrance to the basement flat 8a St. Clare Court which has rear and side facing windows.
7. The appeal building is lower than the adjacent block at nos. 5-8a and would require considerable excavation to provide the necessary floor to ceiling height for the proposed flat. Such works have previously been accepted for the approved studio flat, but the current proposal would involve additional excavations and works within the curtilage. A full width rear patio for entrance and rear windows would be excavated, a half width front lightwell would be formed and the access path to the southern side remodelled.
8. Unlike the previous permission at the site and existing basement conversions at neighbouring blocks, the current proposal would significantly impact on communal garden areas which form an important amenity for existing residents at St. Clare Court. Whilst the layout of these areas is ultimately for those with an interest in the land, the changes proposed would also affect the character and appearance of the area. At the front a secluded amenity area with table and chairs would be lost due to the extent of excavations. Land levels are higher here and the plans do not indicate the nature of retaining walls that would be needed. The pathway at the rear of the building would be removed for the new entrance, light well and patio. A landscape strip is indicated to afford some degree of separation and screening from the remaining communal garden. The proposed steps to the communal garden from the southern side access path would be likely to require a new boundary treatment and clearance of vegetation due to level changes but the plans do not provide details.
9. Whilst it would be possible to use planning conditions to require prior approval of hard and soft landscape works associated with these changes, I think it inappropriate to do so in this instance given the differences in ground levels, the extent of change and the impact on the amenity value of communal areas. The proposal would be contrary to Policy 37 of the Bromley Local Plan (2019) which requires proposals to be of a high standard of design and layout, to complement the form and layout of adjacent buildings and areas and to respect the amenity of occupiers of neighbouring buildings. There would also be conflict with Paragraph 130 of the National Planning Policy Framework (the Framework) requiring planning decisions to ensure that developments will function well and add to the overall quality of the area and that they are sympathetic to local character and history, including the surrounding built environment and landscape setting. The basement flats at nos. 1-4 and 5-8a do not set a precedent as these did not involve the same degree of excavations.

Living conditions

10. The proposed flat would be of satisfactory size and layout for a 2-bedroom unit. A submission under the Building Regulations could ensure compliance with relevant technical building matters. There would be adequate natural lighting for rear facing windows, notwithstanding outlook on to the lightwell's retaining wall and any screening vegetation. The kitchen would be remote from the rear windows but would be part of an open plan area. The front lightwell would provide sufficient natural light and outlook for the smaller bedroom.

11. Future occupiers would be able to use the full width of the rear excavation as a private patio. Occupiers of the upper flats would be able to overlook this area from rear facing windows. Similarly, any screening to the excavated area would be unlikely to preclude all overlooking from the adjacent rear communal area. The front bedroom window and lightwell could be overlooked from those gaining access to nos. 9 and 10 St. Clare Court or using the communal front garden. To my mind, these impacts on privacy levels for future occupiers would not be substantial. Any future occupier would be aware of the situation before moving in. Privacy levels at some existing flats, such as at no. 8a, have been compromised to a degree through habitable room windows facing communal garden areas or passageways.
12. The proposed 2-bedroom flat would not result in an over-intensive use of the site. It would provide satisfactory living conditions for future occupiers. There would not be conflict with Policy 37 in these respects or with Policy D6 of the London Plan (2021) on housing qualities and standards.

Planning balance

13. The proposal would have the benefit of providing one additional dwelling of adequate quality in a sustainable location. Paragraph 60 to the Framework sets out the government's objective to significantly boost the supply of homes and this is reflected in Policy H1 on housing supply in the London Plan. The proposal would make a minor contribution in relation to meeting housing need. However, the Council cannot currently demonstrate a Five Year Housing Land Supply to meet local housing targets. The presumption in favour of sustainable development as set out at Paragraph 11(d) of the Framework therefore applies.
14. In my judgement however, the adverse impacts arising in relation to the proposal's impacts on the amenity and character of the area would significantly and demonstrably outweigh the benefit when assessed against the policies in the Framework as a whole. Moreover, permission has previously been granted for one additional basement dwelling at the site that would not result in the same adverse impacts. The proposal would not result in an increase in the number of units above this.

Other Matters

15. Representations have been made against the proposal on other grounds, but not all of these relate to planning considerations. The appellant's parking survey has confirmed that any on street parking arising from the proposal would not result in undue parking stress. Noise and disturbance from the excavations would be temporary and alone insufficient reason to warrant refusal of permission; but the proposal is silent on how this would be managed to minimise nuisance and ensure that access to the flat at 8a St. Clare Court could be maintained at all times.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR