



Appeal Decision

Site visit made on 17 May 2022

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2022

Appeal Ref: APP/H5390/C/21/3275190

13 Allestree Road, London, SW6 6AD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Narendra Rambhai Patel against an enforcement notice issued by the Council of the London Borough of Hammersmith and Fulham.
 - The notice was issued on 19 April 2021.
 - The breach of planning control as alleged in the notice is without planning permission, the conversion of the property from a single-family dwelling house into 1 x 1 bed and 1 x 2 bed self-contained residential flats.
 - The requirements of the notice are to cease the use of the property as two self-contained flats and restore into a single dwellinghouse by carrying out the following remedial works:
 - i. Remove the kitchen and all associated fittings from the first floor.
 - ii. Remove any locks from the internal door located in the ground floor hallway.
 - The period of compliance with the requirements is nine months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is varied by the substitution of "1 x 1 bed and 1 x 2 bed" by "two" in the description of the alleged breach in paragraph 2 and varied by deleting "two" in the requirements at paragraph 4. Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The ground floor flat provides two bedroom living accommodation, whilst the first/second floor flat provides four bedroom accommodation. Therefore, although the total number of flats in the allegation is correct, the references to the number of bedrooms are inaccurate. I shall correct the enforcement notice by deleting those references and substituting them simply with the number of flats. In addition, the notice requires the use as two self-contained flats to cease. As the number of flats enforced against is already in the allegation, specifying a precise number in the requirements is unnecessary. It may also lead to uncertainty as to what the notice actually requires. Therefore, I shall vary the notice to delete reference to the number of flats from the requirements. In making the above correction and variation, I am satisfied that there would be no injustice to the appellant or the Council.

3. The London Plan 2021 (LP) was published in March of that year. The LP comprises the spatial development strategy for London and is now part of the Development Plan. LP Policy T5 has replaced Policy 6.9 in the previous version of the London Plan, referred to in the Council's reasons for issuing the notice. I have determined this appeal in accordance with the LP.
4. The revised National Planning Policy Framework (the Framework) came into force during the course of the appeal. The main parties have had an opportunity to comment on the implications of the Framework in respect of the appeal and I have taken it into account in my decision.

Ground (a) appeal

Main Issues

5. The main issues in this appeal are as follows:
 - The effect of the unauthorised flats on the local housing mix, having regard to the availability of family housing.
 - Whether there are suitable living conditions for the existing and future occupiers of the unauthorised flats, having regard to internal floorspace, outlook and noise and disturbance.
 - The effect on the living conditions of occupiers of adjoining residential property, having regard to noise and disturbance.
 - The effect on highway safety, having regard to cycle and car parking.
 - Whether suitable provision for refuse storage can be made.

Reasons

Housing mix

6. Policy HO2 of the Hammersmith and Fulham Local Plan (HFLP) provides for the conversion of a dwelling to two or more dwellings where certain criteria are met. In the supporting text, the HFLP explains that in order to achieve the Council's annual housing target, as well as the provision of new housing it seeks to prevent the net loss of the existing housing stock through change of use or redevelopment for other uses. It goes on to explain that smaller terraced houses provide a source of accommodation in the borough that is suitable for families and it is important to ensure that this stock is not unduly reduced by conversion into flats or larger HMOs.
7. The property is clearly the type of smaller, terraced dwelling that the HFLP identifies as providing accommodation suitable for families. The property probably originated with three bedrooms. Whilst enlarged, I am given to understand that originally the net floor area of the property was significantly below 120 m². Therefore, the property does not meet the minimum size for conversion in criterion in HFLP Policy HO2 (a).
8. The unauthorised flats each have at least two bedrooms. However, accommodation with three or more bedrooms is generally regarded as being suitable for families. The Council's Planning Guidance Supplementary Planning Document (SPD) refers to family dwellings having three or more bedrooms. In any event, as a bedroom in the ground floor flat is inherently unsuitable for

such use, in practice it is more likely to be put to some other household purpose such as domestic storage. Therefore, the ground floor flat does not provide accommodation suitable for families.

9. The first/second floor flat has no access to the rear garden, whilst the roof terrace is not appropriate for use as an amenity space by a family with young children, having regard to its limited size and restrictive access. In practice, the absence of a suitable amenity space is highly likely to restrict occupation of this flat by families in any event. The current occupation by apparently unrelated adults reinforces my view in this regard. As a result, the first/second floor flat also does not provide accommodation suitable for families. The lack of access to a garden or amenity space does not meet other criterion in LP Policy HO2 (a). It is also inconsistent with the SPD Key Principle HS1, which requires residential conversions involving family-size dwellings to have direct access to the rear garden or amenity space.
10. Therefore, the unauthorised flats have resulted in a net loss of accommodation suitable for families, adversely affecting the local housing mix and being contrary to the aims and objectives of HFLP Policy HO2. This policy is consistent with the Framework, which advises that the size, type and tenure of housing needed for different groups in the community, including families with children, is assessed and reflected in planning policies.

Living conditions-existing and future occupiers of the flats

11. During my visit, I saw that in both flats the bedrooms were of a good size, containing beds and furniture whilst leaving ample space for circulation and the storage of items such as personal effects. Nevertheless, the use of what might otherwise have been living rooms as additional bedrooms has led to the presence of sofas and several other items usually found in a separate lounge in the kitchen and dining areas. The combination of kitchen, dining and living areas in one room has significantly reduced the space available for circulation as well as for the storage of everyday household items. Besides, the combined kitchen, dining and lounges are unlikely to be able to comfortably accommodate some occupiers going about day-to-day activities such as washing clothes, preparing food or eating, whilst other occupiers and /or their guests also relax in part of that area. As a result, the occupiers are likely to experience an uncomfortably restrictive and congested feel when using the combined kitchen, dining and lounge areas.
12. LP Policy D6 and Table 3.1 incorporates the Nationally Described Space Standard¹, setting minimum internal space standards of 61 m² gross internal floor area (GIA) for a one floor, two-bedroom, three-person dwelling and 97 m² for a four-bedroom, five-person dwelling on two floors. Therefore, against the minimum internal area of 32.5 m² contained in SPD Key Principle 3, I afford greater weight to the LP. The Council assessed the ground floor flat as having a GIA of 55 m², with the first/second floor flat having a GIA of 84 m². There is no good reason to question the accuracy of the Council's figures. The unauthorised flats therefore fall significantly below the minimum internal size requirements in the LP. The parts of the combined kitchen, dining and lounge areas used as living room space are also unlikely to meet the internal size requirements for living rooms set out in SPD Key Principle HS3 in any event.

¹ Technical housing standards-nationally described space standard MHCLG March 2015.

These deficiencies in internal floorspace adds to my findings regarding the restrictiveness of the accommodation provided by the unauthorised flats.

13. Furthermore, a ground floor bedroom has no external window. The absence of any meaningful outlook and limited access to natural light means it is likely that occupiers of the ground floor flat experience a strong sense of oppressiveness in the bedroom. This also contributes to the unsuitable living conditions met by occupiers of the ground floor flat. It is highly unlikely that the above or the other shortcomings in the occupiers' living conditions identified could be overcome by altering the internal layout.
14. Use as two flats has meant that the property is occupied in a more intensive manner compared to use as a single dwelling. For example, the first floor combined kitchen, dining and lounge area has resulted in a range of day-to-day activities, including washing clothes, preparing food and relaxing and socialising, along with the use of any associated household appliances, taking place in part of the property which would previously would have been quiet at most times. Conversely, occupiers could reasonably expect to enjoy good levels of peace and quiet in the ground floor bedrooms. SPD Key Principle NN3 requires careful consideration of the stacking and layout of rooms in relation to adjoining walls/floors/ceilings, expecting all parts of adjoining dwellings to enhance sound insulation, including where the adjoining room is of a similar use, so that occupiers are not adversely affected by noise. No details of measures undertaken to mitigate against additional noise and disturbance resulting from the unauthorised flats was provided. Therefore, I am not persuaded that the occupiers of the unauthorised flats do not experience unacceptable levels of noise and disturbance from the greater intensity of activity at the property.
15. Drawing the above matters together, the restrictive internal floorspace, limited outlook in a ground floor bedroom and unacceptable levels of noise and disturbance do not provide suitable living conditions for the existing and future occupiers of the unauthorised flats. Due to the failure to provide a high quality residential environment, the unauthorised flats do not accord with HFLP Policy HO4. By not meeting the needs of future occupants taking into account floor areas and room sizes or having noise insulation and a layout to minimise noise nuisance between dwellings, the unauthorised flats also do not accord with HFLP Policy HO11 and Policy CC11.

Living conditions-occupiers of adjoining residential property

16. Although there are sources of urban noise including a main road in the wider area, on the whole the surroundings possess an established residential character. Adjacent properties are highly likely to be in single family occupation. Adjoining residents could therefore expect to enjoy reasonable levels of peace and quiet. Broadly similar considerations apply in respect of the effects of additional noise and disturbance arising from the unauthorised flats on adjoining residents as those set out above. Moreover, it is not unreasonable to expect that occupiers of the additional dwelling will be travelling to and from the property to access work, education and leisure opportunities on a daily basis, as well as extra incidences of comings and goings to the property arising from deliveries of items such as post, food shopping and goods bought online. Therefore, the unauthorised flats have in all likelihood created a significant increase in day-to-day comings and goings at the property.

17. Due to the above factors, the unauthorised flats have also led to the occupiers of adjoining residential property experiencing unacceptable noise and disturbance from the increase in activity at and in the vicinity of the property. The failure to take account of the amenity of neighbours means that the unauthorised flats do not accord with Policy HO4 of the Hammersmith and Fulham Local Plan (HFLP), whilst by not respecting the principles of good neighbourliness and not having noise insulation and a layout to minimise noise nuisance between dwellings, the unauthorised flats do not accord with HFLP Policy HO11 and Policy CC11.

Highway safety

18. I understand that the property has a Public Transport Accessibility Level (PTAL) of 3, reflecting the relatively good access to local public transport links. SPD Key Principle TR3 expects development in areas well-connected by public transport to be car-free. Details of a proposed secure facility for two cycles at the front of the property were provided. The cycle parking standards in LP Table 10.2 require a minimum of two spaces per dwelling where, as in this case, each dwelling contains more than one bedroom. The 50% shortfall in cycle parking provision at the property assessed against the minimum standard does not support an increase in cycling, thereby failing to accord with LP Policy T5 as well as not according with HFLP Policy T3.
19. Given the limited details provided, it is unclear how many occupiers of the unauthorised flats have access to a private car. Nevertheless, it is not unreasonable to expect that some of the occupiers require access to a car to meet their day-to-day travel needs. This is likely to have increased demand for on-street parking in this and surrounding streets, where restrictions are in force as part of a Controlled Parking Zone (CPZ). I understand that the occupiers are eligible to apply for a parking permit. The pressure for additional on-street parking, where spare capacity is in all probability limited, particularly at evenings and during weekends, is likely to have exacerbated parking congestion and increased incidences of obstruction to the free flow of traffic.
20. Therefore, the unauthorised flats have unacceptably harmed highway safety. By failing to ensure that traffic generated by new development does not add to parking pressures on local streets the unauthorised flats do not accord with criterion in HFLP Policy T1, whilst the absence of car parking permit free measures does not accord with HFLP Policy T4. By prejudicing safe and convenient access to individual properties, the unauthorised flats also do not accord with HFLP Policy T6. In addition, the adverse impact on on-street parking stress does not accord with other criterion in HFLP Policy HO2 (a).

Refuse storage

21. Details were also submitted of proposed refuse storage at the front of the property, satisfying the requirements of SPD Key Principles WM1 and WM4. Provision of waste and recycling storage facilities accords with criterion in HFLP Policy HO11. Such provision could have been secured by condition, had I otherwise been minded to allow the appeal and grant permission for the unauthorised flats. Even so, this does not go in any way towards outweighing the other objections identified above.

Other Matters

22. The absence of visual harm is a neutral factor which neither weighs in favour nor against granting permission for the unauthorised flats.

Conclusion

23. The unauthorised flats do not accord with the Development Plan and they are inconsistent with the SPD and the Framework. Therefore, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Stephen Hawkins

INSPECTOR