



Appeal Decision

Site visit made on 19 April 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 JUNE 2023

Appeal Ref: APP/A5840/W/22/3309447
127-129 Evelina Road, London SE15 3HB

- 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 M Jaffer (Kristal Enterprises LTD) against the decision of the Council of the London Borough of Southwark.
 - The application Ref 22/AP/0244, dated 19 January 2022, was refused by notice dated 26 September 2022.
 - The development proposed is described as a 'first floor rear infill extension and conversion of first floor from A1 Storage to Bedsits Class C4'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In undertaking the site visit, I was unable to access the entire first floor of Nos. 127 and 129 Evelina Road. I was, however, able to see all of the first floor above No. 129. I have based my decision on the totality of the evidence from the appellant and the Council, along with what I observed from the site visit.

Main Issues

3. The main issues are a) the provision of a contribution towards social tenanted or intermediate housing; and b) the effect of the proposed development on the living conditions of future occupiers with particular regard to outlook, outdoor space, cycling and refuse facilities.

Reasons

Contribution towards social tenanted or intermediate housing

4. Policy P1 of the Southwark Plan 2022 (SP) requires developments that create 9 homes or fewer to provide the maximum amount of social rented and intermediate homes or a financial contribution towards the delivery of new council social rented and intermediate homes with a minimum of 35% subject to viability.
5. Policy P9 of the SP relates to the provision of houses in multiple occupation (HMO). This policy, amongst other things, requires such developments to provide a contribution in accordance with Policy P1.
6. During the course of considering the application the Council was advised by the appellant that it would not be viable for the scheme to make a contribution in

accordance with Policy P1. However, no viability evidence was provided to substantiate this position.

7. The appellant has subsequently indicated a willingness to enter into a legal agreement to secure an off-site financial contribution towards affordable housing. However, the appellant has also indicated that the rooms could be offered to Council or housing charity tenants.
8. Making some or all of the rooms available to the Council or charities would not accord with the requirements of the SP in terms of the nature of the contribution required. Even though the appellant has stated a willingness to enter into a legal agreement to secure a financial contribution, there is no mechanism in place to secure it.
9. In view of the above, I must therefore find that the proposal which is before me would not make provision for an appropriate contribution towards social tenanted or intermediate housing. As a result, it would be contrary to Policies P1 and P9 of the SP as well as Policies H1 and H4 of the London Plan 2021 (LP) which, amongst other things, seek to ensure that new housing developments come forward but that appropriate contributions are made towards social tenanted or intermediate housing.
10. The proposal would also be contrary to the National Planning Policy Framework (the Framework) which requires developments make appropriate provision for affordable housing contributions.

Living Conditions

11. Policy P9 of the SP requires the standard of accommodation in HMOs to accord with the Council's HMO Standards 2015 (HMOS). In addition, it also specifically seeks the provision of adequate indoor communal space, outdoor communal amenity space, cycle storage, refuse and recycling storage. There is no indication within the policy as to what 'adequate' might represent other than for cycle storage, where one space per occupant is required.
12. The HMOS sets out standards for communal living rooms where there is evidence that the occupiers are living more like a single household, as opposed to individuals who have very little interaction with each other. There is no evidence to indicate how the proposed accommodation might be used. The bedrooms all have their own ensuite facilities and there is an office space proposed. In combination, these factors suggest to me that the accommodation is perhaps more likely to be occupied by individuals who would be managed separately, rather than as a group operating as a single household.
13. On this basis, it would appear that there would be no requirement in the HMOS for a separate lounge/living area. The communal area shown on the drawings would clearly operate as a hallway at the top of the stairs rather than a lounge/living area. However, given my findings regarding the absence of need for communal space, the lack of outlook or natural light to this area would not be materially harmful to the overall standard of accommodation.
14. The proposed kitchen is of sufficient size to exceed the requirements of the HMOS. Whilst its shape would limit the number of people able to use it at any one time, it would nevertheless allow 2-3 people to use it at the same time. This seems reasonable for a total of 5 occupants. The kitchen does not have a window but given the nature of the room and that it is not designed to be a

place where residents would eat, a window is not in my opinion essential. On this basis the overall size and shape of the kitchen would appear to be adequate for the number of potential occupants.

15. There would be some bin storage available within the kitchen itself as well as there being some provision shown within individual rooms. Although the appellant has shown examples of under counter bin storage neither main party has indicated what might be a reasonable sized provision for the unit as a whole nor the regularity of waste/recycling collections.
16. It seems to me that five individuals using the kitchen would be likely to generate quite a lot of waste that occupants would not want to be left hanging around for any length of time. The area shown within the kitchen would be quite likely to be filled up quickly and so the waste would either overflow that area or end up being bagged and simply stored elsewhere in the unit or on the footpath outside the site. None of these are particularly attractive options.
17. The appellant has indicated that the area at the top of the stairs could be used for refuse storage. However, there is no information to indicate whether such an area is of sufficient size and can be suitably adapted for this purpose. Furthermore, it has been suggested that cycles could be stored in this area but it is not clear that there is sufficient space to store both cycles and refuse.
18. Using individual's rooms to store cycles would be likely to impair the overall quality of the accommodation. In addition, whether cycles are stored at the top of the stairs, in individual bedrooms or as per the amended layout to utilise bedroom 5, getting cycles up a flight of stairs with a 180° turn would be an unattractive and somewhat impractical proposition. There is no evidence before me to indicate that there has been any consideration of alternative off-site provision that might meet the objectives of the SP.
19. In the alternative, the appellant considers the majority of occupiers would travel on foot or use public transport and so there would be no need for such storage. The site is reasonably well served by public transport, which might reduce some demand for cycle storage. However, without any cycle storage the contention that occupants would travel by other modes would simply be a self-fulfilling prediction rather than evidence of a lack of demand for cycle storage.
20. First floor accommodation does not always have access to outside space. Provided all other matters are sufficiently addressed, a lack of outside space can sometimes be acceptable in allowing upper floors to be reused in more urban areas, particularly if there are public parks and spaces nearby. Given nearby alternatives, the absence of outdoor space directly serving the unit would not in itself appear unduly harmful. However, it does remove what might otherwise have been a solution to providing sufficient cycle and refuse/recycling storage.
21. Taken cumulatively, I find that the lack of cycle storage and absence of evidence to demonstrate sufficient waste facilities could be provided would materially affect the living conditions of future residents. The proposal would therefore be contrary to Policies P9, P15, P51, P53 and P56 of the SP and Policies D6 and T5 of the LP which, amongst other things, seek to ensure that accommodation provides sufficient facilities to ensure living conditions that are of an appropriate standard and would not cause harm to those using public footways.

22. The development would also conflict with the overarching objectives of the Framework, which seek to ensure developments achieve quality living conditions for the occupiers.

Other Matters

23. The individual bedrooms exceed the minimum room sizes and would provide each occupant with sufficient light and outlook. That the rooms are above the minimum size would be of some benefit to future occupiers but having sufficient light and outlook would be expected for any proposal to be considered acceptable.
24. That the proposal retains the use of the ground floor as a retail unit would represent a lack of harm and so would be neutral in any balance.
25. I have not had further regard in this decision to concerns over how the Council handled the application as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Planning Balance and Conclusion

26. The appellant suggests the Council met only 90% of its Housing Delivery Test target for 2021. The Council has not disputed this figure or indicated in response that it has a five year deliverable supply of housing land. On this basis Paragraph 11 of the Framework would apply.
27. The proposal would make efficient use of the building and make a contribution towards housing supply in the area. Although only a single unit, it would potentially provide accommodation for five individuals. It would be well located for local services and facilities. There would also be some social and economic benefits that would result, either during the conversion or once the accommodation was occupied.
28. Conversely, the proposal would not make a contribution towards social tenanted or intermediate housing. Furthermore, the proposal would harm the living conditions of future occupants. These harms would be considerable and long lasting. As a consequence, they are worthy of substantial weight.
29. The adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the proposal would not be sustainable development for which the presumption in favour applies.
30. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar
INSPECTOR