



Appeal Decision

Site visit made on 3 May 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/N5660/W/22/3304560

3 Offley Road, Lambeth, London SW9 0LR

- 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 Maria and Antonio Scaffardi against the decision of London Borough of Lambeth.
- The application Ref 22/01357/FUL, dated 14 April 2022, was refused by notice dated 9 June 2022.
- The development proposed is the amalgamation of the existing first and second floor flats into a single maisonette (Use Class C3), together with associated removal of the existing second floor rear extension to increase the size of the existing external terrace.

Decision

1. The appeal is allowed and planning permission is granted for the amalgamation of the existing first and second floor flats into a single maisonette (Use Class C3), together with associated removal of the existing second-floor rear extension to increase the size of the existing external terrace, at 3 Offley Road, Lambeth, London SW9 0LR in accordance with the terms of the application, Ref 22/01357/FUL, dated 14 April 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 21002 (00)_P100 (Rev P01) – Proposed ground, first and second floor plans
 - 21002 (00)_P101 (Rev P01) – Proposed roof plan
 - 21002 (00)_P200 (Rev P01) – Proposed Elevations
 - 21002 (00)_P300 (Rev P01) – Proposed Section AA
 - 21002 (00)_P301 (Rev P01) – Proposed Section BB
 - 21002 (12)_P100 (Rev P01) – Demolition plans
 - 3) All new external work and finishes and work of making good shall match existing original work adjacent in respect of materials used, detailed execution and finished appearance except where indicated otherwise on the drawings hereby approved, or unless otherwise required by condition.
 - 4) Prior to first use of the development hereby permitted, details of the privacy screening to be erected on the roof terrace shall be submitted to and approved in writing by the local planning authority. The screening shall thereafter be permanently retained.

Preliminary Matters

2. The description of development in the banner heading and my formal decision above is taken from the appeal form, and reflects the proposal as it was validated by the Council. It was originally described on the planning application form as the “amalgamation of the existing first and second floor one-bedroom flats into a single three-bedroom maisonette (use class C3), associated removal of the existing second floor rear extension to increase the size of the existing external terrace”. Though the change is minor, I have used the amended wording here for absolute consistency with the description of the proposal as it was considered by the Council.

Main Issue

3. The main issue is the effect of the proposed development on the supply of housing in the borough.

Reasons

4. The appeal relates to a four-storey (three storeys plus basement) Victorian property. It was originally built as a single dwellinghouse, although in common with many other properties in the surrounding area it has since been subdivided; it is currently arranged with self-contained one-bedroom flats on the basement and ground floor levels. The first and second floors are also each arranged as a one-bedroom flat; these were not occupied at the time of my site visit.
5. The proposed development is the amalgamation of the first and second floor flats to create a single three-bedroom maisonette dwelling; at the same time a second-floor extension over the rear outrigger would be removed, allowing an existing roof terrace to be enlarged. The development would also include some remodelling of the ground floor, reducing the size of the existing communal hallway to provide increased living space within the ground floor flat. The basement flat has its own private access at the front of the building, and would not be altered by the scheme.
6. Policy H3 of the 2021 Lambeth Local Plan states that “existing self-contained C3 housing will be safeguarded in accordance with London Plan policy”. Policy H8 of the London Plan 2021 requires that the “loss of existing housing should be replaced by new housing at existing or higher densities with at least the equivalent level of overall floorspace”. Together, these policies seek to retain and protect the existing housing stock within the borough. There is an exception within H3 which states that such a loss “may be acceptable where the proposal is for specialist non-self-contained accommodation (use class C2) to meet an identified local need”, but there is no suggestion that that applies in this case.
7. The first and second floor flats each have a living room, bedroom, and a kitchen and dining room (a combined kitchen-diner in the case of the first-floor flat); these are behind each flat’s private door from the stairway. At the rear of the building, within the outrigger, are the toilet and bathroom facilities. On the half-landing below the first-floor flat are a separate WC and bathroom, while on the half-landing below the second-floor flat is a bathroom with lavatory; these are accessed from the communal stairway rather than from within the private parts of the flats.

8. The principal disagreement between the main parties in this case is whether or not the two flats can properly be described as “self-contained”. The term is not defined in the development plan and the appellant has therefore turned to the Housing Act 2004, though the wording which was provided – from section 254(2) – refers to houses in multiple occupation¹, and the definition of a “self-contained flat” in section 254(8) as one where, among other things, “all three basic amenities² are available for the exclusive use of its occupants” is perhaps more useful.
9. The Council notes that the two flats are separate properties for Council Tax purposes, and that they were referred to as two separate units in the description of this proposed development. It also considers that because bathroom and toilet amenities are available on both the first and second floors there is “a clear degree of self-containment between each flat”, that “the occupiers of the flats would be unlikely to use the bathroom which is not on their floor”, and that occupiers of the two flats could therefore live without any interdependency.
10. Given the building’s layout, it appears likely that occupiers of the first and second floor flats have *de facto* exclusive use of the bathroom and toilets on their corresponding half-landing in the way the Council describes, and it may therefore be that a technical definition of “self-contained” is met. However, the arrangement results in a considerable lack of privacy for residents, especially for occupiers of the first floor flat who, when needing to use the bathroom or WC at any time of day or night would be liable to encounter anyone entering or leaving the second floor flat via the communal stairway.
11. I saw that, because of the building’s layout, the two existing flats offer poorer-quality living conditions for occupiers than they should, and it seems to me unlikely that the Council would be supportive of such a conversion were it to come forward as a new development proposal today. The appeal scheme, on the other hand, would represent a marked improvement in the standard of accommodation, not least in respect of providing exclusive and *entirely* private toilet and washing facilities for occupiers. It is also apparent that the layout of the building, in particular the width of the stairways and landings, and the differences in levels between the main floors and the corresponding half landings, means that such an improvement could not readily be achieved while still retaining two separate flats.
12. The Council’s evidence is clear that that the amalgamation of smaller units to form larger family dwellings has resulted in a sustained loss of housing in the borough. I also recognise that the creation of a three-bedroom unit through the loss of two one-bedroom flats would not cater to accommodating the same number of households, and would reduce access to smaller, more affordable units in the area. In this severe light, I give very little weight to the suggestion that the net loss of a single unit might somehow be regarded as *de minimis*; clearly, small losses add up to make larger losses. However, the significant improvement in the quality of living accommodation, particularly in terms of providing the internal privacy which future occupiers might reasonably expect, would in my view clearly outweigh the harm arising from the net loss of a unit.

¹ Among other things, section 254(2) states that a building or part of a building meets the standard test (for a house in multiple occupation) if “one or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities”.

² Toilet, personal washing facilities, and cooking facilities.

13. The Council drew my attention to a recent appeal decision in respect of Nos 6 and 7 Myton Road, Lambeth³. I was not provided with further details of that scheme, although it appears that it relates to two houses rather than two flats. I note also that the Inspector considered that qualitative improvements to the housing could be made in line with the provisions of the development plan whereas, as I have explained in the preceding paragraphs, I am not persuaded that the same could be achieved here. I therefore consider that the circumstances of this case are very different to those in the Myton Road appeal.
14. I conclude that the proposed development would result in the net loss of a unit of housing, and it would not therefore comply with the provisions of Policy H3 of the 2021 Lambeth Local Plan or Policy H8 of the London Plan 2021 which I have set out in paragraph 6 above. However, for the reasons which I have given in paragraphs 10 to 12, the improvement in the quality of the housing which would be provided is a material consideration of such significance that a decision other than accordance with the development plan is justified in this case.

Other Matters

15. The Council considered that the proposed development would provide acceptable living conditions for future occupiers, would have no significant harmful impacts on neighbours' living conditions, and would be satisfactory in terms of design and appearance. None of the evidence before me, or what I saw on site, leads me to a different conclusion on any of these matters.

Conditions

16. In addition to the standard time limit condition (1), I have specified the approved plans so as to provide certainty (2), while to protect the character and appearance of the area a condition requiring materials matching the existing dwelling to be used for external alterations (3) is necessary. To protect the privacy of neighbouring residents, a condition requiring the submission and approval of privacy screening to the second floor terrace (4) is also necessary.

Conclusion

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
18. While I have found that the proposed development would not comply with the provisions of the development plan which seek to safeguard existing housing, the material considerations which I have identified indicate that a decision other than in accordance with the development plan is appropriate. I therefore conclude that the appeal should be allowed and planning permission granted.

M Cryan

Inspector

³ PINS Ref: APP/N5660/W/22/3294879