



Appeal Decision

Site visit made on 27 February 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th April 2024

Appeal Ref: APP/Y5420/W/22/3301273

121 Lansdowne Road, Tottenham, London N17 0NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for planning permission following the failure to respond to notice served under Article 12(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mike Lock on behalf of Chalk Lane Ltd against the Council of the London Borough of Haringey.
 - The application Ref is VOID/2022/0295.
 - The development proposed is sub-division of the existing building into one 3-bedroom and one 1-bedroom self-contained flats at first and second floor levels incorporating internal alterations thereto to ensure compliance with the Council's internal space standards.
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Decision

1. The appeal is dismissed and planning permission for sub-division of the existing building into one 3-bedroom and one 1-bedroom self-contained flats at first and second floor levels incorporating internal alterations thereto to ensure compliance with the Council's Internal Space Standards is refused.

Preliminary Matters

2. The Council did not validate or register the application and did not write to the appellant to confirm that the application had not been accepted. The Council has advised that it did not accept the application as two previous applications on the same site had been refused.
3. The Planning Practice Guidance (PPG) advises that local planning authorities may decline to determine an application for planning permission if it has refused more than one similar application within the last 2 years and there has been no appeal to the Secretary of State¹. 'Similar' applications are defined in the PPG as where the development and land to which the application relates are the same, or substantially the same. The local planning authority is not obliged to decline to determine the application and the powers are intended to inhibit the use of repeat applications.
4. The scheme before me includes alterations to lower the floor level of the loft space by lowering the ceiling height of part of the first floor. This is a material change in the scheme from the previous refusal. The appeal before me is, therefore, materially different to the previously refused scheme and the appellant has made a genuine attempt to overcome the planning objections

¹ Paragraph 056 Reference ID: 14-056-20140306, revision date 06/03/2014

which led to rejection of the previous proposal. In my judgement, a valid planning application was made to the Council.

5. The Council, in not validating the application, did not go on to determine the application. However, it has indicated that had it done so, it would have refused permission on the basis of the size of the original dwelling not being acceptable for subdivision.
6. A revised National Planning Policy Framework (the Framework) came into force on 19 December 2023 with a further change published on 20 December 2023. The paragraphs most pertinent to this appeal are unchanged, other than their numbering. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Background and Main Issues

7. From my site visit and the evidence before me the property has already been converted into three self-contained units, a one-bedroom studio flat, a two-bedroom flat and a three-bedroom flat, which includes rooms within the previously converted roof space. However, based on the evidence provided at the appellant's appendix 8, this previous conversion work is not lawful. The plans submitted within the appellant's appendix 6 and appendix 7, which relate to the previous planning permission for the conversion of the roof space, and the insertion of a rear dormer, and the previous refusal for sub-division of the dwelling, both indicate a four-bedroom flat.
8. On the basis of the submitted evidence, and only as far as it is material to my decision, I have made my assessment on the basis that the existing use of the appeal property is a four-bedroom dwelling.
9. Planning permission has previously been refused twice at the appeal site². Both decisions were refused on the grounds that the size of the original dwelling is not sufficient for subdivision and would result in the loss of a family sized unit within Haringey's Family Housing Protection Zone. The second decision was also refused on inadequate floor space.
10. Given this background, the main issues are:
 - whether the property is suitable for conversion in principle, having regard to the development plan policies and the availability of family accommodation in the area; and
 - whether the proposed development would provide adequate living conditions for future occupants, with particular reference to the size of the internal accommodation of the flat proposed within the roof space.

Reasons

Suitability of property for conversion

11. Lansdowne Road is in an area designated as a Family Housing Protection Zone as identified in Policy DM16 of Haringey, London, Development Management DPD, adopted July 2017 (DPD). The host property is a four-bedroom property

² Council reference HGY/2020/0421 refused on 19 May 2021 and Council reference HGY/2021/1848 refused on 11 August 2021.

with the fourth bedroom provided in the roof space. The character and appearance of the area is of terrace properties built as flats. Each building has two front doors and split rear gardens.

12. Policy DM16 of the DPD seeks to maintain a supply of larger family homes within the Borough. It states that within the Family Housing Protection Zone conversions would only be considered acceptable where they comply with the set criteria, and result in no net loss of family sized units. Criteria b) requires the gross internal floor space of the original dwelling to be greater than 120m².
13. The development proposed would provide a three-bedroom flat and a one-bedroom flat. The retention of the three-bedroom flat at first floor, would ensure that the development would not result in a net loss of family sized units. Consequently, there would not be any harm to the supply of larger family housing within the borough.
14. However, the original dwelling had a gross internal floor space of less than 120 square metres and the proposed sub-division would, therefore, result in the subdivision of an existing family dwelling of less than 120 square metres. The original dwelling is not of a sufficient size to be considered suitable for conversion and the proposal would, therefore, be contrary to the requirements of Policy DM16.
15. The appellant contends that Policy H10 of The London Plan, The Spatial Development Strategy for Greater London, 2021 (LonP) supersedes Policy DM16 of the DPD. Furthermore, the appellant seeks to argue that the LonP and the Mayor of London's Housing Supplementary Planning Guidance, adopted March 2016 (the Mayor's Housing SPG) both support conversions and the creation of one-bedroom units.
16. However, Policy H10 of the LonP and the Mayor's Housing SPG should be read alongside the DPD. Although they are more recent documents this does not make the DPD out of date. The DPD provides additional local criteria for residential conversions and seeks to ensure that the requirements of H10 of the LonP, to deliver a range of unit types and mixed communities, is met by maintaining the larger family houses. I also note that Policy H10 of the LonP and the Mayor's Housing SPG both also note the need for additional family housing and the pressure for conversion.
17. Furthermore, the minimum floor space requirements set out in the LonP and the NDSS³ are just that, they are not maximums. That a development meets these minimums would not mean that Policy DM16 is no longer relevant. DM16 seeks to ensure that appropriately sized family accommodation is retained as the loss of larger family housing has been harmful to the Borough. To allow the conversion of dwellings less than 120 square metres would undermine the principle of having a threshold in the Policy as well as the strategic housing aims and needs of the Borough.
18. For the above reasons, the property is not suitable for conversion in principle, having regard to the development plan policies and the availability of family accommodation in the area. The proposal would, therefore, conflict with Policy DM16 of the DPD and Policy SP2 of Haringey's Local Plan – Strategic Policies 2013-2026 (LP) which, taken together, seek to ensure that the Council

³ Technical Housing Standards – Nationally Described Space Standard 2015 (NDSS)

provides homes which meet Haringey's housing needs and resists the conversion of dwellings that have a gross internal floor area of less than 120 square metres.

Living conditions

19. From the evidence before me, the Council's previous concern related to the floor to ceiling height of the flat proposed within the roof space. The floor to ceiling heights, as existing, would result in the upper floor flat having a usable floor area of below the 37sqm minimum set in the LonP. This would have resulted in substandard and cramped living conditions for the future occupants of the unit.
20. The plans before me indicate the proposal would include lowering the floor level of the loft space by lowering the ceiling height of part of the first floor. This would provide an increased floor to ceiling height to a greater proportion of the flat within the loft space. From the appellant's figures, provided on the submitted plans, more than 75% of the floor area would now have a height of 2.5m and would, therefore, comply with the LonP. Although the kitchen/ dining/ living room would still be within the roof slope at the front of the property the increase in the floor to ceiling height would make this room usable and function as a habitable room.
21. Therefore, subject to an appropriate condition to secure the alterations, the proposed development would provide adequate living conditions for future occupants, with particular reference to the size of the internal accommodation of the flat proposed within the roof space, and would, in regard to this main issue alone, comply with the requirements of Policies SP2 of the LP and DM12 and DM16 of the DPD which, taken together, seek to ensure housing is designed to meet or exceed the standards of the LonP and the Mayor's Housing SPG.
22. For the same reasons, the proposal would comply with Policy D6 of the LonP which seeks to ensure that all development provides adequately sized rooms, including appropriate floor to ceiling heights.

Other Matters

23. Policy DM16 of the DPD is the most relevant in considering the proposal. As far as the policy supports the provision of additional dwellings through conversions, albeit restricted by the criterion, it is broadly in accordance with the Framework which seeks to boost the supply of housing. I have given the conflict with the local policy significant weight in this appeal. Consequently, the proposed development would conflict with the development plan as a whole.
24. Footnote 8 of the Framework advises that paragraph 11d can be relevant where the Housing Delivery Test (HDT) results indicate that the delivery of housing was below 75% of the housing requirement over the previous three years. The Council has provided the results of the 2023 HDT, which were published on 19 December 2023. This shows that the Council delivered 99% of its three-year housing requirement. Therefore, paragraph 11d would not apply.
25. The appellant has referenced the housing target set out in Table 4.1 of Policy H1 of the LonP and suggests that this equates to an annual target of 1,592 houses. However, Policy D1 of the LonP does not set an annual target. It is for each London authority to determine how it will deliver the target figure across

the ten-year period within the authority's local plan. The ten-year target for Haringey, as detailed in the LonP, is 15,920. This figure is, therefore, lower than the 19,802 minimum housing target set out in Policy SP2 of the SP. Furthermore, Policy SP2 also notes that the annual housing delivery would be lower in the first five years of the plan and higher in year six to ten.

26. Moreover, even if I were to take the appellant's figure of an annual target of 1,592 homes required, based on the evidence before me of the number of homes delivered in the three-year period, the Council would still have delivered more than 75% of the higher target figure over the previous three years. Consequently, paragraph 11d would not apply.

Conclusion

27. For the reasons given above the appeal should be dismissed.

K Townend

INSPECTOR