



Appeal Decision

Site visit made on 9 December 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2024

Appeal Ref: APP/H5960/W/24/3346347

15 Kellino Street, London SW17 8SY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Syed Tariq Lutfullah against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref is 2023/1553.
 - The development proposed is alterations including erection of a mansard roof extension to the main rear roof, including raising the ridge by 200mm and extension above the two storey back addition, in connection with creation of a 1 x 1-bed flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Decision Notice and the Appeal form, as this more accurately describes the proposal.
3. On the 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. As the changes do not materially affect the main issue in this case, the parties have not been invited to comment further.
4. I note that the appellant submitted an application for a Lawful Development Certificate for an Existing Use to the Council in August 2024, seeking confirmation of the continued use of the second floor as a studio flat, indicating that the use of the flat began more than four years before the date of the application. I have not been provided with any detail of whether this application has since been determined.
5. However, whilst I have noted the above matter, the lawful status of the top floor flat is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. I can only determine the appeal on the basis of what has been applied for, namely, an application seeking permission for alterations including erection of a mansard roof extension to the main rear roof, including raising the ridge by 200mm and extension above the two storey back addition, in connection with creation of a 1 x 1-bed flat.

Main Issue

6. The main issue is whether the development would provide adequate living conditions for future occupiers, with regard to internal living space.

Reasons

7. Policy L27 of the Wandsworth Local Plan (2023-2038) (2023) (WLP) requires that conversions comply with the Technical Housing Standards - Nationally Described Space Standard (March 2015) (NDSS) and meet the requirements for private internal space set out in Policy D6 of the London Plan (2021) (LonP).
8. For one-bedroom, one-person dwellings such as the top floor flat proposed in the appeal scheme, the minimum internal floorspace standard is 37 square metres (sqm). For the proposed two-bedroom flat, the minimum internal floor space standard is 61sqm.
9. Whilst the submitted plans indicate that the floor space for the top floor flat would be just over 37sqm, LonP Policy D6 and the NDSS are clear that any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used for storage. The Council have consequently measured the internal floor space as 32sqm. I observed that areas within the top floor flat, including within the living and kitchen area, were sloped, with reduced headspace. The internal floorspace would therefore fall below the minimum standard set out in Policy D6 of the LonP and the NDSS.
10. The internal layout of the proposed top floor would comprise a bedroom and small shower room, along with one other room that would be used for cooking, dining and living space. A section of the internal floorspace would be taken up by a small area connecting the bedroom and shower room with the main living space.
11. Given the deficiency in the overall floorspace, circulation within the proposed living, kitchen and dining area would be somewhat constrained. Whilst there would be space for a sofa and small dining table within the flat, as part of the living and kitchen area was sloped, this would limit the placement of furniture and add to the cramped feeling within the flat.
12. Whilst I noted that the top floor flat was light with a dual aspect, and that the bedroom was of a sufficient size to accommodate a bed and other furniture, the overall space and movement within the flat would be compromised to the degree that the proposed living space would be cramped for future occupiers.
13. The Council have indicated that the existing 2-bedroom first floor flat measures approximately 50sqm, and there is no evidence before me to contradict this figure. The existing internal floorspace is therefore less than the minimum standard for a 2-bedroom unit of 61sqm which is set out in LonP Policy D6 and the NDSS. Any loss in floor space would therefore exacerbate this shortfall.
14. In order to provide the proposed stairs and entrance area into the top floor flat, an area of floorspace would be lost from the existing first floor flat. The first floor flat would have a shower room, two bedrooms, a living area and a separate small kitchen.
15. Whilst the flat is dual aspect and receives good light, the amendments to the layout of the flat would result in the internal space of the 2-bedroom unit being reduced to less than 50sqm. Whilst the amendments may not lead to a noticeable reduction in size of habitable rooms, adequate circulation space and space for storage are an important consideration in the provision of a good

standard of accommodation. I am not persuaded that with the reduction in size of the flat, which would lead to a further shortfall from the required standards, there would be sufficient space for the placement of all furniture likely to be required by the occupants who could reside at the 2 bedroom flat, without unduly compromising circulation space. The first floor flat would therefore be cramped and an unsuitable standard of accommodation.

16. The Council had no concerns regarding the height of the ceilings within the proposed flats, and recognised that it would not be possible to provide private external space. However, the internal space standards set out in LonP Policy D6 and the NDSS are minimum standards and exceedance of them is encouraged. There is no persuasive evidence before me to demonstrate that a departure from these standards should be made for the proposed flats. In failing to meet these minimum requirements, I find that the proposal would not be delivering accommodation with an internal layout that would provide adequate living conditions for future occupiers.
17. My attention has been drawn to an appeal for a scheme of flats in Bournemouth¹. In that appeal the Inspector indicated that the NDSS standards were described standards, rather than prescribed standards, and that units with a smaller floorspace than the standards set out in the NDSS would allow for a workable living arrangement. I am mindful that consistency in the planning process is important and like cases should be decided in a like manner. However, the Inspector was clear that it is up to a local authority to make the case for applying the standard through their local plan. The Bournemouth scheme was considered under a different policy context, whereby the standards were not detailed in a local plan policy and none of the policies quoted by the Council in its reasons for refusal implied a requirement for a minimum space standard. The appeal scheme before me is different, as standards are specifically mentioned in Policies within the LonP and the WLP which are referenced in the reason for refusal, and the adopted policies are clear that the developments are required to meet these minimum standards.
18. As such, the Bournemouth scheme is not directly comparable to that which is before me, and I attach it limited weight, which is insufficient to outweigh the harm that I have identified.
19. The Council have no concerns regarding the scale and design of the development which would be subservient to the existing dwelling and relate well to the surrounding area. From the evidence before me and my observations I see no reason to disagree.
20. However, I conclude that the proposed development would not provide adequate living conditions for future occupiers with regard to internal living space. As such, the proposal would not comply with the internal space standards detailed in Policy D6 of the LonP or the NDSS, or with Policy LP27 of the WLP which seeks to ensure that new developments comply with the standards detailed in LonP Policy D6 and the NDSS.

Other Matters

21. While the proposed development would increase the supply of properties suitable for smaller households, and would make efficient land use in a

¹ APP/G1250/W/18/3204719

sustainable location, the benefits to supply would be small given the scale of the scheme.

22. There is no objection to the principle of the development. Subject to conditions, there are no objections to the proposal regarding highways, sustainability, or waste storage. The flats would have appropriate outlooks and there are no concerns regarding privacy or the effects of the proposal on the living conditions of neighbouring occupiers. Nevertheless, the lack of harm is a neutral factor that does not outweigh the harm that I have identified arising from the main issue.
23. The appellant's financial circumstances and the loss of Council Tax are not matters which can be taken into account in my assessment of the planning merits of this appeal.
24. Dismissing the appeal may put at risk the occupation of the appeal property by the tenants. The appellant suggests the tenants would be displaced. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights (right to respect for private and family life) as incorporated by the Human Rights Act 1998. These rights are not unfettered and can be interfered with by a public authority in accordance with law in a number of circumstances.
25. There is a legitimate and established planning policy aim to ensure users of property have acceptable living conditions. No case has been made that the personal circumstances of the existing occupants require them to remain at the property and the evidence fails to show that there is no suitable alternative accommodation. As such, I attach greater weight to the public interest. Dismissal of the appeal is proportionate and so it does not violate the residents' human rights.

Conclusion

26. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
27. For the reasons given above the appeal should be dismissed.

L C Hughes

INSPECTOR