
Appeal Decision

Site visit made on 17 October 2014

by Jennifer Tempest BA(Hons) MA PGDip PGCert Cert HE MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2014

Appeal Ref: APP/T5720/A/14/2222860

14 Burley Close, London SW16 4QQ

- 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 Anton Wisely against the decision of the Council of the London Borough of Merton.
 - The application Ref 14/P0787, dated 17 March 2014, was refused by notice dated 20 June 2014.
 - The development proposed is described as "the applicant proposes to change the use of the property from a 6 bed HMO (C4) to 8 bedrooms (sui generis)".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Anton Wisely against the Council of the London Borough of Merton. This application is the subject of a separate Decision.

Procedural Matter

3. The submissions made to the Council as part of the application for the change of use also referred to seeking removal of Condition No 5 imposed upon a permission granted on 7 November 2013 for the erection of a single storey rear extension and the conversion of the garage to a habitable room including alterations to elevations¹. This condition stated that "the converted garage and office described on approved drawing 3 Rev A shall not be occupied at any time other than for purposes incidental to the enjoyment of 14 Burley Close as a single dwelling". The reason given for imposing the condition was to safeguard the amenity of neighbouring residents. Although the condition is referred to in the grounds of appeal, the planning appeal form does not refer to this being an appeal to remove a condition, nor is there any confirmation that the Council formally dealt with an application to remove the condition. Accordingly, my decision does not include a decision in relation to Condition 5 on planning permission reference 13/P2721.

¹ Merton Borough Council reference 13/P2721

Main Issue

4. This is whether the proposal would provide satisfactory living conditions for occupiers of the appeal property with particular reference to the layout and size of the shared living area.

Reasons

5. The appeal property is one half of a pair of semi detached properties. Burley Close is a cul de sac and the appeal site occupies a corner plot part way along the close.
6. The property was converted to a 6 bedroom HMO in September 2013 following the extension permitted in 2013 and referred to in the procedural paragraph above. The Council draws attention to the ability to change from a single dwelling (Class C3) to an HMO occupied by between three and six unrelated individuals (Class C4) as permitted development.
7. Core Planning Strategy² Policy CS14 addresses design and criterion 'b vi' of the policy promotes high quality sustainable design including buildings with adequate internal amenity. Policy DMH5 of the Merton Sites and Policies Plan 2014 was a draft at the time of the Council's decision. The Sites and Policies Plan was subsequently adopted on 9 July 2014 and I therefore accord this policy full weight. The policy addresses student housing and other housing with shared facilities. Amongst other criteria, the policy requires development to comply with all relevant standards for that use.
8. The standards set out in Annex 1 of the London Plan's Housing Supplementary Planning Guidance 2012³ (SPG) indicate that in terms of best practice, a house for five people or more should be capable of having two living spaces, for example a living room and a kitchen/dining room. Both rooms should have external windows. If a kitchen is adjacent to the living room, the internal partition between the rooms should not be load bearing to allow for reconfiguration as an open plan arrangement. The floor area for a combined living/kitchen/dining space for a six person house should be a minimum of 31 m².
9. The arrangements shown in the proposed plans and which I saw during my site visit comprise a combined kitchen, dining and living space. The 'as existing' plans show a separate lounge and separate office for the six person HMO and these two rooms are proposed as two additional bedrooms. The combined kitchen, dining and living room is shown in both the existing and proposed arrangements. At the time of my site visit, both of the rooms shown as proposed bedrooms were furnished as bedrooms.
10. The deficit in the floor area by which the combined kitchen/living and dining area fails to meet best practice standards is modest at around 1 m². However, the standards are minimum standards applicable to a house designed for six people. Consequently, it would be reasonable to expect that an 8 person house should at least meet if not exceed these minimum standards in the SPG.
11. Notwithstanding any shortfall in the size of the shared space, the proposal would provide one, combined, living space. The appellant's statement

² London Borough of Merton LDF Core Planning Strategy Adopted July 2011

³ Housing, Supplementary Planning Guidance November 2012, London Plan 2011, Implementation Framework

comments that the property benefits from both a living room and a kitchen dining room. As the plans show, however, and as confirmed at my site visit these areas are within a single, combined space albeit with a breakfast bar and cookers providing a degree of functional separation. The proposed utilisation of the property as an eight bed HMO as shown on the submitted plans would not result in the property being capable of providing two living spaces as, apart from the combined kitchen/living/dining area, all other rooms would be used as bedrooms and bathrooms.

12. Annex A of the Housing SPG does not address HMOs specifically. However, the Council's Core Strategy Policy CS14d states that all residential development should comply with the most appropriate minimum space standards. As I have no evidence to suggest that the Council has its own housing space standards adopted for planning purposes, I consider that those in the Housing SPG associated with the London Plan are the most appropriate.
13. The appellant refers to the Council's amenity standards for kitchens within HMOs providing a floor space more than the required 3 m² per bedroom. The appellant also advises that room sizes and the overall floor space of the property, including external amenity space exceed the Council's HMO standards. However, I have not been provided with a copy of these space standards, nor is evidence provided that any such standards are adopted for planning purposes.
14. I have taken into account that, other than the shared living space, various aspects of the property may meet or exceed other standards and guidelines, either set out in the SPG or considered as part of the Council's work in licensing HMOs. I saw no evidence during my site visit to lead me to disagree with the appellant's statement that conversion, refurbishment and fitting out had been carried out to a high standard, including the provision of shower and wc facilities. The number of domestic appliances is clearly designed to facilitate a house occupied by the proposed number of people living independently.
15. However I consider that eight independent residents, together with their possible guests, would find the one communal living space proposed to be insufficient space for relaxation and leisure. Therefore, it is likely to result in residents and potentially their guests, having to rely on the use of bedrooms for relaxation and leisure time activities such as watching TV and listening to music.
16. Although individual bedroom sizes may exceed minimum space standards, I have not been presented with evidence to demonstrate that bedrooms are of sufficient size to function as combined bedrooms and living spaces. Compliance with best practice standards would thus be appropriate. Consequently, I consider that the single shared living space proposed would not be sufficient to provide eight permanent residents with adequate amenities within the dwelling. I am not persuaded by the evidence that the bedroom sizes, nor any minimum space standards which may be exceeded in terms of outdoor amenity space or a high level of provision of shower and wc facilities, would compensate for the inadequacy in the provision of shared living space.
17. Whilst a condition could be imposed regarding the number of residents within the property, this would not preclude residents having visitors, nor would it be reasonable to do so. I am advised that contractual arrangements are stated to limit the number of overnight guests, but this would not restrict visitors at

other times. Potentially the number of people within the property at any one time could significantly exceed eight.

18. I have noted that the appellant's aim is to provide high quality affordable shared accommodation to working professionals and that the additional bedrooms would increase the availability of this type of accommodation. In this respect I acknowledge that the proposal would comply with some elements of council policy. Widening housing choice, as indicated by Core Strategy Policy CS8, is also supported by the London Plan and the Housing SPG which in broad terms emphasises the important role which HMOs play in supporting labour market flexibility. However, the development plan policies still require all housing to be well designed. I do not consider that the benefits of providing two additional letting bedrooms within the existing HMO would be outweighed by the inadequacy in the overall living arrangements for residents resulting from the property having one shared living space.
19. I therefore find that the proposal would not provide adequate internal amenity and as such is contrary to criterion b vi of Core Planning Strategy Policy CS 14. The proposal fails to fully comply with the guidance set out in the Appendix A to the Housing SPG adopted in November 2012 and therefore conflicts with the requirement of Core Strategy Policy CS14 d that all residential development complies with the most appropriate minimum space standards.

Other matters

20. I have taken into account the concerns raised locally about various matters including those relating to traffic and parking. However, they have not led me to any different overall conclusion.

Conclusion

21. For the reasons stated above and having taken all matters raised into account, I conclude that the appeal should be dismissed.

Jennifer Tempest

INSPECTOR