

Appeal Decision

Site visit made on 20 September 2016

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 13 October 2016

Appeal Ref: APP/N5660/W/16/3150987
36 Gleneagle Road, London SW16 6AF

- 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 John Williams against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 15/06670/FUL, dated 20 November 2015, was refused by notice dated 20 January 2016.
 - The development proposed is conversion of existing basement into self-contained one bedroom flat.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing basement into self-contained one bedroom flat at 36 Gleneagle Road, London SW16 6AF in accordance with the terms of the application, Ref 15/06670/FUL, dated 20 November 2015, subject to the conditions set out in the Schedule attached to this decision.

Procedural Matter

2. Since the Council's decision the London Plan (LP) has been revised and regard has been given to the latest version of this and the Mayor's Housing Supplementary Planning Guidance (HSPG), both published in March 2016.

Main Issues

3. The main issues in the appeal are (i) whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to privacy, outlook and private outdoor space, (ii) its effect on the character and appearance of the area, (iii) its effect on the local environment arising from the basement excavation and (iv) whether there would be an appropriate contribution to affordable housing.

Reasons

Living conditions for future occupiers

4. The appeal property is a detached three-storey house which has been converted into three flats. It is within a street of closely-arranged, quite substantial villas of similar character, either detached or semi-detached, set back evenly from the road with modest front gardens, many enclosed by the original low walls.
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5. The plot of land where the house stands rises to the rear and so the existing basement at the front is partly above ground, similar to those of the dwellings either side which have historically been converted to self-contained flats, as proposed in this scheme.
6. The plans involve deepening the existing basement by around 0.5m to provide the ceiling heights to accommodate a one-bedroom flat. The living room/kitchen would benefit from a front window, facing south-east, and adjacent side-window facing north-east, situated below the existing ground-floor front bay windows. These windows would be partly above ground-level and partly set within a small light well. The bedroom would have a smaller window, also facing the front and partly set within a small lightwell.
7. The flat would be single aspect only and, whilst a side window, deeper light wells and more extensive fenestration might have provided better living conditions, the scheme proposed would, as demonstrated through the submitted technical report¹, provide adequate daylight to the flat proposed.
8. There would be the potential for intermittent overlooking of these windows, from occupiers of the ground floor flat entering via the steps between the bedroom and side living room windows, and from occupiers of the above ground floor flats walking alongside the bedroom window towards the side entrance. This would not result in a material loss of privacy such that this scheme would provide future occupiers with unacceptable living conditions.
9. By its nature the basement accommodation proposed would inevitably involve a somewhat restricted outlook and sense of enclosure, compared to comparable accommodation at or above ground floor level. However, the flat would be partially above-ground and the windows would offer a reasonable outlook toward the front garden space and provide reasonable living conditions to its future occupiers in this regard.
10. The garden area at the front allocated for this flat might have provided better living conditions had it been directly accessible from a front access. However, it would be suitable for the type of non-family accommodation proposed and offer an area that might be landscaped to provide a pleasant space for residents to look out onto, or sit out in during fine weather.
11. Whilst there is no detail provided as to how this arrangement of accommodation might relate to the ground floor flat above, adequate acoustic insulation would need to satisfy the building regulations. Whilst the Council has raised some concern in this respect, this would not amount to an adequate planning ground for this proposal not to be acceptable in principle.
12. The proposed one-bedroom flat would provide acceptable living conditions for future occupiers. It would satisfy Lambeth Local Plan 2015 (LLP) Policy Q2 which supports development where acceptable standards of privacy, daylight/sunlight, outlook and outdoor amenity space are provided. Whilst the flat would be single aspect the scheme would otherwise meet the housing standards in LLP Policy H5 and, given cycle parking and refuse storage might be matters addressed through conditions, also comply with LLP Policy H6 governing residential conversions. LLP Policies Q9, Q14 and Q15 referred to in the Council's first reason of refusal appear to have little relevance to this issue.

¹ Internal Daylight Report for 26 Gleneagle Road – Syntegra Consulting November 2015.

The proposal would also satisfy LP Policy 3.5 regarding the quality and design of housing development and HSPG Standard 32 concerning sunlight and daylight.

Character and appearance

13. The front garden space allocated for this flat is bounded by a tall, thick hedge along the roadside footpath and the boundary with No 38 and is mainly hard-surfaced. There are no details of the proposed new boundary treatment other than the specified height of 1.3m. Notwithstanding this, the appellant is amenable to a condition governing the details of the boundary treatment of this area, which could only lead to an improvement upon its current lacklustre appearance.
14. Subject to this, the proposal would not harm the character and appearance of the host property or that of the surrounding area. This scheme would satisfy LLP Policies H5, H6, Q2, Q5, Q8, Q9, Q11, Q14 and Q15 in respect of preserving environmental quality, local visual amenity and local distinctiveness through providing appropriate landscaping and boundary treatments. The other LLP Policies, Q3 and Q14, quoted in the Council's refusal notice have limited relevance to this issue.

Effects on the local environment arising from the basement excavation

15. The Council's third reason for refusal is precautionary and in respect of the failure of this proposal to demonstrate that the basement excavation would not result in flooding or ground instability and thereby avoid harm to the local built and natural environment and the living conditions of neighbouring occupiers.
16. In response to this, a Construction and Methodology Statement (CMS) accompanies this appeal. This provides reasonable evidence to conclude that the works proposed would not affect the structural integrity of the host building, or those nearby, and allow the normal passage of ground water. Subject to the development being carried out in accordance with the CMS, which might be secured by means of a condition, this proposal would not pose a risk in relation to ground instability or flooding, and thereby satisfy LLP policies EN5 and EN6 and LP Policy 5.12.

Appropriate contribution to affordable housing

17. As set out in the Planning Practice Guidance, it is Government policy that contributions for affordable housing should not be sought from developments of 10 units or less. This follows the Court of Appeal judgement² of 11 May 2016 which restored the policy made through the Secretary of State's Written Ministerial Statement of 28 November 2014 to this effect. I must attach considerable weight to this Government Policy which would in this case outweigh any conflict with policies D4³ and H2 of the LLP resulting from the proposal not securing a contribution to affordable housing.

Conditions

18. Consideration has been given to the conditions suggested by the Council. In addition to the standard time limit it is necessary in the interests of certainty

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ. 441

³ Erroneously quoted as Policy D1 in reason 4 in the Council's decision letter

that the development is carried out in accordance with the submitted plans. In the interests of structural stability and the avoidance of flood risk a condition is required to ensure that the works are carried out in accordance with the CMS. In the interests of character and appearance, conditions are necessary to govern the matching appearance of the external work and that the windows, light wells and frontage garden boundary treatment accord with detailed specifications. Finally, conditions are required to make adequate provision for cycle parking and refuse/recycling storage.

Conclusion

19. For the reasons set out, having taken into account all other matters raised, I conclude that this appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/N5660/W/16/3150987
36 Gleneagle Road, London SW16 6AF

- 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: Site Location Plan 001 Rev P01, 010 Rev P01, 021 Rev P01, 013 Rev P01, A-A 030 Rev P01, 022 Rev P01, 020 Rev P01, 110 Rev P01, 121 Rev P01, 113 Rev P01, 122 Rev P01, 120 Rev P01
- 3) The development shall be carried out in accordance with the Construction and Methodology Statement produced by Quorum Project Management dated April 2016.
- 4) The materials to be used for the external surfaces of the development hereby permitted shall match those of the existing building. All new works and works of making good to the retained fabric shall be finished to match the adjacent work with regards to the methods used and to material, colour, texture and profile, unless the prior written approval of the local planning authority is obtained to any variation, or except where otherwise stated on the approved drawings.
- 5) Prior to the commencement of the development hereby permitted full details (scale 1:20, 1:5, 1:1, where appropriate) of the following shall be submitted to and approved in writing by the Local Planning Authority: (i). Section details and elevation drawings of the proposed windows and lightwells. (ii) Full details of the front and side boundary treatments
- 6) Prior to the occupation of the development, details of the provision to be made for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be implemented in full in accordance with the approved details before the use hereby permitted commences and shall thereafter be retained solely for its designated use.
- 7) Prior to the occupation of the development, details of the refuse and recycling storage facilities shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the flat hereby permitted. The approved refuse and recycling storage facilities shall be provided on site prior to the first occupation of the residential unit hereby approved and shall thereafter be retained.

---End of conditions---