
Appeal Decision

Site visit made on 16 January 2017

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS

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

Decision date: 14 February 2017

Appeal Ref: APP/H5390/C/16/3158907
246 Goldhawk Road, London

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr D Gallego against an enforcement notice issued by the Council of the London Borough of Hammersmith & Fulham.
 - The enforcement notice was issued on 9 August 2016.
 - The breach of planning control as alleged in the notice is the conversion of the basement storage area to a one bedroom self-contained flat.
 - The requirements of the notice are a) to cease the use of the basement area as a self-contained flat; b) carry out remedial works to the basement area to remove all bathroom and kitchen facilities that facilitate the use of the basement area as a self-contained residential unit, and return it to previous use, ancillary to the ground floor commercial unit and c) remove all materials associated with the remedial works from the land.
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Main Issue

2. The main issue is whether the accommodation provides reasonable living conditions for the occupiers, in terms of natural lighting and outlook.

Reasons

Living Conditions

3. The development plan includes the Local Development Framework Core Strategy [CS] and Development Management Local Plan [DMD].
4. CS Policy H3 expects a high quality residential environment and development is to be well designed. DMD Policy DMA2 also requires development to be of a high quality of design and text accompanying it notes that changes to the existing stock should be fit for purpose. DMD Policy DMA9 aims to ensure development is of a high standard and that includes conversions. Text to the policy indicates that it is important for new housing to meet standards, including basement accommodation, which should be fit for purpose.

5. The size of the accommodation is reasonable and accords with the Council's guidance.
6. The provision of windows/light to the rooms is by pavement lights and glass panels in the floor of the shop unit above to the front of the building and via a window and lightwell at the rear of the building.
7. There is no reasonable outlook from any part of the accommodation. Even from the rear window the outlook is mainly to the wall of the lightwell. The pavement lights and glass panels in the floor do not provide any reasonable outlook. This is poor and does not represent the high quality of accommodation expected by CS Policy H3.
8. The daylighting of the building also appears poor, relying to some extent on 'borrowed' light through the commercial unit above, which is very poor. This light will be affected by the use of the accommodation above and there is nothing to prevent it being blocked by furniture or storage or simply by people moving around above it in the future. There is some light from the lightwell at the other end, but because this is effectively top lighting down a relatively narrow shaft it does not provide a deep spread of light into the room.
9. In enforcement cases it is for the appellant to demonstrate their case on the balance of probability. The Council notes that the appellant has not taken the opportunity to provide Building Research Establishment type calculations to demonstrate that daylighting is reasonable. From my own inspection, I consider that the daylighting levels do not provide a reasonable standard and would not accord with CS Policy H3 or DMD Policies DMA2 & DMA9 in terms of providing high quality development.

Other Matters

10. The Council has proposed conditions requiring the provision of cycle parking and the provision of and retention of a non-return valve and pump device to prevent sewerage back surging into the basement. The appellant notes a non-return valve was provided at the time of conversion, but would not object to such a condition.
11. There is a small yard area at the rear, accessible along a corridor from the front of the building at ground level and this would provide a suitable location for cycle storage, so with a suitable condition, reasonable cycle storage can be provided.
12. This yard also provides some outside space, but it is small in size, has high walls around it and therefore has limited benefit in terms of amenity use and I attach little weight to the benefits of it, apart from cycle parking and perhaps other storage.
13. The appeal site is in Flood Zone 3, but the appellant has had a flood study undertaken that indicates with the protection provided by the Thames flood barrier the flood risk is reasonable. Therefore with the proposed condition the development would be acceptable in terms of flooding.
14. I acknowledge the need for housing as expressed by the appellant and that delivery of accommodation is a major Government priority as expressed in the National Planning Policy Framework. However, providing unsatisfactory and low

quality development is not the answer to housing need and the requirements of the occupiers of the accommodation have to be considered.

Planning Balance

15. I have taken into consideration the need for and benefits of providing additional accommodation and that flooding and cycle parking issues can be overcome through conditions. However, I conclude overall that because of the adverse impact on the occupiers of the accommodation through poor outlook and daylighting the appeal should be refused.

Graham Dudley

Inspector