The Planning Inspectorate

Appeal Decision

Site visit made on 4 June 2019

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 29/07/2019

Appeal Ref: APP/B0230/W/19/3223370
50, High Town Road, Luton LU2 0DF

- 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 Network Property Ltd against the decision of Luton Borough Council.
- The application Ref 18/01732/FUL dated 8 November 2018, was refused by notice dated 5 February 2019.
- The development proposed is the conversion and change of use of the basement storage area for the shop to a 1 bedroom flat.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is described on the application form as '*the conversion and change of use of the basement at 50 High Town Road'.* The Local Planning Authority (LPA) has described the actual nature of the proposal as '*the conversion and change of use of the basement storage area for the shop to a 1 bedroom flat'.* I have used the latter description in the interests of certainty.

3. Since the submission of the appeal, an updated version of the National Planning Policy Framework (February 2019) (the Framework) has been published by the Government. This is a material consideration in planning decisions. In relation to the main issue in this appeal, Government policy has not materially changed, and it was not therefore necessary to invite any further comments from the parties involved.

Main Issue

4. The main issue is whether the development provides adequate living conditions for the occupiers of the flat in terms of available space, outlook and daylight.

Reasons

Site and proposal

5. 50, High Town Road is a two storey end of terrace property at its junction with Duke Street. Like many of the adjoining properties, the ground floor is in commercial use: its upper floors provide residential accommodation. The

property has a basement which is accessed from the rear by steps and there is a blocked up light well set into the pavement at the front.

6. The adjoining property also has a basement which has been converted to a one bedroom apartment and was granted planning approval in April 2002[1]. The appellant considers that it is the same as that now proposed.

7. The proposed development is to change the use of the basement to a one bedroom flat using the existing rear entrance. An existing window looking onto the entrance would be enlarged to give light to the proposed combined kitchen/living area. A proposed bedroom and a separate study would be sited at the front of the building facing High Town Road and daylight would be provided by unblocking the lightwell located in the pavement The appellant states that this would be the same as has been done for the adjoining basement flat.

Living conditions

8. The LPA considers that the proposed development would provide gloomy and oppressive living conditions for the future occupiers because of inadequate natural lighting. The appellant considers that conditions in the adjoining basement flat, with similar natural lighting arrangements, has more than adequate daylighting and moreover, that the level of natural light in the proposed development would comply with British Standard 8206 Part 2 (BS) relating to light recommendations.

9. The appellant has included photographs in support of the appeal. However, I have not been provided with any substantive technical analysis to indicate whether the BS would be met. However, based on the evidence before me and my own observations on site, I consider that the LPA's concerns are well founded and that the proposed development would result in a particularly gloomy living environment for the future occupiers.

10. The proposed basement flat would have a restricted outlook which would be limited largely to the bottom of the stairwell which provides access to it. There would be a high wall when viewed from the flat. Also, the outlook from the light well to High Town Road would be severely restricted.

11. The appellant has referred to the similar arrangements for the adjoining basement flat, but I do not have full details of the circumstances leading to that approval and so cannot be certain that it represents a direct parallel to the appeal proposal. In any event, I have determined the appeal on the particular circumstances of the case before me. I find that, notwithstanding the similar outlook from the adjoining basement flat, the outlook from the proposed development would be significantly and adversely restrictive.

12. The Luton Local Plan 2017 (LP) appendix 6 requires a minimum private outdoor space of 5 square metres for a 1-2 person flat, with a further 1 square metre for every additional occupant. I note that the basement flat at the adjoining property was approved prior to the adoption of the LP and would therefore have been assessed against different policies.

[1] 02/00212/COU

13. The appellant considers that this standard would be met by the light well and by the access steps and the area at the bottom of the stairway. However, the lightwell to High Town Road would not be accessible or useable outdoor space. The bottom of the staircase is approximately 3 square metres in area and it, together with the staircase, forms the access to the proposed apartment as distinct to useable, private outdoor space. I therefore find that the proposed outdoor space would not accord with the intentions of the LP even if it were to meet the minimum space standard required.

14. The appellant refers to the availability of public open spaces close to the site, but these are not private spaces which accord with the LP policy.

15. The proposed flat would have an internal floor area of about 45m2: this compares to a minimum of 50m2 as advised in the Written Ministerial Statement - *Technical housing standards - nationally described space standard* (March 2015) (NDSS). However, the NDSS only applies in those LPAs where it has been adopted by a local plan policy which explains how it will be applied. In this case, there is no such policy. I therefore attach limited weight to it.

16. The proposed flat would have a living room/kitchen, a bathroom, a bedroom with storage and a study. While the flat is compact, I find that its size is not so cramped as to provide inadequate and unsatisfactory living conditions for its occupants.

17. Nevertheless, I find that the outlook for the future occupiers of the flat would be inadequate and that the available private outdoor amenity space would not accord with the space requirements of appendix 6 of the LP. For these reasons, I therefore conclude that the proposed development would not provide suitable living conditions for residents with regards to outdoor space, outlook and light. The proposal would therefore conflict with LP policy LLP1 which aims to provide sustainable development, and with policy LLP25 and chapter 12 of the Framework which aim to promote good design.

Other matters

18. Policy LLP15 of the LP encourages higher densities within town centres and within district and neighbourhood centres. I have found that the internal space standards of the proposed development do not conflict with the aims of the LP. However, this does not outweigh my findings on the main issue.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR