



Appeal Decision

Site visit made on 10 October 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2019

Appeal Ref: APP/B5480/W/19/3233852

30B and 30C The Broadway, Elm Park, Essex RM12 4RN

- 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 S. Rajendra against the decision of the Council of the London Borough of Havering.
 - The application Ref P0542.19, dated 16 May 2019, was refused by notice dated 11 July 2019.
 - The development is the conversion of the basement and lower basement into residential studio units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The basement and lower basement of the appeal property has already been converted into two flats. As such, I am considering this appeal retrospectively.

Main Issue

3. The main issue is whether satisfactory living conditions are provided for existing and future occupiers of the development, with particular regard to the internal configuration of the scheme, outlook, noise and disturbance, outdoor amenity space and safety.

Reasons

4. The appeal property is located at the eastern end of a terraced parade of shops, which face onto The Broadway. The ground floor of the building is occupied by a shop. The basement and lower basement floors have been converted into two one-bedroom flats, known as '30B' and '30C' The Broadway, respectively. Due to the topography of the site, the basement and lower basement floor levels are below ground level to the front of the site, but not to the rear. To the rear of the flats, there is a small yard, which the appellant states is used as an outdoor amenity area.
5. The appeal site is situated near to Elm Park Station and a railway line is located immediately to the south of the appeal site. The boundary with the railway line is marked by a tall chain link fence with razor wire on top. The railway line forms part of the District Line, with the Council stating trains run from 05:00 to 01:26. The hours of operation of the District Line have not been disputed by the appellant.

6. Policy 3.5 of the London Plan (March 2016) (the 'LP') incorporates the Technical Housing Standards - Nationally Described Space Standard (the National Standard), which applies to new residential development within London. Both flats are one-bedroom, two person units, which require a minimum gross internal floor area of 50 square metres to comply with the National Standard. The Council state that the gross internal floor area of No 30B falls below the minimum standard. This has not been disputed by the appellant. Therefore, I conclude that the flat known as No 30B provides an unduly small and cramped standard of accommodation, which provides unsatisfactory living conditions for existing and future occupiers of the development.
7. The habitable rooms to each of the flats has a single aspect outlook, which faces towards the railway line. During my site visit, I observed that the outlook was across a narrow strip of land, through the tall security fence and onto the railway line, which is located very close to the appeal site. From the upper floor flat, the view also encompassed the razor wire on top of the security fencing. Consequently, I conclude that the development fails to provide an acceptable outlook for existing and future occupiers of the development.
8. As set out above, the appeal site is situated adjacent to the District Line, which is used by trains going to and from Central London for much of the day and night. The passing trains emit loud levels of noise, which is audible from the appeal site. To limit the level of noise exposure from within the flats, existing and future occupiers of the development would need to keep the windows closed for approximately twenty hours per day, which creates oppressive living conditions for existing and future occupiers of the development.
9. The Council's Design for Living: Residential Design Supplementary Planning Document (2010) (the SPD) sets out the Council's aspirations for new residential development within the Borough. Section 10 of the SPD states that every home should have access to suitable private and/or communal amenity spaces. To the rear of the flats, there is a small yard, which the appellant states is used as an outdoor amenity area by occupiers of the flats. The yard is located adjacent to the communal entrance to the flats and abuts an area of hardstanding which is used for car parking and to service the commercial unit. Consequently, existing and future occupiers of the development will be subjected to unacceptable levels of noise and disturbance when using the yard for amenity purposes. As such, I consider that the development fails to provide an appropriate amount of suitable outdoor amenity space.
10. Policy DC61 of the Core Strategy¹ (The 'CS'), amongst other things, requires new development to be designed around the needs of pedestrians. There are two means of pedestrian access to the flats. From The Broadway there is a staircase, which is located in the middle of the shopping parade and connects to the parking/servicing area to the rear of the terrace. Alternatively, pedestrians can gain access from Diban Avenue, which involves walking along the road and then past a garage block to the appeal site.
11. On my site visit, I noted that the staircase was unlit and particularly steep, therefore it would be difficult to use by pedestrians, especially those with mobility issues such as wheelchair and pushchair users. Whilst the route via Diban Avenue was fairly level, it was convoluted, which would likely discourage pedestrian use, and the section of the route along the garage block was unlit.

¹ Havering London Borough Core Strategy and Development Control Policies Development Plan Document (2008)

12. Given the above, I am not satisfied that the development has been designed to meet the needs of pedestrians. As such, I conclude that the development fails to provide safe and secure access for existing and future occupiers.
13. For the collective reasons outlined above, I conclude that the development fails to provide satisfactory living conditions for existing and future occupiers, with particular regard to the internal configuration of the scheme, outlook, noise and disturbance, outdoor amenity space and safety. As such, the proposal does not accord with Policies 3.5 and 7.3 of the LP, the London Plan Housing Supplementary Planning Guidance (2016), Policies DC4, DC61 and DC63 of the Core Strategy and the Design for Living SPD insofar as they collectively seek to provide well designed housing that protects residential amenity.
14. The Council has drawn my attention to the appeal decision² of 25 October 2012, which relates to a similar development at the appeal site, albeit that the change of use was determined as a proposed development, as opposed to retrospectively. The appeal was dismissed with the Inspector finding that the proposal would fail to provide acceptable living conditions for future occupiers. Whilst it is an important planning principle that like cases should be determined in a like manner, this appeal has been determined on its own merits.

Other Matters

15. The appellant states that the flats provide a suitable form of accommodation for young people, near to local services and public transport. Whilst these factors weigh positively in favour of the development, they are not significant enough to alter or outweigh my conclusions on the main issue.
16. The appellant contends that the standard of accommodation provided by the development is comparable to other flats in the local area, many of which are also located near to the railway line. However, no substantive evidence has been put forward to demonstrate that this is the case. In any event, this does not provide a compelling reason to depart from the development plan.
17. The Council state that there is a need for the development to contribute towards infrastructure and education provision within the Borough and that such obligations could be secured by a legal agreement. Such an agreement has not been put forward by the appellant. Nevertheless, as I have concluded that the proposed development would conflict with other development plan policies, I have not undertaken an assessment as to whether the planning obligations would meet the tests set out under Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy/guidance on the use of planning obligations. However, given my findings on the main issues, this is not a matter I need to address.

Conclusion

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

Christopher Miell

INSPECTOR

² Appeal Ref: APP/B5480/A/12/2171023