



Appeal Decisions

Site visit made on 12 November 2019

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 19 November 2019

Appeal A: APP/F5540/C/18/3195176

67 Windmill Road, Brentford TW8 0QQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Andrijana Overton against an enforcement notice issued by the Council of the London Borough of Hounslow.
- The enforcement notice was issued on 18 January 2018.
- The breach of planning control as alleged in the notice is without planning permission, the use of the basement as a self-contained flat.
- The requirements of the notice are:
 - i. Cease the use of the basement as a self-contained flat;
 - ii. Remove the bathroom and associated bathroom facilities (ie shower/bathing facilities, WC, wash basin and pedestal. In addition to the above items all water piping and all waste connections);
 - iii. Remove the kitchen and associated kitchen facilities (ie all kitchen and facilities to include the following items:- kitchen wall and base units, kitchen sink, kitchen worktop surfaces, cooking facilities and cooker hood. In addition to the above items all water and gas supply piping and all waste connections);
 - iv. Revert to lawful use;
 - v. Remove all resultant debris from the land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the 1990 as amended.

Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B: APP/F5540/W/17/3191819

67 Windmill Road, Brentford TW8 0QQ

- The appeal is made under section 78 of the 1990 Act against a refusal to grant planning permission.
- The appeal is made by Mrs Andrijana Overton against the decision of the Council of the London Borough of Hounslow.
- The application Ref 01217/67/P15, dated 30 August 2017, was refused by notice dated 30 October 2017.
- The development is described as "use of basement as independent studio flat".

Decision: The appeal is allowed.

Appeal A: The appeal on ground (a) and the deemed planning application and Appeal B

Preliminary Matters

1. Appeal A on ground (a) is made on the basis that planning permission should be granted for the matters stated in the notice.

2. The terms of the deemed planning application are derived from the allegation, hence, planning permission is sought for the use of the basement as a self-contained flat. As this corresponds with the description of development set out in the planning application (Appeal B), I have considered Appeal A on ground (a) and Appeal B together.
3. I understand that a partition wall which previously divided the living space from the bedroom has been removed. For the avoidance of doubt, I have considered the development as described below.

Main Issues

4. The main issues are: (i) whether the self-contained flat provides adequate living conditions for the occupiers in terms of light, outlook and amenity space; and (ii) the effect of the development on the living conditions of the occupiers of the basement and ground floor flats with regard to privacy.

Reasons

5. The appeal relates to the basement of a two-storey house forming the end-of-terrace. It is located on a corner plot in a predominantly residential area. The house has been sub-divided and, in addition to the flat occupying the basement, there are two further self-contained flats on the upper floors. There is a modest yard to the rear, which I understand is used by the occupier of the ground floor flat. Part of the yard is occupied by a two-storey rear addition to the property.
6. The area between the front wall of the building and the footway is taken up with a lightwell which includes the stairs providing access to the basement, with the remainder at street level used as a bin store.
7. The basement flat provides accommodation in the form of a studio, with an open plan kitchen/living and sleeping area and a separate bathroom. There is a window at the front facing out onto the access stairs/light well and one at the rear facing into the rear yard. The front door is also partially glazed. I accept that the outlook from the windows to the main habitable room is limited due to the nature of the basement accommodation. However, the outlook is not completely restricted. I do not consider that there is an unacceptable sense of enclosure or a lack of connectivity to the street as would be experienced from a window in close proximity to a solid wall. Views into a rear yard are not unexpected in an urban area and I do not find the outlook to have a detrimental impact on living conditions in this instance.
8. I visited the site during the mid-afternoon on an overcast day. Levels of daylight reaching the living space were reduced but not absent. I saw that there was adequate light to carry out day-to-day activities. I appreciate that the basement location will affect the amount of sunlight to the flat but, again, I do not consider this would be materially harmful to living conditions. The largely east-west orientation of the property would enable a level of sunlight penetration in the summer months, which is not unreasonable in a relatively densely developed area.
9. The rear window faces onto the yard between the return wall of the two-storey rear addition and the boundary fence. This part of the yard is less likely to be used by the occupier of the ground floor flat for amenity purposes, which would limit overlooking into the basement flat.

10. Further, I saw that the yard is not completely private as there are likely to be views from the first floor rear window of the adjoining property. Therefore, I do not consider that there would be harm to the privacy of the occupiers of either flat as a result of the rear window to the basement flat.
11. The development provides no access to amenity space. In this respect it would not accord with Policy SC5 of the Local Plan¹, which seeks the provision of sufficient useable private external space. Nonetheless, the benefit of providing a minimum of 5 square metres amenity space would be relatively limited. Given the corner location and proximity to a relatively busy road, it is unlikely that the open space would be used regularly by occupants for relaxation. Bin storage is accommodated elsewhere in the site, and there is a raised cycle fitting attached to the wall of the access stairway. I do not find the lack of open space to serve the studio flat to be detrimental to living conditions given the prevailing pattern of development in the vicinity.
12. The development provides a small unit of accommodation and makes a minor contribution towards housing need in the Borough. Overall, the lack of amenity space does not make the development unacceptable for the reasons set out above.
13. I find that the self-contained flat provides adequate living conditions for the occupiers in terms of light and outlook and there is no adverse effect on the living conditions of the occupiers of either flat with regard to privacy. In this respect, it accords with Policies CC2 and SC5 of the Local Plan which, among other things, seek to secure quality residential development and protect residential amenity. The development meets the aims of the National Planning Policy Framework insofar as it seeks to promote good design and protect the amenity of existing and future occupants.
14. The Council is seeking a condition to ensure the development is carried out in accordance with the submitted plans, however, this is not necessary as the change of use has occurred and the development exists. There is limited justification for the Council's second condition preventing the alteration of the internal layout of the property. I am not satisfied that such a condition would be necessary and reasonable in the circumstances.

Conclusions

15. Appeal A: For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered. Appeal B: For the reasons given above I conclude that the appeal should be allowed.

Formal Decisions

16. Appeal A:

The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of the basement as a self-contained flat on land at 67 Windmill Road, Brentford TW8 0QQ referred to in the notice.

¹ Hounslow Local Plan 2015-2030 (adopted 2014).

17. **Appeal B**

The appeal is allowed and planning permission is granted for “use of basement as independent studio flat” at 67 Windmill Road, Brentford TW8 0QQ in accordance with the terms of the application, Ref 01217/67/P15, dated 30 August 2017, and the plans submitted with it.

Debbie Moore

Inspector