
Appeal Decision

Site visit made on 3 December 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 16 January 2020

Appeal Ref: APP/U5360/W/19/3233115

12 Leabourne Road, London N16 6TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Honig against the Council of the London Borough of Hackney.
 - The application Ref: 2019/0300, is dated 16 January 2019.
 - The development proposed is the change of use of existing ancillary basement to self-contained B1(a) office.
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Decision

1. The appeal is dismissed, and planning permission for the change of use of existing ancillary basement to self-contained B1(a) office is refused.

Main Issues

2. From the evidence before me, the main issues are:
 - i) the effect of the development upon the provision of residential floorspace; and
 - ii) whether appropriate conditions could be provided for the future users of the office, with particular regard to light and outlook.

Reasons

Supply of residential floorspace

3. The appeal site consists of the basement of an existing large dwelling, located in a primarily residential area. The basement is ancillary to the dwelling above. Therefore, the proposed development would result in the loss of some residential floorspace.
4. I acknowledge that the existing dwelling may be relatively large. However, the evidence before me is indicative that there is a need for larger dwellings within the vicinity of the appeal site. A basement that could be used for a number of activities such as recreation or storage would therefore enable a larger family to occupy the dwelling. This would assist in addressing the aforementioned need. I have also noted that there does not appear to be any intention to replace the lost residential floorspace.
5. I have also noted that the policies to which I have been directed seek to avoid the loss of floorspace that could be used for residential purposes. It is

important to note that Policy DM20 of the Hackney Local Plan (2015) (the Local Plan) is clear that a loss of residential floorspace, rather than just dwellings in their entirety should be avoided. This is an important distinction from Policy 19 of the Hackney Core Strategy (2010) (the Core Strategy), which requires the retention of family housing. Given that there is a clear breach of Policy DM20, the development would therefore be harmful.

6. Policy DM20 also sets out the criteria by which proposals involving a loss of residential floorspace should be assessed. However, the evidence before me is indicative that the proposal would not result in a larger dwelling, nor would it be used as supported housing. The development does not also appear to form part of a regeneration project. These factors further increase the level of harm associated with the proposed development.
7. In addition, the proposal is for the creation of an office (falling within Use Class B1). The evidence submitted with the appeal is therefore not suggestive of the proposed development being a new, essential community use. The site also does not appear to be located within an area designated for employment activity. This reduces the benefits that can be ascribed to the proposed development. In consequence, the loss of residential floorspace would not be replaced by a development for which there is a need within the vicinity. This further increased my concerns regarding the proposed development.
8. I therefore conclude that the proposed development would result in the unacceptable loss of residential floorspace. The development, in this regard, would fail to comply with the requirements of Policy 3.14 of the London Plan (2016); Policy 19 of the Core Strategy; and Policy DM20 of the Local Plan. These policies, amongst other matters, seek to resist the loss of residential floorspace, unless it is replaced at the same location, or a higher density; or that redevelopment provides better quality homes, that the accommodation is no longer fit for purpose; or that larger dwellings, supported housing, a community facility, or that commercial activity covered by an appropriate designation would be facilitated.

Light and outlook

9. The proposed office would be accessed via a deep lightwell at the front of the site. Adjacent to the door are small windows, which serve the largest room, at the front of the basement. Two small additional high-level windows are present at the rear of the basement. These serve two separate rooms.
10. Due to the fenestration size, layout and views dominated by retaining structures, the outlook experienced by users of the office would be limited. I acknowledge that the room to the rear of the office is identified as being utilised for storage, however, as the submitted plans detail that the remainder of the floorspace would be for work and meeting spaces, the lack of outlook is particularly concerning.
11. In addition, the level of outlook available to the front elevation windows would be diminished as the lightwell is shown to be used for storage of bicycles, refuse and materials for recycling. Accordingly, this would result in a further reduction in the level of outlook available to occupiers of the proposed office. I note that the appellant has suggested that cycle and bin storage could be provided at ground level. However, it is unclear where these could be provided.

12. The majority of the windows would be below ground level. As a result, the levels of natural light would be significantly diminished. This means that the users of the proposed office would be generally reliant upon artificial light, such that the proposed development would not be of a good quality.
13. Furthermore, the relatively few windows within the basement, and their small size would also result in a diminished ability for the office accommodation to be flexibly used in the future through an amended layout. This results in a lower potential for the office to meet the needs of business occupiers, which may change over time.
14. I am of the view that there are significant differences between the requirements of users of the existing use and the proposed office. As a basement providing an ancillary facility to a residential dwelling, users of this space may not necessarily use it for significant periods of time. Additionally, users of the basement would also have access to the remainder of the dwelling, where the windows would feature a greater level of light and outlook. Therefore, the basement in its current form does not harm the living conditions of the occupiers of the property.
15. In contrast, the office would be entirely separate from the dwelling. Therefore, users of the facility would not be able to access the remainder of the dwelling. Given that the office would be potentially operational between the hours of 8am and 6.30pm on Mondays to Fridays and 8am and 1pm on Saturdays, users of the office would be in the basement for a substantial period. In consequence, the lack of appropriate light and outlook amounts to significant harm.
16. I therefore conclude that the proposed development represents an unsuitable office accommodation owing to a lack of light and outlook available for the future occupiers. The development, in this regard, would fail to comply with the requirements of Policy 18 of the Core Strategy; and Policies DM1 and DM15 of the Local Plan.
17. These policies, amongst other matters, seek to ensure that new developments receive adequate levels of light and open aspect; and that new business accommodation is of a high quality, meets the needs of modern businesses, is flexible, and receives appropriate levels of natural light.

Other Matters

18. I acknowledge that there may be a local demand for office accommodation and that an office of the size proposed may be desirable by a smaller business. However, given that I have found that the proposal, in this instance, would not provide appropriate conditions for the future users of the office and would result in an unacceptable loss of residential floorspace, I do not believe that this counter-balances the harm as previously identified.
19. I also note that the operation of the proposed office would not cause adverse impacts upon the character and appearance of the locality, the living conditions of the occupiers of neighbouring properties and that the appellant is agreeable to installing more energy efficient technology into the building. I am also aware that the site is not within a Conservation Area. Whilst these are matters of note, I do not believe that these are sufficient to overcome my previous conclusions.

20. The site is in proximity to several public transport routes. This would provide users of the proposed office with access to a range of transport options, without resorting to using private cars, thereby ensuring that there would not be an adverse impact upon the highway system. However, this does not overcome the harm as identified in respect of the Main Issues.
21. I am aware of a previous planning appeal involving this site. I do not appear to have been provided with the full information regarding this. However, one of the main issues to be considered was the suitability of the basement as a separate self-contained flat. I have no reason to disagree with the conclusions reached by the Inspector in deciding the previous appeal. However, owing to the current form and layout of the basement, it appears likely that it could be utilised for ancillary activities such as recreation, communal activities or storage. Accordingly, the basement cannot be described as being no longer fit for purpose.

Conclusion

22. For the preceding reasons, I conclude that the appeal should be dismissed, and planning permission refused.

Benjamin Clarke

INSPECTOR