The Planning Inspectorate

Appeal Decision

Site visit made on 9 March 2020

by Graeme Robbie BA(Hons) BPl MRTPI

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

Decision date: 17 March 2020

Appeal Ref: APP/A5270/W/19/3242271
1d St Dunstans Avenue, Acton W3 6QD

- 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 Dr Aly Khorshid against the decision of the Council of the London Borough of Ealing.
- The application Ref 193114FUL, dated 15 July 2019, was refused by notice dated 6 September 2019.
- The development proposed is conversion of an existing 4 bedroom residential dwelling into 3No. self-contained flats. 1x 2 bedroom 3 person property within the basement, 1x 1 bedroom 2 person property within the ground floor and 1x 2 bedroom 3 person property covering the first and second floors of the existing property.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposed development would provide acceptable living conditions for future occupiers of the development, with particular regard to daylight / sunlight and outlook in respect of flat 1 and access to outdoor amenity space in respect to flats 1 and 3.

Reasons

Daylight, sunlight and outlook

3. The appeal property, outwardly a detached two storey dwelling but with additional accommodation at basement level and within the roofspace, would be sub-divided into three separate self-contained flats as a result of this proposal. The Council do not object to the proposal in terms of daylight, sunlight and outlook in respect of flat 2 (at ground level) and flat 3 (at first and second floor levels. From my observations of the appeal property and the submitted plans, I see no reason to disagree with this conclusion.

4. However, the proposed flat 1 would be located solely within the existing basement area. The basement, currently accessed internally via a flight of stairs, is a large open-plan space. Natural light to the basement is provided at the front and rear; at the front by a lightwell broadly mirroring the width and depth of the property's bay windows, with two domed rooflights over and at the rear by a single sloping rooflight. Whilst I saw that these currently provide a reasonable degree of light immediately around the two lightwells, the degree to which they provide sufficient light towards the middle of this open space is somewhat limited.

5. The proposed plans show that access to the basement unit would be taken via an external flight of steps to be constructed within the existing front lightwell. Whilst the proposal would entail removal of some of the roof structure around the existing dome rooflights and the low brick wall that surrounds the lightwell opening, thereby removing some of the current impediments to the amount of light captured by this opening, the construction of stairs within the lightwell itself would severely compromise the function of this area as a lightwell.

6. Nor do the steps appear to be particularly generous in terms of their width. It may be that a glazed screen and door at basement level would allow the converted space to capture and make the most of the available light, but the narrow and confined area of the lightwell would be significantly, severely and harmfully compromised by the construction of the steps within it. As a consequence the lightwell would not fulfil its existing primary function as a lightwell and the steps would restrict the amount of natural light capable of entering the proposed basement flat.

7. In addition to the restricted and confined nature of the front stairwell / lightwell and access steps, the main open-plan living area would extend a considerable depth towards the rear of the building. However, internal partitions to create a bathroom and two bedrooms would prevent light penetrating meaningfully into the living space from the rear. The two bedrooms would be served by a sloping rooflight / lightwell in each of the rooms and, whilst these would be sufficient for the rooms they serve, neither they nor the proposed internal layout would be particularly conducive to further light penetration into the middle of the basement. Thus, the internal layout of the flat and the position of these rear rooflights would be of little assistance in terms of supplementing the restricted light levels afforded by the constrained front stairwell / lightwell.

8. By their very nature and location, basement flats can suffer from a limited outlook. The appeal proposal would be no different. At the front, any outlook would be towards the opposing blank wall of the constrained stairwell. Upward views when stood close to the stairwell opening would give limited sky views, but that would be in the context of a small forecourt area within which the existing car parking space would be retained along with cycle and refuse bin storage.

9. At the rear, glimpses of sky, and vegetation within the appeal site and neighbouring gardens, would provide a slightly more pleasing outlook than at the front. However, that would be tempered by the windows being positioned at ground level within the rear yard, with the rear yard to provide private amenity space for the ground floor flat. The quality of the outlook, its usefulness and its privacy would as a result be significantly compromised and not conducive to living conditions providing a high standard of amenity for occupiers.

10. The result, in terms of the basement flat (flat 1) would be an ill-lit basement flat poorly served by a compromised and constrained front stairwell / lightwell that would offer little in the way of outlook and only limited light penetration to the flat as a whole. The value of the rear rooflights, whilst providing valuable light to the rear bedrooms, would be compromised by the internal layout of the flat which would prevent meaningful or beneficial light penetration to the open-plan living area. Furthermore, neither front not rear rooflights would provide an acceptable outlook from the spaces that those openings would serve.

11. For these reasons, the proposal would fail to provide housing of the highest quality or with high quality indoor spaces, and would fail to provide good levels of daylight and sunlight appropriate to the proposed use of the main living area of flat 1. The proposal is therefore contrary to policies 7B and 7D of the Ealing Development Management Development Plan Document (DMDPD) and policies 3.5 and 7.6 of the London Plan (LP).

12. I accept that the building is orientated along a broadly east-west axis and that the front and rear lightwells may capture some morning and afternoon / evening sunlight. However, the degree to which this would be meaningful or significant would be heavily restricted by the confined nature and restricted width of the front stairwell / lightwell, and by surrounding fences, vegetation and adjacent properties to the rear.

13. I have also considered the appellant's suggestion that larger rooflights could be secured by the use of appropriately worded planning conditions. The appellant has drawn my attention to the first sentence of paragraph 54 of the National Planning Policy Framework (the Framework) regarding the use of planning conditions. However, for reasons that I have already described above, I am not persuaded that such an approach would achieve any practical benefits, and may raise issues in other respects, such as privacy and overlooking. I accept too, that flats 2 and 3 would not be so burdened by these concerns. However, none of these factors are sufficient to overcome the harm that I have identified above.

Outdoor amenity space

14. Of the three flats proposed in this instance, only the ground floor flat (flat 2) would have direct access to the outdoor amenity space in what is currently the rear yard area of the appeal property. It is not clear whether the appellant intends for this area to be solely for the use of occupiers of flat 2, or for the shared use of occupiers of all three flats. Indeed, the appellant suggests flexibility either way in his SofC[1].

15. However, neither alternative would be entirely satisfactory. If provided solely for the benefit of occupiers of flat 2, neither of the other flats' occupiers would have direct access to outdoor amenity space other than the space within the front forecourt area. As that would be neither private nor particularly usable due to it also accommodating a car parking space, cycle parking and bin storage, this option would fail to provide appropriate outdoor space for occupiers of flats 1 or 3.

16. Alternatively, if the intention were that the yard area would provide a shared communal space, it would fail to provide occupiers of flats 1 and 3 with attractive or convenient access to it. I accept that the alleyway at the side of the building would allow access from front to rear, but access from either flat 1 or flat 3 to the rear yard would be convoluted and inconvenient and would be likely to dissuade occupiers from accessing and making use of this space. Furthermore, given the relationship between this area and flat 1 (rooflight lightwells) and flat 2 (direct ground level access to / from yard), the space would be neither particularly practical for shared use, nor pleasant in terms of privacy and overlooking concerns.

[1] Paragraph 5.9

17. The proposal would, for the reasons I have set out, fail to provide a high standard of amenity for future occupiers in terms of provision of, and access to, outdoor space. For reasons similar to those set out in respect of daylight, sunlight and outlook, the use of a planning condition to secure shared use of the rear yard area would not satisfactorily resolve the situation which the appellant suggests it would seek to resolve. Even if I were to conclude that a financial contribution would satisfactorily resolve the matter of outdoor space provision, I have no mechanism before me to secure any such contribution and so I give this matter limited weight. The proposal is therefore contrary to DMDPD policies 7B and 7D and LP policies 3.5 and 7.6.

18. I have noted the location of Acton Park relative to the appeal site, but the range of facilities and activities provided at a large public park, whilst no doubt beneficial for leisure and recreation, are not a substitute for access to private domestic outdoor space. This is not a material consideration to which I give any significant weight and does not alter my conclusions in respect of outdoor amenity space.

Other Matters

19. The appellant has referred me to three examples of schemes of conversion and sub-division of existing houses or flats elsewhere within the Borough[2]. However, from the available evidence in respect of each of those examples, they do not seem to me to be directly comparable to the appeal proposal in terms of basement accommodation, internal layouts, provision of outdoor space or the relationship of that space to the proposed accommodation. I have, in any event, determined this appeal on its own merits and the basis of the evidence before me. As a consequence, these examples are material considerations to which I give limited.

Conclusion

20. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR

[2] LPA Ref No: 164047FUL; APP/A5270/W/19/3227245 and APP/A5270/W/19/3220955