The Planning Inspectorate

Appeal Decision

Site visit made on 7 September 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th September 2020

Appeal Ref: APP/U5360/W/20/3254918
43 – 45 Castlewood Road, Hackney, London, N16 6DJ

- 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 Stroh against the decision of the Council of the London Borough of Hackney.
- The application Ref: 2020/0199 dated 21 January 2020, was refused by notice dated 27 April 2020.
- The development proposed is alterations to the existing ground and upper floors to create one unit with the basement in use as a separate unit.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was made the Council has adopted the Hackney Local Plan 2033 (July 2020) (the Local Plan). It replaces policies of the Hackney Local Development Framework Core Strategy (2010) and the Hackney Development Management Local Plan (2015). Consequently, I have had regard to the newly adopted policies in my decision and the parties have had an opportunity to comment.

3. The section plan shows the rearmost room of the basement floor to be used as a kitchen. Whereas the floor plan shows it to be used as a bedroom 1. Having regard to the respective cases of the parties, it appears the floor plan is the correct plan, and I have considered the appeal on this basis. However, a kitchen is also classed as a habitable room, so in practice the disparity between the plans makes no material difference to my consideration of the main issue.

Background

4. The appeal site currently comprises a ground floor 2-bedroom flat (No. 45) and a first and second floor three bedroom flat (No. 43). It is the subject of two extant planning permissions for extensions and the creation of a basement floor with light wells, retaining two dwellings at the site. The appeal proposal combines the approved developments, but with some further works and the amalgamation of above ground accommodation to create a single five-bedroom dwelling, and the conversion and extension of the approved basement floor to create a basement flat.

5. The Council raises no objection to the conversion of the property in principle, and is satisfied that, save for the living conditions for the future occupiers of the basement flat, the proposal is acceptable in all other respects. Having regard to this, I have set out the main issue below.

Main Issue

6. The main issue is whether the proposed development would provide adequate living conditions for the future occupiers of the proposed basement dwelling with particular reference to outlook and daylight.

Reasons

7. Under the appeal scheme the basement would become a self-contained two-bedroom dwelling. The kitchen/living area, bedroom 1 and bedroom 2 would each be served by their own separate light wells. The Council is satisfied that the respective light wells proposed to serve the living area and bedroom 2 would provide an adequate level of daylight and outlook for those respective rooms. This is because the lightwells and windows would meet the guidance in the Residential Extensions and Alterations Supplementary Planning Document (2009) (the SPD). The SPD requires basement habitable rooms receive adequate daylight, guided by windows being able to benefit from unobstructed natural light when taken at a 30-degree angle from the centre of the windows, passing over any obstruction. Therefore, whilst it would be constrained, the daylight and outlook to those rooms would be compliant with the SPD.

8. The proposed rear light well serving bedroom 1 spans the width of the room. However, it is only approximately 2.25m deep and bedroom 1 is a significant depth and makes up a significant proportion of the overall accommodation. The depth of the lightwell is constrained by the rear edge of the boundary with No 46 Mountfield Road. This boundary is approximately 2.2m above the proposed ceiling level of the basement flat. At my visit there was also an outbuilding to a similar height as the boundary fence, within the rear amenity space of No 46 just behind the boundary fence for almost its entire width. The boundary and building provide a substantial obstruction to the 30-degree line from the centre of the proposed basement windows.

9. This neighbouring boundary and buildings results in a tall barrier approximately 5m above the base of the light well at a distance of approximately 2.26m. As a consequence, bedroom 1 could not benefit from unobstructed natural light when taken at a 30-degree angle from the centre of the windows. Due to the narrow depth of the light well, the height and relationship with the neighbouring boundary, the arrangement would result in a very limited amount of daylight and a poor quality of outlook. Furthermore, this would appear to be further impaired by a proposed metal grille.

10. On the approved plans, the area of bedroom 1 was designated as a play space. However, the exact layout and extent of the space is not clear based upon the evidence before me. However, that play space would be part of a two-storey dwelling that benefitted from above ground accommodation providing a much greater level of natural light and outlook to the dwelling as a whole. Whereas, this proposed subterranean scheme has a considerably lower overall level and quality of daylight and outlook for the dwelling as a whole. The outlook and daylight would be such that it would result in harmful living conditions to the

occupiers of the basement flat due to low levels and quality of overall outlook and daylight.

11. Whether the permitted play space could be lawfully changed into a bedroom in the future, and the suitability of this space, are not clear based upon the evidence before me. However, the approved 2019 schemes do not appear to have been implemented as yet. Furthermore, the appellant does not appear to have stated they intend to carry out the approved developments. So, it is not clear the approved schemes will be implemented.

12. The appellant has provided photographs of some properties with basements understood to be local to the appeal site. However, the full locations, details and circumstances that lead to those developments are not before me. I have also been provided with the plans and details of three approved schemes on Castlewood Road. These are all schemes involving above ground dwellings with additional basement accommodation. Furthermore, they either proposed what the Council classes as secondary accommodation (e.g. playrooms, gyms, storage, etc.) or reduced the amount of primary habitable floorspace in the basement. Therefore, they are not directly comparable to the appeal scheme, which I have considered on its own merits.

13. For the reasons set out above the proposed development would not provide acceptable living conditions for future occupiers in respect of daylight and outlook. Therefore, it would conflict with paragraph 127 f) of the National Planning Policy Framework (the Framework) which requires that planning decisions should create places that promote health and well-being with a high standard of amenity. It would also conflict with Policy LP17 of the Local Plan and Policy 3.5 of the London Plan (2016) which in combination, require all homes to be of a high-quality design, fit for purpose and provide a place of retreat. It would also conflict with the Mayor of London Housing Supplementary Planning Guidance (2016), insofar as it refers to and seeks to achieve this objective.

14. The nature and acceptability of the approved schemes and the elements of this appeal scheme to which the Council does not object are noted. This development might be compliant with some paragraphs in the Framework, and provide some small benefits through for example, increased useable floorspace and bedrooms on previously developed land. However, for the reasons above, it conflicts with another important policy to provide acceptable living conditions for future occupiers. The limited benefits of the appeal proposal do not outweigh the significant harm I have found in respect of the living conditions of future occupiers.

Conclusion

15. The proposed development would be contrary to the development plan and the National Planning Policy Framework and there are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR