
Appeal Decision

Site visit made on 21 October 2020

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020.

Appeal Ref: APP/A5840/W/20/3250988

4 Ardbeg Road, London SE24 9JL

- 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 M Suleyman against the decision of the Council of the London Borough of Southwark.
 - The application Ref 20/AP/0192, dated 21 January 2020, was refused by notice dated 13 March 2020.
 - The development proposed is extensions to and conversion of the existing property including extended basement, currently operating as three flats (1 x 1 bedroom and 2 x 2 bedroom), to 5 flats; 3 x 3 bedroom duplexes, and 2 x 1 bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form describes the proposal as a conversion into 6 flats. However, it goes on to say that these would be 3 x 3 bedroom duplexes, and 2 x 1 bedroom flats, thereby making 5 in total. It is clear from the submitted plans and Design and Access Statement that the proposal is indeed for 5 flats and that the reference to 6 flats on the application form was an error not repeated elsewhere. I have therefore amended the description in the heading above to make it clear that the proposal is for a total of 5 flats.
3. Revised plans were submitted by the appellant with the appeal. These revisions primarily relate to the internal layout of units, to a change in the size of some windows and alterations to the grills over the front lightwells. These are minor revisions, and no party would be prejudiced by my accepting the submission of these plans. I have therefore determined the appeal on the basis of the set of plans that includes those revised drawings submitted with the appeal.

Main Issue

4. The main issue is whether the development provides acceptable living conditions for occupants, with particular regard to daylight, sunlight, outlook and the provision of private external amenity space.

Reasons

Daylight, sunlight and outlook

5. Saved Policy 4.2 of The Southwark Plan (2007) (SP) says that planning permission will be granted for residential development, provided that it achieves good quality living conditions, and includes high standards of, amongst other things, outlook, natural daylight and sunlight. Section 2.5 of the 2015 Technical Update to the Residential Design Standards Supplementary Planning Document (2011) (SPD) says that "*principal living rooms and bedrooms should not be served only by roof lights and should have vertical windows for outlook.*"
6. The Council's concerns in respect of this aspect of the refusal centre on the basement bedrooms. There are seven bedrooms proposed within the basement, all of which front onto sunken courtyards and lightwells. The Council argues that, although each room includes a sizeable vertical window, in line with the guidance in the SPD, these would suffer from a poor outlook. It argues that this is because, despite all having clear views of the sky from most positions within the rooms, the outlook in each case would be to a flank wall only a short distance away from each bedroom window.
7. The Council is also concerned that the amount of daylight and sunlight entering these bedrooms would be insufficient, and would not meet the guidance set out within BRE 209 (Site layout planning for daylight and sunlight: a guide to good practice).
8. The appellant commissioned an "*Internal Daylight and Sunlight Report*", dated 14 April 2020, and this was submitted with the appeal. It is clear from this report that the proposal meets the BRE criteria in respect of daylight in each of the seven bedrooms. With regard to the BRE criteria in relation to sunlight, five of the bedrooms do not meet the standard. However, BRE 209 itself accepts that bedrooms are the least important of the habitable rooms when considering sunlight, as these rooms are predominantly used at night.
9. I agree with the Council that, ideally, all habitable rooms should be provided with good amounts of both daylight and sunlight. However, I also agree with the appellant that bedrooms are the least important habitable room to benefit from such provision. The layout of the three duplex flats on the lower two floors has been designed to ensure that the main kitchen living/dining rooms are on the ground floor, and will all benefit from good levels of daylight and sunlight and a far-reaching outlook.
10. The two duplex flats that would occupy the rear of the extended building would both have one of their bedrooms on the ground floor and the other two facing the two proposed sunken courtyards. The garden to the duplex flat highlighted in pink would benefit from a rear garden that would be sunk approximately half a storey into the ground. This would allow three out of the four bedrooms in the rear of the extension to have a direct outlook across the sunken courtyard immediately outside their windows and then across this sunken garden area. The fourth bedroom (bedroom 3 of the flat outlined in green) would have an oblique view over that garden area. I consider that these proposed outlooks would be acceptable and, combined with the level of light that would enter these rooms, would produce acceptable living conditions for the occupiers of two of the proposed duplex flats.

11. The duplex flat outlined in blue on the submitted plans would have all three of its proposed bedrooms in the basement. Two of these would face out over lightwells to the front of the building. These lightwells would include planted slopes, in an attempt to improve the outlook from these bedroom windows. The appellant has also shown that it would be possible to see the sky from much of these two rooms. However, the views of the sky from these two windows would be compromised by the need to fit grilles over the top of the lightwells. The outlook from these two bedrooms would leave occupiers with an unacceptable sense of enclosure, as a result of the depth and narrowness of the lightwells and the presence of the grilles.
12. The appellant has offered to replace the grilles with glass skylights. However, in my experience, it is difficult to keep such horizontal areas of glass clean and clear of wind-blown leaves and other debris. I am not convinced that this would result in an improved outlook from these two bedroom windows.
13. The third bedroom window in this flat would face another sunken courtyard. This courtyard would be at least a full storey deep on all sides and be constrained by a bridge crossing it close to the proposed bedroom window. Despite the proposal to plant the wall opposite the window, I consider that the outlook from this room would result in an oppressive sense of enclosure to its occupiers.
14. It is clear from the submitted plans that all three of these flats are dual aspect, and I have acknowledged that the basement rooms all meet the BRE standard for daylight and that it is less important that bedrooms receive sunlight than other habitable rooms. However, the fact that all three of the bedrooms to the duplex flat outlined in blue would suffer from a poor quality of outlook would result in the living conditions for its occupiers being unacceptable.

Private external amenity space

15. Section 2.6 of the SPD says that "*all new residential development must provide an adequate amount of useable outdoor amenity space*", and that "*the nature and scale of the amenity space should be appropriate to the location of the development, its function and the character of the area within which it is situated*". Section 3.2 provides further detail, saying that "*all flatted developments must provide some form of outdoor amenity space*", and that this "*must include communal amenity space and, where possible, private amenity space*".
16. The submitted plans show that the three duplex flats would each be provided with their own private amenity area, being part of the large existing rear garden. One of these would take the form predominantly of a sunken courtyard, which the Council does not consider would be suitable. However, given its significant size, and the fact that it would only be sunk into the ground by about half a storey, I cannot see anything inherently unacceptable in this arrangement.
17. The two flats on the upper floors would not have access to the rear garden, but would be able to use the front garden as communal amenity space. The Council considers that the area to the front of the property cannot be considered as useable communal amenity space due to its location directly adjacent to the street and driveways. I would agree that, given that the occupiers of the other flats would also have to pass through the front garden to

access the property, the front garden could not be considered to be private amenity space. However, the very nature of a communal amenity space is that it is not private and, given the size of the front garden, and that a boundary wall between it and the footway is proposed, I consider that front garden would represent a useable area of communal amenity space and would comply with the advice in the SPD in this respect.

18. In my opinion, the fact that this would be the only amenity space for two of the flats would not make it inappropriate within, or materially affect, the open, leafy and green characteristics of Dulwich, which is a consideration that concerns the Council.

Conclusions on main issue

19. I have concluded that the levels of daylight and sunlight that would enter the basement bedroom windows is acceptable and that sufficient amenity space could be provided. However, all of these conclusions are based on a lack of harm rather than a benefit and do not therefore weigh for or against the scheme. I consider that the poor quality outlook for all three bedrooms of one of the duplex flats would amount to unacceptable living conditions for its occupiers. I therefore conclude that the proposal would not provide acceptable living conditions for occupants, contrary to saved Policy 4.2 of the SP.

Other Matters

20. The appellant has drawn my attention to a number of examples of other schemes within Southwark that have gained permission, whether from the Council or at appeal. I have carefully considered all of these. However, each case must be determined on its merits and, from the evidence before me, nothing I have seen in these other cases outweighs my conclusion on the main issue.

Conclusion

21. The provision of an additional residential unit would amount to a benefit of the proposal. The National Planning Policy Framework introduces a presumption in favour of sustainable development. It says that there are three dimensions to sustainable development: economic, social and environmental. In my view, the harm that I have identified that would be caused by the development means that it would not be environmentally sustainable. This harm outweighs the benefits arising from the proposal. For the reasons given above, I conclude that the appeal should be dismissed.

Michael J Muston

INSPECTOR