



Appeal Decision

Site visit made on 21 April 2021

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/T5150/W/20/3261986

2 Gladstone Park Gardens, London, NW2 6JU

- 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 N Shah against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/4336, dated 9 December 2019, was refused by notice dated 4 September 2020.
 - The development proposed is described as 'conversion of a single, family house into three independent flats. Creation of a second floor and ground floor rear extension and enlargement of the basement.'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr N Shah (the applicant) against the Council of the London Borough of Brent. That application is the subject of a separate decision from this appeal decision.

Preliminary matter

3. The Council's decision describes the proposal as 'conversion of a single family dwelling house into three self-contained flats involving the construction of a part 2-storey rear extension, excavation to enlarge the basement, replacement of rear dormer window with French doors and juliette balcony, installation of rear access stairs, front garden lightwell and sub-division of the rear garden to provide amenity space and cycle storage' and as this describes the proposal in more detail I have used this as the basis for my decision.

Reasons

4. The main issue in this appeal is the effect of the proposed development on the living conditions of the future occupiers of Flat A in terms of light and outlook. The development plan includes policy DMP1 in the Council's Development Management Policies which seeks to ensure that developments provide high levels of internal amenity. The supporting justification to that policy explains that it is important that developments create a high quality environment addressing issues such as daylighting and outlook.
5. The appeal site comprises an end terrace Victorian dwelling which has two storeys and a loft conversion, currently used as a single, family house. The

proposed development would create three self-contained flats, Flat A (three bed) in the basement and part ground floor, Flat B (three bed) part ground floor and first floor and Flat C (one bed) in the loft, with the rear garden split between Flats A and B. Bedroom 1 of Flat A would be in the front part of the basement with a bay window onto a very small lightwell only 1m from the front of that window which would be covered by a metal grille. The small front garden is surrounded by a low wall.

6. The appellant's Daylight Assessment carried out three tests based on the Building Research Establishment's (BRE) guidance in 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice' (2011). It shows that bedroom 1 would receive a poor Vertical Sky Component of less than 8% which is significantly below the recommended level of 27%. It would have a very low No Sky Line / Daylight Distribution which the report concludes is acceptable. However, at 49% it is significantly below the recommended value of 80% and I therefore disagree that it is acceptable. The assessment for Minimum Average Daylight levels shows that it would meet the minimum British Standard by only a very small margin.
7. The appellant has suggested that if the lightwell were glazed, it would meet the BRE guidance. The Council declined to accept that amendment during the course of a subsequent application. I have insufficient evidence regarding the BRE criteria to judge what difference that would make. In any case, I must assess the proposal on the basis of the plans determined by the Council because the alternative has not been fully considered by the Council and other parties have not been consulted which could prejudice their interests.
8. Whilst the BRE guidance can be applied flexibly, although bedroom 1 would meet one of the three tests, that level would be only just above the minimum level and it would not receive a high level of daylight. As such it would be contrary to policy DMP1 which seeks to achieve *high* levels of internal amenity.
9. The outlook from bedroom 1 would be onto a very small lightwell of only 1m by 3.5m approximately, with very high side walls of some 2.4m in height and beyond that the low wall that encloses the very small front garden. The size of the lightwell would result in an oppressive sense of enclosure and a very poor outlook for the future occupiers. Even if the appellant's suggestion of a glazed lightwell were acceptable in terms of daylight, the proposal would remain unacceptable in terms of outlook and as such, contrary to policy DMP1.

Planning balance and conclusion

10. The proposal would create an additional three bedroom dwelling and an additional one bedroom dwelling which would maximise the use of land and would boost the Borough's housing supply, as sought by national policy in the National Planning Policy Framework. However, given its very small scale, this matter would not outweigh the significant harm I have identified that would be caused in terms of the future occupiers' living conditions. For the reasons stated above, I conclude that the proposed development would significantly harm the living conditions of the future occupiers and would be contrary to development plan policy DMP1. The appeal is dismissed.

Sarah Colebourne

Inspector