



Appeal Decision

Site Visit made on 17 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2021

Appeal Ref: APP/A5270/W/21/3274787

1 Horn Lane, Acton, London W3 9NJ

- 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 Peter Badowski against the decision of London Borough of Ealing.
 - The application Ref 204357FUL, dated 16 October 2020, was refused by notice dated 15 February 2021.
 - The development proposed is to amend ground-floor retail unit and allow residential change for basement retail storage for studio flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would provide appropriate living conditions for the future occupiers of the site, with specific regard to light; outlook; ventilation; and privacy.

Reasons

3. The appeal site consists of a basement area below an existing commercial building. A significant proportion of the appeal site is therefore below ground level. The appeal proposal includes a patio area and a balcony. Access to the development would be provided via a new entrance.
4. Although predominantly an open plan development, the main living area would be of an elongated shape. The majority of this area's windows would be located on a single elevation in proximity to a retaining wall. Due to this arrangement, the levels of natural light reaching all of the areas of the proposed dwelling would be of a limited level.
5. The proposed development would result in an increase in the number of windows at the appeal site. However, these windows would be relatively small and located some distance away from the areas of the proposed development that would be routinely used, such as the main living space. In consequence, the installation of additional windows would not overcome my previous concerns.
6. On account of the fenestration size and positioning, the proposed layout of the development would not be conducive to securing a satisfactory flow of air throughout the dwelling. Although the rear elevation features some folding doors, this is close to a retaining wall, which is likely to diminish the opportunities for air circulation.

7. Mechanical ventilation could be installed. However, this might not be an attractive alternative for all of the future occupiers of the development due to potential matters such as noise and cost. Therefore, this does not overcome my previous concerns.
8. Furthermore, owing to the proximity of the intended windows to the various retaining structures, the outlook from the main part of the proposed development would be restricted. Given that residents could potentially spend a significant amount of time in such areas, the lack of outlook would prevent appropriate living conditions for the future occupiers of the development.
9. Whilst the development would feature a patio area, this would be of a small size. In consequence, whilst it could be utilised for some activities, the level of outlook would be relatively small and would not overcome the effects arising from the proximity of the retaining walls to the windows.
10. I acknowledge that this area could be utilised for the placing of some planting. However, given the height of the retaining wall and its proximity to the effected windows, such planting would only soften the effect of the retaining wall rather than overcome the lack of outlook. Furthermore, the effectiveness of any planting will vary depending on health and season. I therefore do not find that this suggestion overcomes my previous concerns.
11. The development would result in an increase to the overall size of some of the windows that are installed in the development. However, given that some of these would be fitted with obscured glass, there would be limited views through the windows. In consequence, these would not result in a significant increase in the overall level of outlook. In addition, the position of these windows would not lead to a notable increase in the overall level of light reaching the basement.
12. The development would feature a patio area to the rear of the dwelling. This would be near to an existing external staircase. From this staircase, views of the patio would be possible. This would therefore not be conducive to securing a satisfactory level of privacy for the occupiers of the development due to being overlooked. The lack of privacy would also be heightened by the significant number of windows on neighbouring buildings that overlook this space.
13. Although the proposal features a balcony area, the heightened position of this installation is such that views of users of the balcony would be possible from the surrounding area. In result, this would also not have a sufficient level of privacy. Therefore, it would not represent a satisfactory alternative to the patio area. The proposed development does not contribute towards alternative provision of suitable outdoor space elsewhere.
14. I have been referred to Policy 3.5 of the Ealing Development Management Development Plan Document (2013) (the DPD). This policy refers to the minimum space standards in dwellings. However, I am unable to give this policy a significant amount of weight in my assessments as the evidence before me is indicative that the proposed dwelling is of a sufficient size.
15. I therefore conclude that the proposed development would not provide appropriate living conditions for the future occupiers of the development. The development, in this regard, would conflict with Policy D6 of the London Plan (2021); Policy 7D of the DPD; and the London Housing Design Guide (2013).

Amongst other matters, these seek to ensure that new housing development should be of high-quality design; provide open space; and have natural light, ventilation, and outlook.

Other Matters

16. I acknowledge that no concerns have been raised regarding the external appearance of the development. The appeal site is within the Acton Conservation Area (the CA). The evidence before me indicates that the proposal would not have an adverse effect on the character and appearance of the CA. I have no reason to disagree.
17. Whilst these are matters of note, they are only some of all the issues that must be considered and therefore they do not outweigh, or overcome, my findings in respect of the main issue.
18. Concerns have been raised regarding the manner in which the planning application was determined by the Council. However, in assessing this appeal, I have limited my considerations to the planning matters before me.

Conclusion

19. The proposal would not provide appropriate living conditions for the future occupiers of the development. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR