



Appeal Decision

Site visit made on 3 May 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday 31 May 2022

Appeal Ref: APP/P4605/W/21/3284763

70 Oval Road, Birmingham B24 8PL

- 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 Mohammed Khurshid against the decision of Birmingham City Council.
 - The application Ref 2021/03518/PA, dated 15 April 2021, was refused by notice dated 30 July 2021.
 - The development proposed is described as “retention of basement studio flat.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application form states that works were completed on the basement studio flat in November 2020, prior to the submission of the application. At my site visit I saw that a basement studio flat had been constructed on site. However, as I cannot be certain that what has been built is fully in accordance with the plans before me, I have assessed the development as shown on the plans.
3. Since the Council’s decision notice was published, the Council has adopted the Development Management in Birmingham Development Plan Document (2021) (DPD). The main parties are aware of this and have had the opportunity to comment. I have determined the appeal in regard to the development plan at the time.
4. The Council mention internal floor space in their reason for refusal. However, in the Officer Report and Council’s Statement of Case, the Council state that the basement flat would meet the minimum requirements set out in the National Space Standards. As such, I do not consider it to be relevant to the main issue.

Main Issue

5. The main issue is whether the proposal would provide appropriate living conditions for future occupiers, with regard to outlook, daylight and privacy.

Reasons

6. The appeal site comprises a basement studio flat within a three-storey semi-detached dwellinghouse. It is located in an established residential area.
7. The lounge window to the front of the basement flat would look out onto a brick wall and access staircase that serves the basement flat. Whilst the lounge

window would be of an adequate size, it would provide a poor visual outlook due to the proximity of the wall and staircase. This would create an unpleasant living space for the occupants of the flat. Daylight entering the lounge would also be restricted by the external wall and staircase.

8. The window to the rear of the property would serve the bedroom and would face out to the rear garden amenity space. As the rear garden would be an outdoor space shared with the other occupants of 70 Oval Road, this would result in insufficient levels of privacy to the occupants of the basement flat. This is because the other occupants would be able to look directly into the bedroom when using the garden, as the bedroom window would be at ground floor level.
9. Whilst conditions could be used to secure obscure glazing to the bedroom window and/or provide private landscape screening, this would result in an uninviting and unacceptable outlook. Furthermore, a condition to secure private landscape screening to the bedroom space would not provide adequate privacy. This is because planting can be cut back or die off, which would leave the bedroom window exposed until planting has grown back or is replaced. Such screening could also reduce natural daylight into the bedroom.
10. As there would be no windows to the proposed kitchen area there would be no external outlook from the room. Furthermore, in the absence of any compelling evidence to the contrary, daylight entering the room would be severely limited. As kitchen's are rooms that are used frequently in a dwelling, this would cause harm to the future occupiers living conditions.
11. The proposal would provide internal floorspace that would meet the minimum requirements set out in the National Space Standards (NSS) for a 1-bed, 1-person flat (39sq.m overall). Therefore, the flat would exceed the minimum internal floor space as set out in the NSS and would also provide sufficient outdoor space. However, for the reasons given above, the proposal would not provide adequate living conditions for the future occupants of the dwelling, having regard to outlook, daylight and privacy.
12. The proposal would fail to accord with Policy PG3 of the Birmingham Development Plan (2017), Policy DM10 of the DPD (2021), and the Council's Places for Living SPG (2001), where these in part seek to create a sense of place and ensure adequate outlook, daylight and privacy for occupiers.
13. In addition, the proposal would fail to accord with the National Planning Policy Framework design objectives, in particular paragraph 130, where it seeks to promote health and well-being, and a high standard of amenity for existing and future users.

Other Matters

14. The proposal would contribute to the local housing supply. However, the contribution of one flat to the local housing provision would be small and therefore of limited weight.
15. The floor plan shows an open verandha to the front of the property which is described as a private amenity space. However, this small area would serve the access staircase located to the front of the property.

Conclusion

16. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that would outweigh the identified harm and associated development plan conflict.
17. For the reasons given above, I conclude that the appeal should be dismissed.

Helen Smith

INSPECTOR