



Appeal Decision

Site visit made on 24 June 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2022

Appeal Ref: APP/V5570/W/22/3290146

Fairfax House, 201 Hornsey Road, London N7 6RA

- 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 David Kohali against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/2341/FUL, dated 6 August 2021, was refused by notice dated 17 December 2021.
 - The development proposed is demolition of the existing outbuilding, and the erection of a one bedroom single storey dwelling plus private amenity space.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Fairfax House is a purpose-built block of flats with an amenity space and outbuilding to the rear, both enclosed by high boundary walls. The proposal seeks the conversion of the outbuilding to a dwelling, which would be accessed via the existing central hallway through the ground floor of the building. Planning permission has been granted in March 2019 for the conversion of the outbuilding under Council Ref P2015/4888/FUL; though the access in that scheme was to be taken via the rear courtyard of 203 Hornsey Road next door.
3. More recently, a revised application proposing access via the existing internal hallway of the building and the addition of glazed privacy screens in front of the rear patio doors of the ground floor flats was refused permission and subsequently dismissed at appeal.¹
4. The main issue is whether the means of access to the proposed dwelling would cause harm to the living conditions of existing occupants of 201 Hornsey Road, with respect to outlook, noise and disturbance.

Reasons

5. The Council's concern is that the proposal would lead to increased disturbance and loss of privacy for existing occupants due to the additional comings and goings of occupants and visitors to the proposed dwelling through what is at present a private external amenity area. This was also the view of the Inspector in dismissing the previous appeal, who considered that the proposed 1.2 metre high privacy screens in front of the rear ground floor patio doors would not mitigate the loss of privacy for occupants of these flats.

¹ Appeal Ref APP/V5570/W/21/3266680, dismissed 21 June 2021

6. The amenity area is partially paved and otherwise composed of compacted earth and gravel. It did not appear in regular use at the time of my visit, but I saw that it provides outlook for the ground floor flats, and is an enclosed and private space for those who do wish to use it for recreational purposes.
7. The scheme approved in 2019 addressed the potential for loss of privacy to existing occupants through the separate routeing of the access via the rear courtyard of No 203. Neighbours' privacy was further addressed through the design of the dwelling itself, with no windows facing the external amenity area or the rear elevation of the main building. This design is unchanged in the current proposal.
8. I recognise that the size of the proposed dwelling means that the extent of comings and goings by occupants and visitors is not likely to be significant. However, in permitting access across the rear amenity space, it would alter the nature of this area from private to semi-public, and introduce security concerns if non-residents could gain access to the rear doors of the ground floor flats. This would undermine the privacy and comfort for occupants of the ground floor units, and in this respect I agree with the views of the Council and the previous Inspector.
9. In seeking to address the Inspector's concerns with the previously proposed 1.2 metre screens, two two-metre high timber screens are now shown on the plans, though the appellant stresses that these are not part of the application and have been erected separately under permitted development (PD) rights. I saw the screens on site, which enclose small, shallow external spaces in front of the rear ground floor patio doors.
10. The Council does not comment on whether it considers the screens to be PD, instead pointing out that their installation does not accord with previously approved plans. It is not within the scope of this appeal to determine the lawfulness or otherwise of the screens as installed. However, whilst the appellant stresses they are separate to the application, it is evident that the screens have only been added in an attempt to address the harm identified by the previous Inspector and that, otherwise, they are unlikely to have been installed. The same harm would arise in this case, and therefore I consider it relevant to assess the effects of these screens on neighbour's living conditions.
11. Given their height and solidity, the screens would achieve the aims of preventing overlooking of the ground floor flats. Conversely, however, I saw that they have a significant effect on the rear patio doors, almost wholly restricting outlook to the rear for occupants of the ground floor units and creating a harmful sense of enclosure. Moreover, given the south-westerly orientation of the rear elevation of the building, the screens would also lead to increased shadowing of the patio doors. Together, these effects would severely harm the living conditions of occupants of the ground floor units.
12. This aside, even if I were to accept the screens could be erected under PD, this does not overcome the harm arising from the use of a presently private external amenity space as an access route for future residents and visitors which would undermine the ability of existing residents to enjoy the space as it was intended.
13. For these reasons, I conclude that the proposal would significantly harm the living conditions of neighbouring occupants, in conflict with Policy DM2.1 of the

Development Management Policies Document (2013) which requires development to provide a good level of amenity including consideration of noise, disturbance, overshadowing, overlooking, privacy, sense of enclosure and outlook.

Other Matters

14. The appellant indicates that it is no longer possible to implement the previously approved access via No 203 due to agreement not being forthcoming from the landlord of that property. However, this is ultimately a separate matter for the appellant to resolve, and not a consideration to which I afford significant weight. If considered not to be implementable, it is for the appellant to put forward alternative proposals to be assessed on their planning merits, which I have done above.
15. The proposal would add a dwelling to the Borough's housing stock, in line with the key aim of the National Planning Policy Framework to boost the supply of housing. However, a single unit would make a very modest contribution to the Council's overall housing target and therefore would attract only limited weight in favour of the proposal.

Conclusion

16. For the reasons set out, I conclude that the proposal would cause significant harm to the living conditions of neighbouring occupants, resulting in conflict with the development plan, taken as a whole, to which I afford significant weight. Material considerations advanced in this case would not outweigh this conflict so as to justify granting planning permission. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR