



Appeal Decision

Site visit made on 17 August 2022

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2022

Appeal Ref: APP/N5090/W/22/3290948

177 West Hendon Broadway, Colindale, London, NW9 7EB

- 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 Minas Kyrour against the decision of London Borough of Barnet.
 - The application Ref 21/3340/FUL , dated 15 June 2021, was refused by notice dated 3 December 2021.
 - The development proposed is Partial conversion of ground floor shop (Class Ea) into 1no self contained flat (Class C3) .
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development in the banner heading differs from what appears on the application form. I note the appeal form uses this amended version and I have proceeded on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the proposed occupants with regards to outlook.

Reasons

4. The appeal site is located within a town centre location with the ground floor in use as a barber shop and residential to upper floors accessed via its own independent doorway.
5. There is no dispute between the parties with regards to the principle of the change of use of part of the retail space to that of a single residential unit. The area in contention between the parties relates to the outlook future occupants would experience from the internal habitable space.
6. As a studio flat, the internal space is one combined habitable space with a limited number of openings and door leading into the external yard area. This is a fairly long but narrow space with a solid boundary wall of approximately 1.2m in height separating the site from the adjacent children's day nursery. The site is further confined by the tyre garage located behind and on the rear boundary.

7. A narrow passage on the side of the nursery runs parallel between the side wall of the nursery and party boundary wall. The outlook from the windows of the studio would be above the boundary wall and towards this side wall of the nursery. It is a single storey building with pitched roof and is substantial in scale and located close to its perimeter boundaries.
8. The Council's development plan policies aim to safeguard the living conditions of future occupants of developments. This extends to outlook and in particular Local Plan policy DM01 advocates the protection of such. The Council's Sustainable Design and Construction Supplementary Planning Document (SPD) (2016) seeks to ensure new residential development creates a 'reasonable outlook'.
9. I am mindful of the limitations of a studio flat with its layout, small number of openings and the single aspect outlook across the external yard area in a constrained setting due to the surrounding built development.
10. I have considered the section submitted with the appeal and most importantly I have viewed the circumstances on the ground. The sectional drawing provides no context to the appeal building.
11. The outlook from principal windows of the proposal would be towards the nursery building within very close range to which there is nothing before me to contradict the Council when they point to the separation distance at less than three metres away. The finished floor levels within the existing building would not have a discernible effect on the outlook.
12. Irrespective of the outcome of the daylight and sunlight assessment and the need for more housing stock locally and the external space the development would provide for occupants, I am not satisfied that the living conditions of the future occupants would be acceptably safeguarded. I can only come to the view that as a combination of single aspect outlook, relationship with the adjacent nursery building and its scale, the outlook of future occupants would be adversely affected.
13. Therefore, to conclude on this main issue, the proposed development would lead to a detrimental effect on the living conditions of the future occupants, contrary to Policy D6 of the London Plan (2021) and Policy DM01 of the Local Plan Development Management Policies DPD (2012), the Residential Design Guidance SPD (2016) and Sustainable Design and Construction SPD (2016) in their combined and broad aims to protect living conditions. However, I find no specific relevance to Policy CS4 of the Core Strategy (2012) as well as Policy DM02 of the Local Plan Development Management Policies DPD (2012) as they do not directly relate to living conditions of future occupants of development.

Other Matters

14. Even though it would not impact upon the living conditions of local residents, would not convince me that the proposal is acceptable.

Conclusion

15. To conclude, the proposal would thus lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan.

Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR

