



Appeal Decision

Site visit made on 11 October 2022

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/V5570/W/22/3301187

4 Sparsholt Road, Islington, London N19 4EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr David Powley against the decision of London Borough of Islington.
 - The application Ref P2021/2734/FUL, dated 4 September 2021, was refused by notice dated 23 December 2021.
 - The development proposed is a conversion of existing 3-bed maisonette to retain 3-bed flat on ground floor only and to create separate new 1-bed, 2-person basement flat within previously approved development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note the description of the development on the decision notice however, the description in the banner heading has been taken from the planning application form and I have determined the appeal accordingly.
3. The appellant and the Council both refer to a previous permission at the site which is said to be extant with a date of 24 August 2020 (Ref P2019/1924/FUL). A copy of this decision notice is contained within Appendix A of the appellants initial Planning Statement but has a date of 24 August 2019 which would have expired 24 August 2022. I do not have any further decision notice to the contrary. However, despite the discrepancy, I have covered this previous permission within my reasoning.
4. During the appeal process, a Planning Obligation by way of a Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted. This provides for a contribution towards affordable housing. I return to this matter below.

Main Issue

5. Whether the proposed development would provide satisfactory living conditions for future occupiers in respect of outlook and privacy.

Reasons

6. The appeal site relates to a three-storey terraced dwelling which has been subdivided into three flats over three floors with a small garden area to the rear.

7. The proposed development would introduce a basement level to accommodate a one bedroomed self-contained flat. The existing three flats would remain unchanged as part of the proposed development.
8. As referred to above, the appeal property is served by a garden space to the rear. There is an element of overlooking from the rear ground and first floor windows of the outrigger of the appeal property which face out onto this area. Whilst there is an enclosed space to the side of the appeal property, this is not a useable space in its current form.
9. The proposed development would subdivide the rear external space to create a dedicated area for the basement flat and screening would be provided to separate the two different areas. A 'lower garden to basement flat' as indicated on the submitted Block Plan would be provided within the enclosed space to the side of the property. This would then lead onto the rear garden space described above.
10. The 'lower garden to basement flat' would be within close proximity to the windows within the rear elevation of the property which provide outlook onto this area. It would therefore be heavily overlooked particularly from the bedroom window which is located at ground floor level as a result of its close proximity and clear and open view. I accept that views are restricted from windows located within the side elevation of the outrigger. However, the relationship with the rear elevation windows particularly the ground floor would result in this area being overlooked and thus reducing its usability and quality whilst causing undue privacy concerns for future occupiers.
11. I acknowledge that this is not the only outside amenity space provided for the future occupiers. However, the rearmost part of the garden which would be dedicated to the basement flat would also be overlooked from the windows within the rear elevation of the outrigger at first-floor level albeit to a lesser extent given the separation distance. I acknowledge that there is an element of overlooking of the rear garden at present and that the proposed screening would help to minimise levels of overlooking. Nevertheless, given the location of first floor windows, there would still be a degree of overlooking.
12. Consequently, the amenity space intended to serve the proposed basement flat would be significantly overlooked by windows located within the rear elevation of the property to the detriment of future occupiers.
13. The bedroom located within the basement level would be served by Bifold doors providing access out onto the 'lower garden to basement flat'. From my site visit, I observed that this area is a very tight and narrow space which would be enclosed by a very high boundary wall. Given the close proximity to the boundary wall and overall height, the outlook from this bedroom would be severely restricted and visually oppressive when inside the property and the suggested planting/furniture would not overcome the oppressive enclosure levels.
14. The rear of the main living space would be served by a narrow door leading out onto the tight and narrow enclosed area. However, the main living would be open plan and there would be a further window to the front. Consequently, I consider that overall, future occupiers would have sufficient outlook from the main living space. Additionally, I have considered the Daylight Assessment submitted as part of this appeal and taking into account the windows serving

the main living space together with the findings of the assessment carried out, I am content that the arrangements of the main living space would be acceptable for future occupiers. This is, however, a neutral factor in this case.

15. Access to the rearmost part of the garden would be taken from the very tight and narrow enclosed area and due to the close proximity and height of the boundary wall together with the proposed screening would result in an unacceptable sense of enclosure. Moreover, and despite the proposed amenity space being deemed acceptable in terms of the minimum standards, the rearmost part of the garden would also be highly enclosed adding to the overall sense of enclosure of the property.
16. I note the previous permissions which amongst other things, allowed for a basement level. However, this consent facilitated a conversion over ground and basement levels and would be occupied as one larger unit. Deficiencies at basement level were therefore on balance previously accepted by the Council given the space provided at ground floor level. The proposed development would introduce separate residential uses and there are clear material differences between the previous permission and the appeal proposals put forward.
17. For the above reasons, I conclude that the proposed development would harm the living conditions of future occupiers of the property having regard to outlook and privacy. The proposed development would therefore be contrary to Policy CS 12 of the Core Strategy and Policies DM3.4 & DM3.5 of the Development Management Policies which together, amongst other things, seek to ensure residents have a good quality of life providing accommodation that is acceptable with due consideration to outlook and privacy in addition to providing good quality outdoor space taking into consideration issues of overlooking. The proposed development would also be contrary to chapter 12 of the National Planning Policy Framework relating to achieving well-designed places.

Other Matters

18. I note the appellant's comments regarding the delivery of housing within a sustainable location which would be a benefit. However, the modest contribution of one property would not be sufficient to outweigh the harm identified taking into account the living conditions of future occupiers.
19. The Council require an agreement to pay a contribution towards the costs of providing affordable housing within the borough. As part of this appeal a Unilateral Undertaking has been signed and submitted to pay the fees and I am satisfied that this is a completed version. I attach moderate weight to the provision of a contribution towards affordable housing in the borough where there is an identified need. However, this positive benefit is insufficient to outweigh the significant harm to the living conditions of future occupiers which I have identified.

Conclusion

20. For the above reasons, I find that the proposal conflicts with the development plan, read as a whole. There are no material considerations that have been shown to carry sufficient weight to indicate a decision otherwise than in accordance with it. I, therefore, conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR