



Appeal Decision

Site visit made on 8 November 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2022

Appeal Ref: APP/H5390/W/22/3299501

328 Wandsworth Bridge Road, London SW6 2TZ

- 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 Komodromos against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2022/00054/FUL, dated 7 January 2022, was refused by notice dated 9 March 2022.
 - The development proposed is described as 'change of use of rear part of the basement and ground floor level from retail (Class E) into a 2 bedroom self-contained residential flat (Class C3); excavation of part of rear garden to form a lightwell in connection with the enlargement of the existing basement; replacement of existing windows with new windows to the side and rear of ground floor back addition'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal, the Building Research Establishment (BRE) has issued a new edition of its guide, 'Site layout planning for daylight and sunlight' (BRE 209 2022). As the submitted Natural Daylight Company Report (NDC) refers to the 2011 guidance, the main parties were given an opportunity to comment on whether the new guidance has any implications for the appeal. I have taken their responses into account in coming to my decision.

Main Issue

3. The main issue is whether or not the proposed flat would provide acceptable living conditions for future occupiers, with particular regard to outlook and sunlight/daylight.

Reasons

4. The appeal site is a ground floor premises, including basement, currently in use as a tile shop. The proposed residential unit would be at the rear of the ground and basement floors. Additional basement floorspace would be created below an existing three storey outrigger. The proposed flat would be accessed via a communal hall shared with the flats on the upper floors of the building.
5. Almost all the proposed windows face towards the flank wall of the neighbouring building to the north that lies along the boundary with the appeal site. Due to the height and orientation of this building, it would create a dominant feature in very close proximity to the proposed flat. This would result in an imposing, overbearing and uninviting outlook from the bedrooms and

kitchen/living area. Moreover, an external staircase to the first floor flat above the appeal site extends significantly across the width of the gap at ground floor level between the neighbouring building and the appeal building, which would exacerbate the sense of enclosure.

6. Although one of the basement bedrooms would have a floor to ceiling corner window, due to the depth and limited size of the lightwell along with the position of the external staircase and significant projection of the adjacent building, the outlook from within this room would be severely constrained.
7. The Council's officer report describes the proposed flat as being single aspect. That is not technically correct, as the proposed kitchen/living area would have a high-level window and fan light to the room on the rear elevation. However, whilst these may be a source of light, outlook would be limited towards the sky owing to their height above floor level. Consequently, these windows would not offer any alternative acceptable outlook for occupiers of this room.
8. I recognise that significant effort has been made to seek to create an improved outlook for future occupiers of the proposed flat, particularly through the proposed living wall against the flank wall of the neighbouring building and white rendered walls to the lightwell. Nevertheless, these measures would do little to moderate the overwhelming sense of enclosure and limited outlook from rooms within the proposed flat.
9. The Council's decision notice also refers to a lack of natural light to the proposed flat. Limited information of the amount of sunlight that would enter the proposed internal rooms is before me. No south facing windows are proposed to the accommodation and whilst some sunlight may reach the kitchen/living area through the high-level window, this would be extremely limited due to its narrow depth.
10. In relation to daylight, the submitted NDC report provides some analysis of provision to the bedrooms and kitchen/living area using average daylight factor calculations. The report concludes that the provision of daylight to all rooms marginally exceeds the minimum standards set out within BS 8206 2¹. This BS has been superseded by BS EN 17037² and guidance upon its interpretation is provided within BRE 209 2022. Average daylight factor (ADF) calculations have now been replaced by alternative ways to calculate daylight within proposed accommodation. The appellant states that the new minimum target illuminance (E_T) measures mimic the previous ADF calculations and 'the conclusion of that report was that the standards have been achieved'.
11. The BRE 209 2022 is not a replication of the 2011 guidance as, amongst other changes, localised climatic conditions are used in a Spatial Daylight Autonomy (E_T) assessment. The Council have also not provided any substantive evidence to challenge the technical conclusions of the submitted NDC report nor the appellants conclusion on BRE 209 2022. Even though no detailed assessment against BRE 209 2022 has been made, I recognise the Framework³ states that a flexible approach towards applying guidance relating to daylight and sunlight should be taken when considering housing development.

¹ British Standard BS 8206-2 (2008) Lighting for Buildings - Part 2: Code of Practice for Daylighting

² British Standard BS EN 17037:2018 Daylight in buildings

³ National Planning Policy Framework

12. However, although the NDC report confirms that acceptable daylight would be provided for each room, no detailed assessment has been provided to me using more recent BS EN17037:2018 and BRE 209 2022 standards and guidance. I cannot therefore be satisfied that the combination of limited sunlight and daylight to the proposed living accommodation that is reliant partially upon a mirrored chute, combined with the very poor outlook described above, would provide acceptable living conditions for future occupiers, with particular regard to outlook and sunlight/daylight.
13. I therefore conclude that the proposal conflicts with Policies HO4 and HO11 of the Hammersmith and Fulham Local Plan, as well as the Hammersmith and Fulham Planning Guidance Supplementary Planning Document. Together, these policies and guidance seek to ensure that development provides a high-quality residential environment and a satisfactory standard of living conditions for future occupiers.

Other Matters

14. In support of the proposal, I have been made aware of other properties along Wandsworth Bridge Road that have recently been developed or have planning permission for change of use of the ground floor and/or basements to residential accommodation. While there are locational similarities between the sites, I do not have full details of these other developments and the considerations at the time of them being given permission.
15. Indeed, the circumstances in each proposal are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
16. I have had regard to matters raised by a neighbouring resident, including in regard to privacy, cycle and refuse storage and fire escape. However, given my conclusions on the main issue and that the appeal is dismissed, there is no need for me to address these in further detail.

Conclusion

17. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR