



Appeal Decision

Site visit made on 19 December 2022

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 04 January 2023

Appeal Ref: APP/T5150/W/22/3298458

221 Harlesden Road, London, NW10 3SD

- 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 Jonathan Kane against the decision of London Borough of Brent.
 - The application Ref 21/2327, dated 21 June 2021, was refused by notice dated 10 November 2021.
 - The development proposed is the excavation at basement level to provide one self-contained flat with front and rear patios, reconfiguration and amalgamation of ground floor studios to create one self-contained flat, alteration to fenestration to ground floor, re-positioning of front bin store and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the planning application, the Council has adopted a new Local Plan in February 2022. Therefore, the Policies of the Brent Development Management Policies Plan (2016), referenced within the decision notice, have been superseded by Policies of the Brent Local Plan 2019-2041 (the Local Plan). As the Council submitted copies of these new policies as part of this appeal, the Appellant has been provided with an opportunity to make a submission in respect of this adoption as part of the appeal process. Therefore, I have considered the appeal against the newly adopted Local Plan.

Main Issue

3. The main issue in this appeal is whether or not future residents would experience acceptable living conditions with particular regard to outlook.

Reasons

4. The appeal site comprises a semi-detached, two storey dwelling within a residential area. The submissions confirm that the appeal dwelling has been converted into four separate flats. The appeal proposal seeks to provide an additional unit of accommodation at basement level and reconfigure the two existing ground floor flats into a single unit of accommodation.
5. Policy D6 of the London Plan (2021) (the London Plan) concerns housing quality and standards and provides requirements in terms of external and internal amenity space. Policy D6 of the London Plan further provides that development should provide sufficient daylight and sunlight to new housing.

6. The evidence before me confirms that the proposal would accord with the requirements of Policy D6 of the London Plan for internal space and external amenity space provision. The Appellant maintains that an updated sunlight/daylight assessment has been provided and which indicates that acceptable levels of light are achievable for the appeal proposal.
7. Notwithstanding the conclusions of the Appellant's sunlight/daylight assessments, Policy DMP1 of the Local Plan confirms that development will be acceptable provided it is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality. The supporting text to this policy further confirms that, for those in the development, it is important that the development creates a high quality environment, addressing issues like spaces between buildings, privacy, outlook, daylighting, shadowing, micro-climates and amenity space.
8. In terms of privacy and amenity, the Brent Design Guide Supplementary Planning Document 1 (November 2018) (the SPD) provides that development should ensure a good level of daylight, sunlight and outlook, throughout the day and the year and minimise the impact on surrounding properties and spaces.
9. With regards to the proposed basement level flat included in the description of development, as noted above the appeal scheme would provide sufficient external space to accord with the policy requirements. Furthermore, whilst noting the depth of the proposed living/dining/kitchen area for that unit of accommodation, windows on the front elevation would be mostly above ground floor level. Outlook for future occupants from that living/dining/kitchen area would not be to the same levels as experienced by occupants at the ground floor and first floor flats. Nonetheless, the outlook from that habitable area would remain relatively open and, as such, I find no harm in that respect.
10. However, a sloping retaining bank and separate boundary feature would be in very close proximity to a bedroom at the rear of the proposed basement level accommodation. In my view, outlook for future users of that rearmost habitable room would be restricted and dominated by reason of height and proximity of the retaining bank and boundary treatment, which would have an overbearing effect. Furthermore, the second bedroom space would look out onto a narrow space which would be dominated by a retaining wall and the existing rear outrigger wall at the appeal dwelling. Outlook from that second bedroom would be unacceptable given the height of those walls and the significant enclosing effect it would have on future users of that bedroom space.
11. For the above reasons, whilst having regard to the amount of internal space and external amenity space proposed, I consider that the scheme would not provide for a satisfactory standard of accommodation for future occupiers of the proposed basement level unit of accommodation in terms of outlook. The proposal would therefore conflict with Policy DMP1 of the Local Plan which, amongst other things, requires that development creates a high quality environment for future users of the development. The social, economic and environmental benefits associated with the appeal scheme would be limited by reason of the scale of development, and in my view would not outweigh the identified harm to the living conditions of future residents and resulting

development plan policy conflict to which I attach significant weight in the determination of this appeal.

12. The Appellant has referred to other permitted basement developments which it is maintained provide inferior outlook for residents than would be the case for the appeal scheme, and within the final comments the Appellant makes further reference to another development approved under reference 22/0796. However, I have not been provided with full details of the circumstances that led to those developments being accepted, and so cannot be sure how such developments would compare to the appeal proposal. I have therefore determined this appeal on its own merits.

Other Matters

13. I acknowledge the Appellant's frustration with the Council's communication and the way in which it handled the planning application. However, in this regard such matters do not impact on the planning merits of the proposal and consequently are not matters that are for my consideration in relation to this appeal.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR