



Appeal Decision

Site visit made on 14 August 2023

by J N Seymour BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20.10.2023

Appeal Ref: APP/E5330/W/22/3313094

25-31 Avery Hill Road, Avery Hill, Greenwich, London, SE9 2BD

- 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 Lababidi of Hercules Capital Limited against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref: 22/2852/F, dated 23 August 2022, was refused by notice dated 11 November 2022.
 - The development is described as: 'Construction of an additional storey to provide for two flats, alterations to existing first floor layout, alterations to elevations, and all associated works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised Daylight and Sunlight Assessment was submitted with the appeal. Part of the Council's reason for refusal was that the original assessment was based on superseded guidance. The revised Daylight and Sunlight Assessment addresses this issue. Whilst this document was not before the Council when it made its decision, it has had the opportunity to comment on it as part of its appeal submissions and, as a result, the Council's position is not prejudiced by the document being included in my decision-making. Therefore, I have determined the appeal based on the revised Daylight and Sunlight Assessment.

Main Issue

3. The main issue of the appeal is the effect the development would have on the living conditions of neighbouring residents and future occupiers.

Reasons

Living Conditions

4. The appeal site comprises a two-storey building containing commercial units on the ground floor and two residential flats on the first floor. The appeal proposal would involve the addition of a third storey to create two further flats at the second-floor level. The building fronts onto Avery Hill Road occupying a corner plot at the intersection with Lannoy Road, a residential street comprising mainly of semi-detached dwellings. 1 Lannoy Road is situated immediately to the rear of the appeal site and the reason for refusal refers to the effect the appeal proposal would have on the living conditions of this neighbouring dwelling.

5. Policy DH(b) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2014 (Core Strategy) states development should only be permitted where it would not cause an unacceptable loss of amenity to adjacent occupiers by reducing the amount of daylight, sunlight or privacy they enjoy or result in an unneighbourly sense of enclosure.
6. From my site visit, I observed that the rear windows serving the flats on the first floor of the appeal building overlook the rear windows and rear private amenity space of 1 Lannoy Road. This situation would be exacerbated if the appeal was allowed and an additional two flats were constructed which, due to their higher vantage point, would worsen the overlooking issue by creating opportunities for overlooking into other neighbouring properties to the rear in addition to 1 Lannoy Road.
7. The appellant has attempted to mitigate the overlooking from the second-floor flats by incorporating non-openable and obscure-glazed windows with what they describe in their Statement of Case as brise soleil-type external attachments to the rear windows to a height of 1.7m. I recognise that these are not the only windows serving the living areas of the proposed flats, however this approach would result in one flat only having a single clear-glazed window serving the principal living space. Whilst the other proposed new flat would have two clear windows, these would not be particularly large and would have to serve a sizeable floor area of the flat. I consider this to be a contrived solution which would only create a poor standard of amenity for the future occupiers of the new flats as they would have a restricted outlook from these windows.
8. This fenestration design would not prevent the unneighbourly sense of enclosure experienced by neighbouring residents at 1 Lannoy Road. The appellant states that the Inspector for the previous appeal¹ determined at this site did not find harm in respect of enclosure from a proposed additional two storeys, therefore one additional storey should be acceptable. However, the Inspector did not make a finding either way regarding the issue of enclosure, although he did state that obscure-glazed windows on the elevation facing 1 Lannoy Road would not remove the feeling of loss of privacy for neighbouring residents. The brise soleil type external attachments, as an alternative to obscure glazing proposed previously, do not resolve the issues of privacy loss identified by the previous Inspector, nor do they, in my view based on my site visit observations, prevent an unneighbourly sense of enclosure.
9. The appellant has included a Daylight, Sunlight and Overshadowing Assessment with their Statement of Case. This states that the Vertical Sky Component (VSC), which is a measure of the amount of light reaching a window, should be a minimum of 27%. I acknowledge that according to this assessment, the VSC would result in a decrease of less than 1% for three of the windows at 1 Lannoy Road. However, the baseline VSC figures for these windows are already under 20%, therefore whilst the effect of the development may be described as negligible in terms of restriction of daylight, the starting point was already substandard. The appeal proposal would therefore unacceptably further reduce access to daylight at 1 Lannoy Road.
10. I therefore conclude that the proposed development would cause harm to the living conditions of neighbouring residents at 1 Lannoy Road as it would result

¹ APP/E5330/W/19/3232810

in a loss of daylight, sunlight and privacy. The development would also create an increased degree of enclosure to the occupiers of this house and would lead to a poor outlook for future occupants of the appeal proposal. Consequently, it would fail to comply with policy DH(b) of the Core Strategy which seeks to avoid loss of amenity to neighbouring residents.

Conclusion

11. I have found that the appeal proposal would be harmful living conditions of neighbouring residents and future occupiers of the development. Therefore, with no material considerations to outweigh the conflict with the development plan that I have identified, the appeal must be dismissed.

J N Seymour

INSPECTOR