



Appeal Decision

Site visit made on 15 August 2023

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/P4605/W/23/3318836

4 Edwards Road, Erdington, Birmingham B24 9EP

- 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 Ryan Blake against the decision of Birmingham City Council.
 - The application Ref 2022/05350/PA, dated 30 June 2022, was refused by notice dated 18 October 2022.
 - The development proposed is basement conversion to single apartment with associated external staircase and light well to front elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was submitted, a revised National Planning Policy Framework (the Framework) was published on 5 September 2023. However, in relation to the issues under consideration in this appeal, the new Framework did not change national planning policy. Consequently, there has been no injustice to the cases of the appeal parties.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of the occupiers of the proposed apartment with regard to daylight and sunlight as well as outlook and noise.

Reasons

4. The basement does not currently get any daylight or sunlight, and this is proposed to be addressed through a light well that would be installed next to the proposed stairs from outside the front of the commercial unit as well as a smaller high-level window on the flank wall of the building. There are no large-scale buildings which enclose the front elevation and, given the position of the dwelling, this elevation of the property receives sunlight for a greater proportion of the day.
5. Between 4 Edwards Road and the adjacent building is a narrow alleyway and the proposed high-level window on the flank wall would face towards the neighbouring property. Some daylight would still reach this new window but the amount of sunlight it would receive would be very limited during most of the day given its limited size and location towards the rear of the building.
6. The wall for the lightwell would be painted white which would partly enhance the ability of light to be reflected into the apartment. Nevertheless, the lightwell itself would provide very limited direct sunlight during most of the day

as the deep vertical wall would block most of it. This would be further hindered by the dwarf wall proposed around the top of the lightwell. This would also hinder the ability for daylight to naturally illuminate the apartment. The proposed glazed door located at the bottom of the stairs would provide an easier route for both sunlight and daylight to reach the apartment, although this would be limited by its location below the ground floor level.

7. The natural light that could reach the bedroom would be very limited with the window located at the far end of the room and at the furthest point away from the more open staircase. The glass partition between the two rooms would allow for more natural light to reach this room but the location of the window would limit the effectiveness of this.
8. Considering the design of the proposed apartment limited natural light could percolate throughout the main habitable rooms. This would leave the apartment gloomy which would create a poor living environment for the future occupiers. In the absence of any technical evidence to the contrary, I am satisfied that the proposal would not provide adequate daylight or sunlight for future occupiers throughout most of the day.
9. There may be an expectation that the outlook that can be achieved from basement apartments could be limited. However, the outlook from this apartment would be limited to the lightwell and glazed front door which would be bound by a deep vertical wall and the stairs as well as the small high-level flank window. The high-level flank window would be very small and would look out onto the side wall of the neighbouring property and would thus provide an almost completely enclosed outlook.
10. The limited width and depth of the lightwell would hinder most views above this and whilst the view up the stairs would be less enclosed the outlook would still be very poor. Whilst the lightwell would be painted white with the intention of creating a feeling of space there would be very limited views of the outside world from most of the apartment and this would create an enclosed and oppressive living environment. This would result in a very poor standard of outlook for the occupants.
11. The noise associated with typical office use would be mostly limited to phone calls and discussions between employees which would be unlikely to cause a significant amount of noise disturbance. However, given that the office use would be located above the basement there would be people moving about the office throughout the day and this could create a disturbing amount of noise, dependent on the number of people working in the office. However, the limited size of the office and because it would typically be used during office hours when the apartment would likely be empty the detrimental effect of this upon the occupants would be limited.
12. The area around the site has a mix of small-scale commercial and residential uses. There is no substantive evidence that the neighbouring uses produce a significant amount of noise disturbance over and above what would reasonably be expected within a mixed-use area. The noise generated by the commercial uses would also typically be limited to commercial opening hours. Considering the limited noise that would be generated by the approved use above and the surrounding uses conditions requiring a noise insulation scheme, as was included with the approved conversion of the first floor, would be appropriate in this instance.

13. Nevertheless, the failure to provide sufficient natural daylight or sunlight as well as the enclosed outlook would harm the living conditions of the occupiers of the proposed apartment. Therefore, the proposal would not accord with Policy PG3 of the Birmingham Development Plan (adopted 2017) and Policies DM2 and DM10 of the Development Management in Birmingham Development Plan Document (adopted 2021). It would also not accord with Principles 13 and 15 set out in the Birmingham Design Guide Supplementary Planning Document (published 2022) or paragraph 130 f) of the Framework). These seek, amongst other matters, to ensure appropriate levels of daylight to internal and external living spaces and prevent undue enclosure.

Planning Balance

14. I am aware from determining another appeal in this local authority area that Birmingham City Council is unable to demonstrate a five-year housing land supply. Whilst no representations were made on this matter in this appeal, if I were to consider that the council was unable to demonstrate any five-year housing land supply then paragraph 11d) of the Framework indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
15. The scheme would conflict with policies in the development plan that seek to protect occupiers living conditions and these are consistent with paragraph 130f) of the Framework. The proposal would fail to provide sufficient natural daylight or sunlight as well as an enclosed outlook. I therefore attribute significant weight to the harm to the living conditions of the occupiers of the proposed apartment.
16. The proposal would deliver a single dwelling and reuse an existing building in a suitable location which is supported by both local and national policies. The appellant states that there is a realistic prospect of the scheme being developed and I see no reason to disagree. There would also be a small time-limited benefit during the construction phase, which may give rise to extra local employment as well as long term economic benefits as a result of increased expenditure by the occupants. These factors weigh in favour of the proposal. The government anticipates a significant boost to housing supply, however the proposal would only deliver a single dwelling and as such the associated benefits would be modest.
17. Therefore, given the significant harm I have identified the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when weighed against the policies in the Framework taken as a whole. In this appeal, therefore, the Framework does not indicate a decision other than in accordance with the development plan.

Conclusion

18. For the reasons given above and having had regard to the development plan as a whole, along with all other material considerations, including the provisions of the Framework, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR