



Appeal Decision

Site visit made on 5 June 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Appeal Ref: APP/Z5060/W/23/3334389

435 Porters Avenue, Dagenham, RM9 4ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Nijjer Estates Ltd against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref is 23/01357/FULL.
 - The development proposed is change of use of ground floor rear area from Class E to Class C3 residential.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor rear area from Class E to Class C3 residential at 435 Porters Avenue, Dagenham, RM9 4ND, in accordance with the terms of the application, Ref 23/01357/FULL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Except for the replacement slatted fencing, the development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 4120-02.
 - 3) The residential unit hereby approved shall not be occupied until the three roof lights, the enclosed bicycle store and the enlarged domestic waste and recyclable waste storage area have been provided in accordance with the approved drawing. The three roof lights, the bicycle store and the enlarged domestic waste store shall thereafter be retained in perpetuity.

Preliminary Matters

2. At the time of my visit the ground floor premises had already been sub-divided and neither the existing nor proposed plans before me matched what I saw on site. For the avoidance of doubt, I have determined the appeal based upon the proposed plans that were submitted to and determined by the Council.

Main Issue

3. The main issue is whether future occupiers of the proposed studio flat would have satisfactory living conditions with particular regard to access and outlook.

Reasons

4. The appeal property is situated within a long terrace of ground floor commercial premises with what appears to be primarily residential accommodation above.

5. The front section of the ground floor is currently in use as a hair and beauty salon. The remainder of the ground floor, which together with the adjoining enclosed commercial and domestic waste storage areas extends up to the rear boundary of the site, is surplus to commercial requirements. The planning history provided confirms that the extended upper floors comprise a one-bedroom flat and a two-bedroom flat.
6. The shop, and the residential premises above it, each have their own separate entrance doors direct from the street at the front of the building. Access to the upper floor residential premises and to the proposed ground floor studio flat is via a modern, clean, well lit, safe, enclosed space with secure glazed doors at either end. The front door is in a slightly different position to that shown on the plans and allows views through the corridor from front to back. There is also a secure gate to and from the lane at the rear of the site, albeit this is only likely to be used for putting out the bins.
7. All of the windows in the proposed studio flat look directly out at the close boarded timber boundary fence, which is approximately 1.8m high and is separated from the windows by only a narrow footway that is less than two metres wide. Despite the rather bland outlook, the area outside of the windows and door comprises clean and well-maintained high-quality fencing, paving and locked gates. It has been suggested that the existing solid fencing could be replaced with slatted fencing, to create a softer appearance and to improve light and outlook. However, given that there would be no way of controlling what happens on the other side of that slatted fencing, it would serve little useful purpose in this case. Furthermore, it would reduce the privacy between the appeal site and neighbouring premises.
8. Whilst I acknowledge that the existing windows face northeast and that there are no other external elevations within which additional windows could be installed, it is proposed to install three rooflights in the flat roof. As the ground floor extension is to the south of the main building, these roof lights would not be overshadowed by it and would receive light all day. The Daylight and Sunlight Assessment submitted confirms that following the installation of these roof lights there would be adequate light to the proposed dwelling. I have considered the possibility of occupiers of the upper floor flats being able to see into the proposed flat via the new rooflights. However, given the set back of the upper floor windows any angled views into the roof lights would be very limited. Although single aspect dwellings should be avoided where possible, for small studio flats that make use of existing buildings it must be acknowledged that this will not always be possible.
9. I am mindful that future occupiers of the flat may suffer some disturbance and loss of privacy due to staff from the commercial premises and residents of the two upper floor flats walking past their windows to access the bin stores. However, this was not a reason for refusal and given the scale and nature of the remaining commercial space and given that there are only two further flats, any disturbance would be very limited. Many dwellings front directly onto much busier public pavements, and I am satisfied that following the installation of the proposed roof lights, there would be sufficient light to the flat, even if the future occupiers chose to enhance the privacy of their home with obscure glazing, curtains or blinds. With regards to the limited outdoor space the main parties are agreed that as there is a large public park only a couple of minutes'

walk away, this would not be a reason to withhold planning permission and I concur with this view.

10. I therefore conclude that future occupiers of the proposed studio flat would have acceptable living conditions with particular regard to safe and convenient access and outlook. Accordingly, the proposal would accord with Policies BP8 and BP11 of the Borough Wide Development Plan Policies DPD (2021), Policy D6 of The London Plan (2021) and Paragraph 135 of the National Planning Policy Framework. Collectively these policies seek amongst other things to ensure that the design of new development has regard to the residential amenity of existing and future residents.
11. Given that the extension has already been approved and built and that no external changes are proposed other than the installation of roof lights into the flat roof, I do not consider Policy CP3 of the Core Strategy (2010) to be particularly relevant. As the emerging Barking and Dagenham Local Plan is still subject to modification and amendments, I afford this no weight.

Other Matters

12. The Council has requested a planning obligation to ensure the development is car permit free. The absence of such an agreement was not a reason for refusal and there is very little justification for this before me. I am advised that the Council did not impose parking permit restrictions when granting planning permission for the larger upper floor one and two bedroom flats, on the basis that they are not family homes and are unlikely to be occupied by car owners. Accordingly, it is my view that it would be unreasonable to impose such a requirement on this smaller studio flat.

Conditions

13. Conditions setting out the time limit for commencement of the development and listing the approved plans are necessary to provide certainty to all parties on these matters. It is also necessary to impose a condition requiring the provision of the roof lights, secure cycle storage and an enlarged bin storage area prior to the first occupation of the approved flat, to ensure that future occupiers have adequate standards of natural light and adequate cycle and bin storage facilities.

Conclusion

14. For the reasons given above the appeal is allowed.

R Bartlett

INSPECTOR