



Appeal Decision

Site visit made on 19 November 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/Y5420/W/24/3348257

Risborough Court, Muswell Hill, Hornsey, Haringey, London N10 3PP

- 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 Mr P Bowers against the decision of the Council of the London Borough of Haringey.
 - The application Ref is HGY/2023/2779.
 - The development proposed is construction of additional floor to create 2no flats incorporating a two storey front extension, extension of the existing lower ground floor to create 1no flat and conversion of existing garage to form 1no flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
3. The appellant's plan 5343 PA 03 B detailing Existing & Proposed Ground Floor differs from my observations on site with regards to the access to existing Flat 3. I have therefore assessed the appeal on the appellant's plan 5343 PA 06 B Existing & Proposed SE & NE elevations, and my observations on site.
4. Whilst the first refusal reason specifically refers to the proposed development resulting in harm with regards to character and appearance, the officer report is clear that the Council has no objections to the proposed alterations to the garage or the principle of the additional floor of accommodation to the building. Based on the evidence and my observations on site, I have no reason to take a different view. The dispute between the parties with regards to character and appearance therefore relates to the two-storey front extension and this shall be the focus of my assessment on that main issue.

Main Issues

5. The main issues are:
 - the effect of the proposed front extension on the character and appearance of the host property and surrounding area;
 - the effect of the development in relation to structural integrity and flooding;
 - the effect of the proposed development on the living conditions of existing occupiers within the lower ground floor, with particular regard to outlook, and daylight and sunlight; and

- whether the proposed development would provide acceptable living conditions for future occupiers with particular regards to internal living and external amenity space, outlook, daylight and sunlight.

Reasons

Character and appearance

6. The appeal premises (RCourt) is a detached purpose-built block of flats located on the corner of Alexandra Gardens and the busy road of Muswell Hill. Levels fall sharply from Muswell Hill Roundabout down Muswell Hill and from the junction with Muswell Hill down Alexandra Gardens. This results in the majority of rooflines between properties being stepped. The exception to this is RCourt which navigates the level change through a difference in storey heights within the building, maintaining a straight ridgeline and symmetrical roof. Notwithstanding the busy road the immediate area retains a residential character.
7. Despite having an address of Muswell Hill, RCourt is oriented towards Alexandra Gardens. This results in its predominantly blank gable elevation addressing Muswell Hill. This elevation is set behind the building line of properties to the rear, resulting in a sense of openness when viewed in context with the properties opposite (34 and 32 Muswell Hill). When travelling up Muswell Hill, the front elevation of RCourt is set in front of properties further down, with the painted building of 65 Muswell Hill visible behind. The stepped approach to the building line provides a layered effect, which adds a sense of openness to the street scene.
8. While the proposed two-storey extension would maintain a similar length of ridge line, it would extend the gable elevation towards Muswell Hill. In doing so, the front roof slope would be significantly elongated and result in an unbalanced roof form. Given the orientation of RCourt, an asymmetric roof would be discordant to the host property and would result in a dominant feature within the street scene. The projection forward would erode the stepped approach to the building line and the visual spaciousness.
9. I have noted that access to the proposed additional accommodation can only be gained via the new stair core and its design would retain a central door and chimney. However, the front extension would materially harm the character and appearance of the host property and surrounding area. As such, I conclude that conflict arises with Policies DM1 and DM12 of Haringey's Development Management Policies (DPD) 2017. These collectively seek to ensure that all new development makes a positive contribution to a place, improving the character and quality of an area.

Structural integrity and flooding

10. Policy DM18 of the DPD relates to residential basement development and light wells. This seeks, amongst other matters, that the construction of new basements, including in existing dwellings, will only be permitted where it can be demonstrated that it would a) not adversely affect the structural stability of the application building, neighbouring buildings and other infrastructure, including having regard to local geological conditions; and b) does not increase flood risk to the property and nearby properties from any source. Supporting text alongside this policy states that this information should be contained in a Basement Impact Assessment (BIA) which should be submitted as part of the planning application.

11. A Structural Statement (SS) by Martin Redston Associates, Consulting Civil & Structural Engineers was submitted alongside the planning application. However, this only describes the feasibility stage of the structural engineering aspects of the proposed development. Whilst the SS states that the proposed underpinning works are structurally feasible and would not compromise the strength of the existing structure, it contains no information in relation to the structural stability of neighbouring buildings or the potential increase in flood risk to the property or those nearby. Furthermore, it also clearly states that a BIA may be required by the Local Authority.
12. Given the evidence before me, I am not satisfied that it has been demonstrated that the proposed development would not affect the structural integrity of the host building and adjoining properties or result in flooding to neighbouring buildings. It follows that the proposal conflicts with Policy DM18 of the DMP which seeks to ensure, amongst other matters, that development does not adversely affect the structural stability of the application building, neighbouring buildings and other infrastructure, including local geological conditions; and does not increase flood risk to the property and nearby properties from any source.

Living conditions - existing occupiers

Outlook

13. Existing Flats 1 and 2 are located within the lower ground floor of RCourt and are dual aspect with predominantly clear glazed windows to the rear. From observations on site, and without any evidence to the contrary, rooms to the rear appear to be habitable.
14. The outlook from the rear elevation of existing Flat 1 is predominantly of the flank elevation and retaining wall to the existing garage. It also has oblique views of the tall brick wall to its shared boundary with 39 Alexandra Gardens and up and over the parapet wall to the front of the garage. Outlook from its external amenity space is predominantly up and over the parapet wall and walkway between the rear of existing Flat 2 and the retaining wall. The outlook from the rear of existing Flat 2 is predominantly over the external staircase and retaining wall with parapet.
15. The existing garage extends from the lower ground approximately midway up the rear windows associated with existing Flat 5. The outlook from the rear of Flat 5 is therefore partly of the wall and roof of the existing garage.
16. Whilst the overall height of the garage would not be significantly increased by way of the proposed conversion, there would be an obscure glazed screen bounding the proposed roof terrace to its front. This would elongate the length of the existing garage and restrict views up and over the parapet wall from within existing Flat 1 and its external amenity space. The proposal would increase the sense of enclosure which would worsen the outlook for the occupiers of existing Flat 1, which would harm their living conditions.
17. The proposed 1.8 metre high timber fence at lower ground floor to new Flat 2 would be lower than the existing retaining wall. As such, even if its position would maintain the existing line of the wall, its height would be significantly lower. Whilst the relocation of the existing staircase and the new area of landscaping would improve the outlook and create a sense of openness, given their positions,

any improvement would be for the occupants of Flat 2 only, and there would be no improvement to the outlook for existing occupants of existing Flat 1.

Sunlight/daylight

18. The appellant's submitted Daylight and Sunlight Assessment dated November 2022 (DL/SL Assessment) addressed daylight and sunlight with regard to existing properties. The officer report has addressed this and is clear that the overall daylight and sunlight levels existing residents receive would be on balance be acceptable. Based on the evidence, I have no reason to take a different view.
19. I conclude that whilst I have found that the proposed development would provide acceptable daylight and sunlight for existing occupiers and there would be an acceptable outlook for existing occupiers of Flat 2. It would not however provide the occupants in existing Flat 1 with an acceptable outlook. Conflict therefore arises with Policies DM1, DM7 and DM12 of the DMP and Policy SP2 of Haringey's Local Plan Strategic Policies 2013-2026 (Local Plan) which seeks to ensure that development proposals provide a high standard of amenity for neighbours.

Living conditions – future occupiers

Internal living space

20. Policy D6 of the London Plan (2021) prescribes, amongst other matters, minimum gross internal floor areas (GIA) for residential units and for bedrooms. Standards set out in Policy D6 are intended to provide a good standard of living for intended future occupiers.
21. The dispute between the main parties relates to new Flat 4. The appellant's planning statement identifies this as a 2 bed/ 3 person unit, measuring approximately 62 sqm. Whilst no dimensions of bedrooms have been identified on the submitted plans, they do show bedroom 2 to measure approximately 10m² and that a single bed and other furniture could be comfortably accommodated within it and provide circulation space. Given that the size of the bedroom determines the occupancy level, I have assessed the proposal on the basis that this flat is a 1 storey 2 bed/ 3 person dwelling. From the evidence before me, a floor area of approximately 62 sqm would exceed the minimum GIA (61 sqm) sought in Policy D6.

External Amenity space

22. Policy D6 of the London Plan is clear that a minimum of 5 sqm of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sqm should be provided for each additional occupant.
23. From the evidence submitted and my observations on site, only existing Flats 1 and 5 have an area of external amenity space directly outside their rear door which does not facilitate access to other flats. The external areas immediately to the rear of existing Flats 2, 3 and 4 are open and provide access for other occupants to access separate accommodation. The garden areas to the front and side provide communal external amenity space for all flats with no direct external amenity space. This area is set behind a low wall with pillars and is open to the street.
24. With regards to new Flat 1, this would be located on the lower ground floor with external amenity areas to the front (measuring approximately 19 sqm) and to the

rear (measuring approximately 16 sqm). The area to the front would be located on the busy corner of Muswell Hill and open to the street. Given that the area to the rear would look on to a retaining structure and would be utilised predominantly by the future occupants of new Flat 1, its arrangement would be similar to the existing arrangement with Flat 1.

25. Given my findings above, new Flats 3 and 4 would require an external outdoor area of 6 sqm. There is no dispute between the main parties that these areas fall below the minimum depth and area set out in Policy D6 of the London Plan. However, given that these areas would provide a private area for sole use by future occupants and taken in context with the current external area for the existing flats, these areas would provide future occupants with a private external area in which to sit out and utilise for drying washing. As such, and within this context, I do not find harm regarding the level of amenity space provided.

Sunlight and daylight

26. New Flat 1 would be dual aspect and orientated similar to existing Flats 1 and 2. The appellant has submitted an Internal Daylight Assessment (IDA) dated July 2022 alongside the appeal with respect to daylight within the habitable rooms of new Flats 1 and 2. This concludes that each new Flat would meet the minimum Target Daylight Factor having regard to industry standard guidance.
27. Neither the IDA or DL/SL Assessment have addressed daylight and sunlight within the external amenity area of the new Flats. Notwithstanding this, given that the external areas would be similar in orientation as those areas directly to the rear of existing Flats 1 and 2, and in the absence of any evidence to the contrary I am satisfied that light levels within the external amenity areas would not be harmful to the living conditions of prospective occupants.

Outlook

28. Windows to the side of new Flat 2 would be obscure. Despite this, the submitted plans show the window to the lower ground floor would serve a non-habitable room (study), with the ground floor window acting as a secondary window to a living/kitchen room. This habitable room would also have an outlook over its proposed roof terrace which would provide future occupants with an unobstructed outlook over a private amenity area. Given the functionality of each room and the orientation of the clear glazed window at the ground floor, I am satisfied that the proposal would provide an acceptable outlook for future occupiers of this flat.
29. The position of new Flat 1 would be similar to the existing Flats 1 and 2. Even if the proposed outlook for future occupants would be limited by the proposed retaining walls to the amenity areas to the front and rear, the outlook would be similar to the existing occupants. Given my findings above, with regards to the size and quality of external amenity space, I am also satisfied that the proposal would provide an acceptable outlook from habitable rooms for future occupiers.
30. I have found that the proposed development would provide acceptable living conditions for future occupiers with regard to internal living and external amenity space, daylight and sunlight, and outlook. There would be no conflict with Policies DM1, DM7 and DM12 of the DMP, or Policy SP2 of the Local Plan or Policy D6 of the London Plan which collectively seek to ensure that development proposals provide a high standard of amenity for the development's users.

Other Matters

31. The appeal scheme before me is a resubmission of a preceding application refused by the Council and follows pre-application discussion. I appreciate that the appellant has attempted to overcome the concerns previously raised. However, the amendments would still result in a proposal which would harm the character and appearance of the street scene and result in harm to the living conditions of existing and future occupiers.
32. Even if the RCourt has good public transport accessibility and is not located within a Controlled Parking Zone, the proposed development was not refused on highway safety. As such, the lack of a parking stress survey is not determinative in my assessment.
33. My attention has been drawn to chapter 11 of the Framework and in particular, that upward extensions should be allowed where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and where the proposals are well-designed and can maintain safe access and egress for occupiers. There was no dispute with regards to the additional storey and as such, this is not determinative in my assessment.
34. Although my attention has been drawn to paragraph 11 of the Framework, there is no part of the appellants case which points to policies being out of date. As such, this decision falls to be determined within a normal planning balance.
35. I am sympathetic to the fact that the appellant has shown a willingness to work with the Council, however, I have determined this appeal on its individual planning merits and based on the information before me.

Planning Balance and Conclusion

36. The proposed development would result in a small increase in the Council's overall housing number and would be in a sustainable location. It would also bring a number of additional residents to the area who would contribute to the local economy. I have found that the proposal would ensure adequate daylight and sunlight for existing nearby residents and provide acceptable living conditions for future occupiers with regard to internal living and external amenity space, outlook and daylight and sunlight. However, the proposed development would cause harm to the character and appearance of the host property and surrounding area and would harm the living conditions for existing occupiers of Flat 1 with regard to outlook. I have also found that in the absence of a BIA, there would be harm to the structural integrity of the RCourt, neighbouring buildings and other infrastructure as well as a risk to flooding.
37. The proposal conflicts with the development plan as a whole, and the material considerations do not indicate that the decision should be determined other than in accordance with it.
38. For the reasons given above, the appeal is dismissed.

L Clark

INSPECTOR