The Planning Inspectorate

Appeal Decision

Site visit made on 29 September 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/B4215/W/20/3246387
3 Oak Avenue, Chorlton, Manchester M21 8BB

- 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 Paul Mulrennan against the decision of Manchester City Council.
- The application Ref 125375/FO/2019, dated 5 November 2019, was refused by notice dated 3 December 2019.
- The development proposed is external alterations to the front and rear elevations to facilitate the conversion of the basement into an additional two-bedroom apartment.

Decision

1. The appeal is allowed and planning permission is granted for conversion of existing basement into a 2 bedroom apartment together with installation of light wells to front and rear with associated elevational alterations to form a total of 4 apartments at 3 Oak Avenue, Chorlton, Manchester M21 8BB in accordance with the terms of the application, Ref 125375/FO/2019, dated 5 November 2019, and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

    2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: 011A/01A, Planning Statement, Waste Management Strategy, Flood Risk Assessment.

    3) Prior to the occupation of the development hereby approved, detailed designs of the refuse storage arrangements set out in the waste management strategy and plan no.011A/01A, shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the scheme has been implemented and shall be retained thereafter for the lifetime of the development.

    4) Prior to the occupation of the development hereby approved, the flat shall be acoustically insulated in accordance with a sound insulation scheme submitted to and approved in writing by the local planning authority. The scheme shall include measures to prevent noise being transmitted through party walls of adjoining properties. The approved noise insulation scheme shall be completed prior to the occupation of the development and thereafter retained for the lifetime of the development.

Procedural Matter

2. The description of the development in the banner heading above is taken from the application form. However, in my decision I have taken the description of the development from the Council's decision notice, since this more accurately describes the proposal.

Main Issue

3. The main issue is whether the proposed development would affect the living conditions of existing occupiers of the flats and neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

4. The appeal site is a three-storey semi-detached property located within a residential cul-de-sac and features enclosed gardens to the rear, with hardstanding, lawn and driveway to the front. There are a mix of commercial and residential properties within the vicinity of the site, with the residential properties appearing to be in use as both single dwellings and apartments/flats. The property currently has 3 self-contained flats, on each of the floors with the basement empty. The proposal would entail the conversion of the basement into an additional 2-bedroom flat with external alterations and the addition of lightwells to the front and rear elevations.

5. The Council states that the appeal property was originally built as a single-family dwelling, until, converted into three self-contained flats for which there appears to be no record of planning permission. Whilst, this may be the case, within the context of an appeal under section 78 of the Act it is not within my remit to formally determine the existing lawful use questioned by the Council. Furthermore, I have not been provided with any substantive evidence to support this, and, if the Council were concerned with the existing lawful use of the property as 3 self-contained flats, they would be able to pursue the necessary action.

6. Therefore, the Council argues that the creation of an additional flat, would result in the number of households increased at the site, which would result in increase in the amount of activity both within the property and in the immediate environs of it, to an unacceptable level.

7. The appeal property is of a substantial size, the proposal does not include an additional principal entrance as future occupiers would access the flat from the existing entrance, slightly set back from the frontage into a shared hallway and utilise an internal stairwell. Thus, in my opinion there would only be a moderate increase in comings and goings at ground floor and the impact on the occupiers of the upper flats would be limited.

8. It would be likely that any noise generated would be of a domestic level and would be associated with the location being a dense residential area. The position and design of refuse storage could be agreed by a suitable worded condition, reducing any impact on living conditions. Therefore, the noise and disturbances would not be that dissimilar in terms of comings and goings at the property for existing occupiers of the flats. As such, the overall impact of the proposal on their living conditions would be negligible.

9. Furthermore, the property is at the start of the cul-de-sac and the existing entrance is set back from the frontage and adjacent to commercial premises, as such it would be unlikely that future occupiers would need to pass further along Oak Avenue to access the property/flat, causing additional noise and disturbance from comings and goings to those residential properties located further along Oak Avenue.

10. Moreover, the location of the appeal site is adjacent to, and in close proximity to several commercial premises, where it would be anticipated that the site and nearby properties have already increased noise and disturbances taking place with the day to day activities of these businesses.

11. I have considered the impact on the adjoining property being semi-detached and that it is understood to have basement accommodation. Any such noise, arising from the proposal could be mitigated by a suitable worded condition for a noise attenuation scheme to be agreed by the Council. This would ensure, that the adjoining property would be protected from the residential use of the basement. As such, there would be no harm to the living conditions of those occupiers.

12. In terms of parking, I acknowledge that residents are concerned with any increase. However, as I observed at the time of my site visit Oak Avenue does not have any parking restrictions, although there is demand for parking in the area the majority of properties appear to have existing off-road provision and albeit small, the appeal site has a driveway. The Council did not refuse the application on highway safety concerns and I have no evidence to support this would be the case. Furthermore, the location of the development is within an established residential area with good access links to public transport, local shops and services.

13. I acknowledge that there are other properties within the road that have been converted into flats, and those have been restricted to 3 flats. Nonetheless, I have not been provided with any substantive evidence to support that 3 flats would be the maximum that each of those properties can satisfactorily accommodate, or that the Council's development policies restrict the numbers. Furthermore, I would disagree with the Council that the character of the street is fundamentally family houses as from the evidence before me, there is a mix of housing types including commercial properties. In any case, the appeal is determined on its own merits and on the basis of the evidence before me.

14. In coming to my conclusion, I have had regard to the permission[1] which was granted at the property for alterations to the basement as additional accommodation for the ground floor flat. Although the Council's contention is that the additional living accommodation was not development and only the external works required permission. I consider this is a genuine fallback, and there is a greater than theoretical possibility that if the appeal were to fail, then the 'fallback' development, as a whole would take place. As such, I have given this considerable weight as I consider that both the proposal and the 'fallback' position effect would be similar, in regard to general residential activities, noise and disturbance.

15. From the evidence before me, I find that it does not demonstrate that the proposed conversion of the basement to a 2-bed apartment, would create

[1] 124594/FO/2019

additional noise and disturbance. I therefore conclude that the proposed development would not be harmful to the living conditions of existing occupiers of the flats and neighbouring occupiers, in regard to noise and disturbance. It would accord with Policies SP1 and DM1 of the Manchester's Local Development Framework, Core Strategy, Development Plan Document, 2012 and Saved Policy DC5 of The Manchester Plan, The Unitary Development Plan for the City of Manchester, 1995, Saved 2007, which amongst other things, taken together require development to have regard to effects on amenity, including adjoining houses as a result of flats; and makes a positive contribution to neighbourhoods.

Other Matters

16. I note that local residents have expressed additional concerns about the proposed development, including character and appearance of the area and anti-social behaviour. However, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns. In terms of landlord maintenance issues, these are not material to the current appeal.

17. I have also had regard to an appeal decision[2] and other nearby developments, which have been brought to my attention. Although there are some similarities with the proposal, I do not have full details of these schemes and so cannot be certain that the circumstances are the same. In any case, I have considered the appeal proposal on its own merits.

Conditions

18. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.

19. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. A condition relating to refuse storage is required in the interests of visual appearance and to ensure suitable provision. A condition for noise attenuation is necessary to safeguard the living conditions of residents.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

K A Taylor

INSPECTOR

[2] APP/B4215/W/18/3214650