

DELEGATED APPLICATION REPORT

Ward: Redlands

App Ref: 200688/FUL

Address: 34 Eldon Terrace

Proposals: Part retrospective change of use of basement storage rooms to provide 2 x 1 bed flats including retention of lightwell to rear and associated internal & external alterations

Case Officer: Mr Anthony Scholes

Date received (valid from): 15 July 2020

Target Decision date: 9 September 2020

1. INTRODUCTION

- 1.1 The site is related to 79 London Road and has a long planning history since about 2004.
- 1.2 Essentially, the building has been recently constructed in accordance with a planning permission and LBC which dates from 2004.
- 1.3 This current application intends to rectify the unauthorised works to convert the previously approved basement storage which has since been converted into two self-contained wholly basement flats.
- 1.4 This application is a follow up from a previously refused application (both by the Council, and at appeal) (ref: 171772/FUL; APP/E0345/W/18/3208163).
- 1.5 The most recent appeal decision was dismissed on the following ground:
 - Impact on the living conditions of future occupiers of the basement flats;
 - Impact on the character and appearance of the conservation area

2. PLANNING HISTORY

- 2.1 The site is related to 79 London Road and has a long planning history since about 2004.

REF	Description	Status/Comment
04/00344/FUL (041115)	Conversion of 79 London Road from offices to 4 self contained flats, demolition of existing hall to the rear of the premises and its replacement with a two storey extension to provide 2 further self contained flats, demolition of the car wash facility at 34 Eldon Terrace and its replacement with a 2 storey block of 4 flats, access and car parking, re-instatement of front boundary wall to 79 London Road, rationalisation of car parking, extensive landscaping and amenity space (re-submission of planning application 03/01290)	PERMISSION 30/11/04 with s106 legal agreement. IMPLEMENTED

04/00379/LBC (041116)	Proposed conversion of 79 London Road and new rear extension following demolition of existing extension (re-submission of planning application 03/01291)	LB CONSENT 30/11/04. IMPLEMENTED
060719/FUL	Demolition of existing building and erection of 2 storey building with accommodation to form 4 x 1-beds flats and 2 x 2-bed flats and associated cycle stores, bin stores and disabled access	PERMISSION with s106 agreement 2/7/08. Not implemented.
110363/EXT	Application for extension of the time limit for implementation of permission 06/01380/FUL for the demolition of existing building and erection of 2 storey building with accommodation to form 4 x 1-beds flats and 2 x 2-bed flats and associated cycle stores, bin stores and disabled access	PERMISSION with s106 agreement 10/9/12. Not implemented. LAPSED
160720/APPCON	Application for approval of details reserved by condition. (04/00344/FUL)	Letter sent 19/7/16, advising that conditions cannot be discharged, but that the submissions are acceptable.
171772/FUL (APPEAL: APP/E0345/W/18/3208163)	Change of use of basement storage rooms to provide 2 x 1 bed flats including retention of lightwell to rear and associated internal and external alterations.	REFUSED 1/2/2018; DISMISSED at appeal 18/12/2018

3. PROPOSAL

- 3.1 The proposed development is part-retrospective for the construction of a rear lightwell, conversion of the basement flats to two self-contained 1-bedroom flats. The applicant also proposes to reduce the overall height of the rear lightwell, and construction of a glazed balustrade to the top to replace the existing top of the lightwell to allow more light/outlook into and out of the basement flats.

4. CONSULTATIONS

Internal

- 4.1 RBC Transport officers - No objection subject to conditions.
- 4.2 Environmental protection officers - No objection.

Public

4.3 All adjoining properties were consulted by letter, and a site notice was erected by the applicant. One letter of objection has been received and can be summarised as follows:

- Impacts on waste provision and collection;
- Impact on roads from increased parking requirements;
- Impacts on living environments;

5. RELEVANT PLANNING POLICY AND GUIDANCE

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations include relevant policies in the National Planning Policy Framework (NPPF) which states at Paragraph 11 “Plans and decisions should apply a presumption in favour of sustainable development”. The Provisions of the LBCS 1990 (as amended) are relevant, insofar as they relate to impacts on the settings of Listed Buildings.

5.2 For this Local Planning Authority the development plan is now in one document - the Reading Borough Local Plan (November 2019), which fully replaces the Core Strategy, the Sites and Detailed Policies Document and the Reading Central Area Action Plan. The relevant policies are:

National Planning Policy Framework (NPPF)

5. Delivering a sufficient supply of homes

16. Conserving and enhancing the historic environment

Reading Borough Local Plan (2019)

CC1 Presumption in favour of sustainable development

CC2 Sustainable design and construction

CC3 Adaptation to climate change

CC5 Waste minimisation and storage

CC6 Accessibility and the intensity of development

CC7 Design and the public realm

CC8 Safeguarding amenity

CC9 Securing infrastructure

EN10 Access to open space

EN12 Biodiversity and the green network

EN14 Trees, hedges and woodland

EN15 Air quality

EN16 Pollution and water resources

H1 Provision of housing

H2 Density and mix

H3 Affordable housing

H5 Standards for new housing

H10 Private and communal outdoor space

H11 Development of private residential gardens

TR1 Achieving the transport strategy

- TR3 Access, traffic and highway related matters
TR5 Car and cycle parking and electric vehicle charging

Relevant Supplementary Planning Documents (SPD) are:

Affordable housing (2013)
Revised Parking Standards and Design (2011)
Planning obligations under section 106 (2015)
Sustainable Design and Construction (2019)

6. PLANS AND DOCUMENTS CONSIDERED

6.1 The following plans and documents have been received:

- Planning Statement;
- Location plan;
- Drawing No: 1522-PR-201 - Existing site plan;
- Drawing No: 1522-PR-301 - Proposed site plan
- Internal perspectives;
- Daylight Sunlight Assessment prepared by Base Energy and dated 11.02.2020;
As received 20 May 2020
- Drawing No: 1522-PR-221 Rev A - Elevations as built;
- Drawing No: 1522-PR-331 Rev C - Sections - proposed;
- Drawing No: 1522-PR-212 Rev A - First and second floor - as built;
- Drawing No: 1522-PR-321 Rev A - Elevations - proposed;
- Drawing No: 1522-PR-231 Rev 0 - Sections - as built;
- Drawing No: 1522-PR-311 Rev A - Basement and ground floor - proposed;
- Drawing No: 1522-PR-211 Rev A - Basement and ground floor - as built;
- Drawing No: 1522-PR-350 Rev A - Rear lightwell details;
As received 22 May 2020
- Affordable housing details;
As received 14 July 2020

Following review of the original plan, the applicant was advised by the officer to remove the internal raised floor, and submitted the following:

- Drawing No: 1522-PR-331 Rev D - Sections - proposed
As received 20 August 2020

7. APPRAISAL

Principle of development

- 7.1 The application site is located within close proximity of the town centre and on a site which has been redeveloped from a non-residential use to residential (2004 approval). The basement area subject of the application was approved under that approval as storage ancillary to the main use of the building, with a condition (condition no.12) of that permission (ref: 04/00344/FUL) restricting the use of the basement as ancillary.
- 7.2 Notwithstanding the above, the site is located within a highly accessible area, with the provision of additional dwellings would assist in meeting the broad objectives of policy H1 “provision of housing” of the Reading Borough Local Plan. As such, the

principle of development is acceptable, although as detailed below the development would fail a number of other policies.

Residential amenity

Outlook and access to daylight/sunlight

- 7.3 Policy CC8 of the Reading Borough Local Plan seeks to ensure that development would not result in “... *unacceptable living conditions for new residential properties in terms of: ... access to sunlight and daylight ... harm to outlook ...*”.
- 7.4 The proposal was considered by application 171772/FUL (APPEAL REF: APP/E0345/W/18/3208163) and was considered, in its as built form unacceptable in terms of access to daylight/sunlight, and inadequate outlook.

171772/FUL - Reason for refusal no.1

- *“The basement flats which have been completed suffer from poor natural light levels with little or no direct sunlight penetration and poor ambient daylighting. Furthermore, the flats do not enjoy a satisfactory level of outlook, with the bedrooms and living areas looking straight out onto overbeared, deep lightwell areas. For these reasons, the way the development has been undertaken will have a significant detrimental impact on the living environment of any new occupants by failing to provide a suitable level of internal amenity conducive to a C3 dwelling, contrary to Policy DM4 (Safeguarding Amenity) of the Reading Borough LDF: Sites and Policies Document (2012, as altered 2015).”*
- 7.5 In dismissing the appeal, and upholding the LPA’s reason no.1, the inspector stated:

“5. The two dwellings at basement level would have outlook from their main habitable internal living space and bedrooms onto lightwells. The lightwells at the rear also provide outdoor patio living spaces. The retaining walls are extremely tall as the property is sunken significantly below ground level. Any view of the open sky can only be obtained from the rear patio and when actively seeking outlook from within the bay and bedroom glazed openings and these are upward views only from both these external and internal living spaces.

6. The tall retaining walls are very close to both the front and rear elevations of the basement flats. The retaining walls have an enclosing effect upon the internal living spaces and are extremely dominant in the outlook from habitable rooms. This results in the occupiers having an oppressive outlook and experiencing the feeling of being hemmed in. I do not consider this to be an appropriate outlook for occupiers, particularly as these basement flats do not have any alternative open aspects that would provide for conventional outlook. The patios are also enclosed and have no outlook toward the surrounding environment. These outdoor living spaces also have the feeling of being hemmed in. Consequently, the proposed development creates an exceptionally claustrophobic living space and an unacceptable outlook for the occupiers of these basement flats

7. The lightwells provide some degree of natural daylight to the habitable living space within the basement flats. However, despite being south facing, the enclosing nature of the tall retaining walls restricts direct sunlight to the internal living space. I saw at my morning visit that despite the basement being painted a light colour internally, artificial lighting was illuminated and it appeared to me that this is necessary to reduce the gloominess of the internal living environment. Whilst the basement flats may experience some sunlight

during those months when the sun is high in the sky, the living environments will be extremely gloomy throughout much of the year as a consequence of poor levels of natural light. This would not create an acceptable standard of living conditions for the occupiers.”

- 7.6 The amended proposal includes the reduction in height of the solid dwarf upstand wall above ground level to the rear lightwell, and replacement with clear glazing; the increase in size of the rear facing bay window to the ground floor flats; and the raising of the ground level of the rear amenity space. The applicant has also provided a daylight/sunlight assessment to support the current application.
- 7.7 In terms of daylight/sunlight first, the basement flats currently do not, as agreed by the Inspector, provide a sufficient amount of daylight/sunlight, which is evident when the site visit was undertaken (10 December 2018). It was evident to her that without artificial lighting the use of the bulk of the kitchen/living area would not be pleasant.
- 7.8 As shown on the daylight/sunlight assessment, it would not meet the required standards for average daylight factor despite the report stating that it would. This is evident on the Illuminance plans (Appendix B of the submitted report) which shows a majority of the kitchen/living area being less than 1.
- 7.9 In terms of outlook, the sectional plan provided shows the location and height of the proposed windows relative to the lightwell and a figure of a scaled person within the flat. The height difference between the top of the revised lightwell (below the clear glazed portion) and the top of the window would still be 520mm. Due to this height difference it is clear that the previous reason for refusal and dismissal of the appeal would be relevant in that to obtain any outlook from the basement flats, the occupier would need to be actively trying to gain outlook by standing within the bay window, or immediately adjacent the bedroom window and craning their neck upwards. A similar situation exists from the bedroom outlooks. The flats would therefore still not be provided with adequate outlook to habitable areas.
- 7.10 As detailed above, the proposed development would not result in a suitable level of internal daylight/sunlight, or outlook to the unauthorised basement flats by implementing the proposed changes. As such, the proposal would fail to meet the requirement of policy CC8 of the Reading Borough Local Plan.

Outdoor space/levels

- 7.11 As mentioned in the previous appeal decision by the inspector, despite the refusal reason 2 by the LPA, she reasoned that the proposed basement flats would be provided with a suitably useable external space. As the change includes raising the floor of the external area, there would be no change in the size of the area.
- 7.12 Adopted Policy CC7 specifically refers to developments needing to, “Address the needs of all in society and are accessible, usable and easy to understand by them, including providing suitable access to, into and within, its facilities, for all potential users, including disabled people, so that they can use them safely and easily;”. However, in order to attempt to provide a perception of lessening the height of the surrounding enclosures, the applicant introduces raised areas, some 0.6m in height, to the front and rear lightwells. To the front, this is of little consequence. This is a small lightwell, not somewhere to be an amenity area and it is not significantly altered by the change in the level of the ground in the lightwell.

- 7.13 To the rear, this is considered to be more problematic. The raised area continues into the living/dining area of the flats, as a raised plinth, significantly reducing the accessibility of the amenity patio area to mobility-impaired people. Further, this will affect the floor-to-ceiling heights. Therefore, this proposed change, if implemented, would severely diminish access to the amenity spaces for mobility impaired people. This should form a reason for refusal as failing to comply with Policy CC7 and Policy H10 (Private and Communal Outdoor Space).

Design considerations

- 7.14 The changes to the rear lightwell and rear windows would not affect the character and appearance of the area, and would not be overly visible from a public highway which would not detract from the overall appearance (quality of views within) of the conservation area and are considered acceptable.
- 7.15 The proposed hardstanding to the front which has been constructed with a small planting area, and bin storage area would be proposed to be revised to be more akin to that approved by the previous application (04/00344/FUL). Full details of planting or boundary treatments have not been provided. It is considered that this is generally acceptable, however full details of landscaping plans, and notably front boundary treatments could be secured by condition should the development be considered acceptable in all other regards. Given that the appeal Inspector was clear that the current layout is not acceptable, it would have been helpful if the application set out the details proposed, especially as the applicant had been able to provide these in terms of the application to discharge planning condition details (160720/APPCON).

Transport matters

- 7.16 In transport terms, if the LPA were minded to grant permission conditions would be attached to the application to ensure no impact upon the on-street parking within the area by way of removing any assumption of automatic right to parking permits for future residents. In addition, the previously approved bicycle parking area to the rear which has not been implemented could be attached as a condition. Finally, the provision of sufficient waste storage would be secured by condition. Again, these are matters which were approved in submission 160720, but curiously are not being re-supplied in this current application.

Affordable housing

- 7.17 The proposed area is considered to be lawfully approved as storage area ancillary to the main use of the site as a four flats. In accordance with Policy H3 or the Reading Borough Local Plan (2019), *“residential development will make an appropriate contribution towards affordable housing to meet the needs of reading”*. There are two specific exemptions in policy which states:

“The following types of residential development will be exempt from the requirement to provide affordable housing:

- Replacement of a single dwelling with another single dwelling; and*
- Conversion of a dwelling to self-contained flats where there is no new floorspace”*

- 7.18 The basement conversion, as not considered to be residential floor space, would be considered new floorspace and as such would be required to meet the requirements of policy H3. Sites of 1-4 dwellings are required to provide a 10% GDV contribution toward off-site affordable housing. The applicant has agreed to a contribution of

£17,000 toward off-site affordable housing which would be secured by a section 106 agreement should permission be granted. As the application is sought to be refused on the basis of the above, the section 106 would not be completed and therefore failure to complete a 106 for an affordable housing contribution would form a reason for refusal, with acknowledgement that this could be overcome through completion of a suitable legal agreement.

Equalities Impact

- 7.19 When determining this application the Council is required to have regard to its obligations under the Equality Act 2010. This assessment has considered all aspects of the Act, and has concluded that the proposal fails to make suitable provision for access for all and in particular those with mobility impairments. To this extent, the proposal is not in conformity with the Act.

8. CONCLUSION

- 8.1 As per the previous decision, the applicant is seeking to regularise the unauthorised conversion of the basement to two flats. It is not considered that the amendments proposed would fundamentally alter the issue that these are basement units which suffer from unacceptable outlooks and generally poor light levels.

- 8.x The recommendation is therefore to REFUSE permission.

Reasons:

1. The basement flats as proposed to be altered by this application would continue to suffer from a poor level of outlook, with the bedrooms and living areas looking straight out onto overbearing, deep lightwell areas. Further, the changes proposed would not significantly overcome the present poor natural light levels which these basement flats receive, with little or no direct sunlight penetration and poor ambient daylighting. For these reasons, the way the development has been undertaken and proposed to be altered/retained has and will have a significant detrimental impact on the living environment of any occupants by failing to provide a suitable level of outlook and light levels conducive to a C3 dwelling, contrary to Policy CC8 (Safeguarding Amenity) of the Reading Borough Local Plan (2019).
2. The retrospective proposal would introduce a higher floor level within the flats continuing to the rear amenity spaces within the lightwells. This proposed change, if implemented, would reduce accessibility to these higher areas and amenity spaces for mobility impaired people. This aspect of the proposal will therefore reduce accessibility for all to the amenity space*, contrary to policies CC7 (Design and the Public Realm) and H10 (Private and Communal Outdoor Space) of the Reading Borough Local Plan (2019).
3. In the absence of a completed legal agreement to secure an acceptable contribution towards the provision of Affordable Housing, either on-site, off-site elsewhere within the Borough or a suitable financial contribution, as appropriate, the proposal fails to contribute adequately to the housing needs of Reading Borough, contrary to Policy CC9 (Securing Infrastructure) and Policy H3 (Affordable Housing) of the

Reading Borough Local Plan (2019), and the Council's Adopted Affordable Housing Supplementary Planning Document 2013.

Informatives:

1. The Local Planning Authority has been positive and proactive in dealing with this planning application by providing clear and consistent advice on this application. Notwithstanding advice to withdraw the application, the applicant has chosen not to do so, hence the issuing of this refusal of planning permission.
2. This planning application has been assessed against the following plans and documents:
 - Location plan;
 - Drawing No: 1522-PR-201 - Existing site plan;
 - Drawing No: 1522-PR-301 - Proposed site plan
 - Internal perspectives;
 - Daylight Sunlight Assessment prepared by Base Energy and dated 11.02.2020;
As received 20 May 2020
 - Drawing No: 1522-PR-221 Rev A - Elevations as built;
 - Drawing No: 1522-PR-331 Rev D - Sections - proposed as received 20 August 2020
 - Drawing No: 1522-PR-212 Rev A - First and second floor - as built;
 - Drawing No: 1522-PR-321 Rev A - Elevations - proposed;
 - Drawing No: 1522-PR-231 Rev 0 - Sections - as built;
 - Drawing No: 1522-PR-311 Rev A - Basement and ground floor - proposed;
 - Drawing No: 1522-PR-211 Rev A - Basement and ground floor - as built;
 - Drawing No: 1522-PR-350 Rev A - Rear lightwell details;
As received 22 May 2020
 - Affordable housing details;
As received 14 July 2020
3. The Local Planning Authority will, as appropriate, consider the expediency of enforcement action for any breaches of planning control.
4. No pre-app.
5. Reason for refusal 3 could be overcome by completion of a suitable s106/
Unilateral undertaking.