

PROPERTY INVESTORS NEWS ARTICLE
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HOW TO TURN REFUSAL INTO PERMISSION IN 8 WEEKS

“Our greatest glory is not in ever falling, but in rising every time we fall.” Confucius

The last couple of months have felt like never-ending change in planning and property around new PD rights, the Planning White Paper and changes to the Use Classes Order.

So, as a bit of a break from all of that, I thought it worth us getting back to some ‘bread and butter’ project work this month...the sort of project which will always be worth looking at no matter what Boris is intending to do with the UK Planning laws!

Often the most satisfying planning victories come from turning defeat into success. This is one such story.

Refusal is the first step on the way to Success

This was exactly the case with this development, a proposal for rear extensions and extra units to a three-storey, semi-detached block in a Conservation Area in the London Borough of Southwark:



[note to editor: screen capture for 28 Nunhead Lane from Street View – no other image available]

The existing property comprised 3 x 4-bedroom flats – one on each floor to the property, with a generous rear garden area:

[see Existing Floor Plans]

The client had previously sought to obtain permission for a part-1 and part 2-storey rear extension and convert the property into 6 flats – three studios on the ground floor and 2 flats on the first floor and a flat on the second floor:

[see Refused Floor Plans]

However, in May 2019, this was refused for the following reasons: *“poor quality, owing to undersized ground floor units A and B, poor outlook and access to daylight/sunlight, and the*

unacceptable risk to the privacy of occupiers of unit B". This referred only to the ground floor units, so it was assumed that the remaining proposed units to the upper floors were all acceptable.

We were then instructed to obtain consent for three units on the ground floor.

The Anatomy of a Planning Decision

No planning decision stands only on the decision notice. In many ways, the most important document is often not the decision notice, but the report that leads to and underpins or explains the rationale to the decision. This is called the 'Officers' or Delegated Report' in the case of a delegated decision or, where a Committee grants permission, it is the 'Committee Report'.

As an aside, if the Committee refuses planning permission against the recommendation of officers, this is why the rationale in such cases can be hard to nail down unless there is a video recording, accurate and complete Minutes or a transcript or notes taken of the Committee discussion.

Therefore, in order to work out where the scheme needed to be redesigned to overcome officer concerns, we dissected the officer report and found the following issues, to which we responded in the design instructions to the architect and with supporting documents in the following ways:

| OFFICER ISSUE | SCHEME RESPONSE | SUPPORTING DOCUMENT |
|---|---|---|
| Potential risk of overlooking from first floor rear roof terrace. High level terrace also considered harmful to the Conservation Area | Roof terrace set back/reduced in size | Floor plans, elevations |
| First floor unit too narrow with possibly poor natural light throughout | Side of first floor rear extension had to be reduced in size anyway, but daylight also assessed | Floor plans, Daylight and Sunlight report |
| Ground floor units under-sized for 1b 2p units and poor light and outlook | Ground floor units converted to studios and size of rear extension reduced in depth with additional window openings | Floor plans, elevations, Daylight and Sunlight report |
| Poor outlook to private terraces to the rear | Reconsider shape and size of terraces, propose 'hit and miss' fencing to allow light penetration whilst retaining effective screening and use CGIs to demonstrate effective quality space | Floor plans, elevations, CGIs |
| Single aspect to some ground floor units | Side windows placed to other elevations through changing the shape of outside and inside space | Floor plans, elevations |
| Lack of privacy to unit B, to the side of access to communal rear garden | Fencing to be provided to divide off Unit B from the side access and rear ground floor projection made narrower and shallower, so a larger window to the rear could be created to avoid oppressive outlook from the rear of this unit, and allow it to look on to a 'pocket garden' | Floor plans, elevations |

This exercise shows the value of not relying on just the decision notice. Officers will often indicate other concerns they have with a scheme that for any number of reasons were not considered to be of sufficient weight to find their way on to the decision notice, such as overlooking from proposed rear roof terraces.

The final amended floor plans therefore looked as follows:

[Final amended floor plan]

Converting 1-bedroom Units to Studios

This can often help to preserve the number of units whilst also complying with size requirements. One bedroom 2-person apartments (i.e. a double bed is shown on plan) usually need to be at least 50 sqm GIA (or 58 sqm if a duplex), whereas a 1 bedroom 1 person studio has a minimum GIA of 37 sqm and is often therefore easier to fit into extended loft space or reduced space elsewhere.

As studios are usually mostly open plan (except for the bathrooms of course!) they allow for better light penetration throughout, which is particularly useful if a bedroom area relies on borrowed light from the living room area. This would not be possible in a 1 b 2 p unit which would have internal dividing walls between living spaces.

When drawing on plan, therefore, remove internal dividing walls, place living room space closest to the strongest light source if possible (so the bedroom receives borrowed light, not vice versa) and show a single bed and not a double.

Improving Outlook to the Studios

A critical part of improving the scheme was reducing the size and depth of the gardens on the edges. We did not lose much in terms of quality or value to these units as a result and the smaller gardens were probably more proportionate to the size of the studios.

In reducing these to shorter gardens, it also enabled side windows to be inserted to the middle unit, Unit C, providing this unit with 'dual aspect'.

Narrowing the size of the rear projection was also important for the following reasons:

- We were reducing the depth of the terraces to the studios so wider terraces would maintain their utility
- Wider terraces meant we could also insert wider openings to the rear, improving sunlight, daylight and outlook to living spaces (bedrooms)
- Better outlook and light amenity helped to mitigate the effect of higher side boundaries (e.g. unit B, to shield it from overlooking from the side access)

'Pocket Gardens' and CGIs

Many Councils often have minimum standards for outdoor space, sometimes seeking more than can be provided in built-up urban neighbourhoods as they usually fight to retain a lower density character to some areas. In London, we often find that these standards are in conflict with the London Mayor's Housing Guidance, which usually allows for smaller units around 10 sqm of garden space.

However, understandably, 10 sqm can seem rather confined in some situations and you need to find a way to demonstrate to officers that the area would still be useable and attractive to future occupants. Hence, we had CGIs prepared to indicate how this might look to future users:

[CGI images x 2]

CGIs can be useful from more than one perspective and the image below indicates an ‘unnatural’ view, which we decided not to show, partly for that reason, but also because it makes the side ‘pocket gardens’ seem undesirably small.

[High level CGI]

We then submitted the scheme to the Council.

How long did it take to submit?

We were instructed in mid-August 2019 and the plans were discussed with the architect by late August. It then took about 6 weeks to settle the plans and get the Sunlight and Daylight report settled. An initial report on sunlight and daylight led to further scheme amendments to improve the results. The CGIs could then be completed, which took about another week.

The application was then submitted in early December as we still had final checks to go through with other more peripheral issues (e.g. checking sufficient bin and bicycle storage, checking we have all sections and plans needed for validation). Taking into account holiday periods in between, it took about 3 months to get all the plans and reports together. Whilst this seems a bit longer than other cases, it should be weighed against the speed at which this passed through planning given the time and care spent on this to ensure a high quality submission.

Conservation Area Character & Appearance

Overall, the application went quite smoothly – until the Conservation and Design officer got involved! Their ‘beef’ was that the extent of first floor projection proposed would harm the character and appearance of the Conservation Area and should project no further out than the depth of the neighbouring outriggers. We prepared a ‘photoshop image’ to show the officers that the difference in depth was imperceptible and thus not harmful.

Unfortunately, CA officers can have very fixed views of the ‘pattern book’ approach they want to see. This meant making the first floor into 2 x 1-bedroom units and not 1 x 2-bedroom and 1 x 1-bedroom. However, instead of arguing the point over one unit, for the sake of the rest of the scheme we took a commercial approach to ‘bag’ the consent.

Home and Dry

Finally, 8 weeks after submission, on the 27th February 2020, we obtained planning permission for the same number of units that had been refused some 9 months before. The previous refusal had merely laid the path toward success, but it doesn’t hurt to have a thorough approach and build your case using the officer’s report in order to get there!

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