
Appeal Decision

Site visit made on 13 December 2016

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 January 2017

Appeal Ref: APP/T5150/W/16/3158444

1, 2, 3 & 4 Monterey Studios, 239 Kilburn Lane, North Kensington W10 4BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Henrique Carvalho against the Council of the London Borough of Brent.
 - The application Ref 16/2872, is dated 31 March 2016.
 - The development proposed is add mansard roof extension to four existing dwellings and convert the units into eight self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the submission of the appeal the Council adopted the London Borough of Brent Local Plan Development Management Policies (2016) (DMP). This now forms part of the development plan for the Borough. I must base my decision on the policies from the development plan prevailing at the time of determination and as both main parties are aware of this change, I am satisfied that neither has been prejudiced.
3. The Council resolved that had it been in a position to determine the application, it would have refused planning permission for reasons relating to (1) a poor standard of residential accommodation due to the size of some of the residential units and the quantum and usability of the amenity space, and (2) the impact of the proposal on the amenity of neighbouring occupiers with regard to privacy.

Main Issues

4. I consider that the main issues are the effect of the proposed development on the:
 - living conditions of future occupiers of the proposed dwellings with particular regard to access to outside amenity space;
 - the living conditions of the future occupiers of the proposed dwellings with particular regard to internal space;
 - the living conditions of residents living nearby with particular regard to privacy.
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Reasons

Living conditions (future occupants and outside space)

5. Policy DMP 19 of the DMP states that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. Furthermore it states this is normally expected to be 20 square metres per flat and 50 square metres for family housing (including ground floor flats).
6. The appeal proposal includes the provision of a communal area of amenity space to the front of the building and there is a narrow strip of outside space to the rear of the building that would remain accessible to the proposed ground floor dwellings.
7. I acknowledge that the existing dwellings do not currently have access to any significant outside amenity space. However, the scheme in place is not before me and even though the provision of some outside space would be beneficial, the proposed amount of private outdoor space is some way short of the quantum required by Policy DMP 19 of the DMP.
8. The outside space to the rear of the building is extremely narrow, such that its use is significantly restricted. The proposed outside space to the front of the building is also relatively small when compared to the number of dwellings and the number of bedrooms proposed. In my view, this ratio is such that if used by a number of occupants at any given time it would feel over-crowded and cramped. Furthermore, given there are limited opportunities within the proposed dwellings for storage and drying clothes, these effects would be likely to be exacerbated by the use of the outside spaces for such.
9. Overall, I find the proposed outside space to be inadequate when compared with the number dwellings and bed spaces proposed, such that the appeal proposal would result in harmful living conditions for future occupiers with particular regard to access to outside amenity space. The proposed development is therefore in conflict with the development plan, specifically Policy DMP 19 of the DMP, which seeks to ensure new dwellings are served by sufficient outdoor space.

Living conditions (future occupants and internal space)

10. Policy DMP 18 of the DMP makes clear that new dwellings should meet minimum space standards set out in Policy 3.5 of the London Plan – The Spatial Development Strategy for London Consolidated with Alterations Since 2011(2016) (LP). These are consistent with the Technical housing standards – National described space standard (THS)¹.
11. The proposed floor plans show six four bedroom dwellings and two three bedroom dwellings. The design and access statement states that the four bed dwellings would be 6/7 person units and the three bed dwelling would be 5/6 person units.
12. Policy 3.5 of the LP requires dwellings with four bedrooms and six bed spaces to have a gross internal area (GIA) of 99 square metres, with seven bed spaces they are required to have a GIA of 108 square metres. Furthermore, it

¹ Technical housing standards – National described space standard, DCLG, March 2015

requires dwellings with three bedrooms and five bed spaces to have a GIA of 86 square metres, with six bed spaces such dwellings are required to have a GIA of 95 square metres.

13. Whilst, I note the Council's concerns with regard to the use of the proposed study as a bedroom, the plans clearly show this room as a study and any development would need to be undertaken in accordance with the approved plans. On this basis, the proposed three bed units would meet the minimum space standard.
14. Even though the proposed dwellings would fall marginally short of the required minimum standard for a four bed dwelling with seven bed spaces all of the proposed four bed dwellings would meet the required minimum internal space standard for a four bed dwelling with six bed spaces. Thus, provided the properties are occupied on this basis they would meet the required minimum standard.
15. I therefore find all of the proposed units of accommodation would be of reasonable size, such that they would not result in harmful living conditions for the future occupants with particular regard to internal space. Thus in this regard, the proposed development would comply with the development plan, specifically Policy DMP 18 of the DMP and Policy 3.5 of the LP which aim to ensure good design and a good standard of living accommodation.

Living conditions (nearby residents)

16. The windows in the front elevation of the appeal building would face the rear elevations and rear gardens of the dwellings on Kilburn Road. However, the plans show the windows of the proposed third floor would be obscurely glazed. Furthermore the appellant is willing to accept the imposition of planning condition which requires the windows in the front elevation to be fitted with obscure glazing.
17. This would restrict the ability of the occupants of the proposed development from looking down into the rear gardens and rear elevation windows of the dwellings nearby. Therefore subject to the imposition of an appropriate planning condition, the proposed development would not harm the living conditions of residents living nearby with particular regard to outlook.
18. Thus, in this regard the proposed development would comply with the London Borough of Brent Supplementary Planning Guidance 17 Design Guide to New Developments (2001) and the development plan. In this regard it would specifically accord with Policy DMP 1 of the DMP which aims to ensure new development provides high levels of amenity.

Other Matters

19. I have noted that the appellant is dissatisfied with the Council's handling of the planning application, particularly delays in responding to correspondence and considering amendments to the scheme. However, these are matters which would need to be pursued with the Council. I confirm that I have had regard only to the planning merits of the proposal.

Conclusion

20. Although I have not found harm to the living conditions of residents living nearby or the living conditions of future occupants with regard to internal space, I have found the proposed development would have unacceptable effects on the living conditions of future occupiers with regard to access to outside space. Thus, having had regard to all other matters raised, it is concluded that the appeal should be dismissed.

L Fleming

INSPECTOR