
Appeal Decision

Site visit made on 16 March 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 07 April 2017

Appeal Ref: APP/T5150/W/16/3164843
Vishnu Court, May Lane, Harrow HA3 9DG

- 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 Bharat Kerai against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/2825, dated 24 June 2016, was refused by notice dated 8 September 2016.
 - The development proposed is roof extension to create two self-contained 1x1 bedroom flats.
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Decision

1. The appeal is allowed and planning permission is granted for roof extension to create two self-contained 1x1 bedroom flats at Vishnu Court, May Lane, Harrow HA3 9DG in accordance with the terms of the application Ref 16/2825, dated 24 June 2016, and subject to the conditions set out in the schedule to this decision letter.

Preliminary Matters

2. Since the Council determined the planning application, the Brent Local Plan Development Management Policies (DMP, November 2016) has been adopted, and Brent's Unitary Development Plan (2004) has been superceded. I have therefore referred in this decision to what I consider to be the relevant DMP policies.
 3. Plan 131009-01-P1 (existing and proposed block plans), Plan 131009-02-P1 (existing and proposed floor plans) and Plan 131009-03-P1 (existing and proposed elevations) were submitted with the planning application, and so have formed the basis of my consideration of the appeal. However, the appellant has submitted amended Plan 131009-01-P2 (existing and proposed block plans), Plan 131009-02-P2 (existing and proposed floor plans) and Plan 131009-03-P2 (existing and proposed elevations) to address the Council's concerns regarding the provision of internal floorspace.
 4. I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. However, where amendments are proposed, regard should be had to the 'Wheatcroft' principles - including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity.
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5. In this case, the amendments would alter the internal layouts of the proposed flats to achieve additional floor space. In my view, the amended proposal would not materially alter the proposed development such that to grant it would result in a development substantially different from that previously consulted upon. As such, I find that there is no prejudice that would justify re-consultation. In these circumstances, I see no material conflict with the Wheatcroft principles. I have therefore taken the amended plans into consideration.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the surrounding area, and whether the proposal would provide adequate living conditions for future occupants, in terms of the provision of internal floor space.

Reasons

Character and appearance

7. The appeal site at Vishnu Court comprises a block of flats which is located within a predominantly residential area. The proposal would add an extension to the roof to create two new flats.
8. The surrounding area is characterised primarily by two storey residential properties, some with hipped roofs and some with gabled roofs. Vishnu Court is a two storey building arranged in three distinct blocks with a series of mono-pitched roofs. The proposal would alter the appearance of the roof, raising it by approximately 1.5m in height. The mono-pitches would be replaced by a crown roof with a hipped appearance at the front, incorporating dormer windows in the front and side slopes.
9. Although the roof would appear more substantial, the proposed increase in height would be relatively small in proportion to the overall scale of the existing building. It would be in keeping visually with the hipped roofs of Magnolia Court, and the other properties in the vicinity with a similar roof form. Vishnu Court is set back from the main road, which would ensure that the new roof would not be overly dominant within the wider area.
10. I conclude therefore that the development would sit acceptably in its spatial and visual context without unduly harming the character or appearance of the surrounding area. It would thus accord with DMP Policy DMP 1, insofar as it requires that development should be of a layout, scale and design that complements the locality. I find no conflict with the Council's document entitled 'Design guide for new development – Supplementary Planning Guidance (SPG 17)' (SPG 17, October 2001), one of whose purposes is to protect the character of existing areas.

Living conditions

11. The Council's second reason for refusal relates to the provision of internal floor space. For one bedroom two person (1b2p) flats, SPG 17 recommends a minimum unit size of 45m². Each of the proposed new flats would meet this requirement. However, DMP Policy DMP 18 states that new dwellings should meet the minimum space standards set out in Policy 3.5 of the London Plan

(LP, March 2016). The LP seeks a minimum of 50m² for a 1b2p development, and stipulates that built-in storage of 1.5m² should be provided.

12. Plan 131009-02-P1 would provide around 46m² of internal floor space for Flat 1 and around 48m² for Flat 2. The amended scheme would additionally incorporate around 1.5m² of storage space within each flat, and would slightly increase the sizes of the bedrooms. These changes would provide both flats with approximately 50m² of internal floor space, thus meeting the requirements of LP Policy 3.5. I am mindful that this is a minimum requirement. However, the flats would be well designed and laid out, and would be acceptable in all other respects in terms of the accommodation they would offer.
13. I therefore conclude that the development would provide adequate living conditions for future occupants in terms of the provision of internal floor space. It would thus comply with DMP Policy DMP 18 and LP Policy 3.5, insofar as they aim to ensure good design and a good standard of living accommodation. It would also comply with SPG 17, and with the Mayor of London Housing Supplementary Planning Guidance (2016), insofar as it aims to ensure housing quality.

Other matters

14. I have had regard to the concerns raised by neighbours, including the effect of the proposal on parking and highway safety in the area. However, the Council has assessed the impact of the proposal on highway safety and capacity, and found the scheme to be acceptable in that regard. In the absence of substantive evidence to the contrary, I am satisfied that the proposal would not be detrimental to highway interests.
15. In respect of flooding and sewage disposal, there is no firm evidence before me to suggest that the development would lead to significantly increased instances of flooding or sewage problems in the area. I note concerns regarding current and future refuse management, and specifically comments that bins for Vishnu Court are stored outside the property gates. However, this is a private matter between the relevant parties.
16. In terms of residential amenity, concern has been voiced in respect of loss of daylight, privacy and outlook to residences at Magnolia Court. However, I am satisfied that sufficient separation distances would be achieved between the development and these neighbouring properties. In conjunction with the relatively small increase in height and volume of the roof, acceptable levels of residential amenity would thus be preserved. Similarly, there would be a sufficient separation distance between the development and the community centre to the rear so as to avoid harmful overlooking between the two.
17. Concerns have also been raised regarding noise, overcrowding, and impact on trees/hedges. However, I note that the Council has not raised these matters in their reasons for refusal, and there is no detailed evidence before me relating to the problems that have been alluded to. Any disruption during construction would be for a temporary period only, and would not justify the withholding of planning permission. Any damage caused to properties in the vicinity during construction would be a private matter between the parties involved.

Conditions

18. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended some of them for clarity and brevity. For certainty, it is necessary that the development is carried out in accordance with the approved plans. A condition relating to materials is appropriate in the interests of character and appearance. A condition relating to sound insulation is necessary to achieve satisfactory living conditions.
19. I have not imposed the suggested condition relating to refuse bins as it is insufficiently precise to meet the relevant test.
20. It is essential that the requirements of Condition 3 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters it addresses.

Conclusion

21. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site plan; 131009-01-P2 ; 131009-02-P2; 131009-03-P2.
- 3) No development shall be commenced until a schedule of the materials, including samples, to be used in the construction of the external surfaces of the dwellings hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved materials.
- 4) The development hereby permitted shall be designed in accordance with BS8233:2014 'Guidance on sound insulation and noise reduction for buildings' to attain maximum internal noise levels of 35 dB LAeq (16hr) in living rooms and bedrooms between 07:00 – 23:00hrs, and 30 dB LAeq (8hr) in bedrooms between 23:00 – 07:00hrs. The sound attenuation works shall be completed before the dwellings are occupied and shall be retained thereafter.