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# Appeal Decision

Site visit made on 10 July 2017

**by Graeme Robbie BA(Hons) BPI MRTPI**

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

**Decision date: 18 July 2017**

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**Appeal Ref: APP/T5150/W/17/3174116**

**219 Church Road, London NW10 9EP**

- 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 Hussam Hussain against the decision of the Council of the London Borough of Brent.
  - The application Ref 16/4810, dated 18 October 2016, was refused by notice dated 6 February 2017.
  - The development proposed is the change of use of ground floor shop (Use class A1) into residential (Use class C3) to form a 2x bedroom self-contained flat.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The rear portion of the ground floor of the building was fitted out as living accommodation at the time of my site visit, at which time I noted that a bed was also present within the shop area shown on the submitted plans. The Council state that the residential use of the rear portion of the ground floor does not have the benefit of planning permission. For the avoidance of doubt, I have determined the appeal on the basis of the details shown on the submitted plans.

## Main Issues

3. The main issues are whether the proposal would:
  - Provide acceptable living conditions for future occupiers of the proposed flat, with particular reference to outlook, privacy and size of accommodation; and
  - Support a strong and viable town centre.

## Reasons

### *Living Conditions*

4. The proposed flat would have a gross internal floor area (GIFA) of approximately 54 square metres. This is below both the London Plan (LP) and the 'Technical housing standards - nationally described space standard'<sup>1</sup> which require two bedroom flats to have a minimum GIFA of 61 square metres in the case of 2 bedroom / 3 bedspace flats, or 70 square metres for 2 bedroom / four bedspace flats.

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<sup>1</sup> Department for Communities and Local Government, March 2015

5. The submitted plans indicate that the bedrooms would have floor areas of 13 square metres and 14 square metres. Applying the nationally described space standards, each of the bedrooms would exceed the two bedspace threshold of 11.5 square metres, thereby making the flat a two bedroom / four bedspace flat. However, with a GIFA of 54 square metres, the level of accommodation provided would fall significantly below that required to provide adequate space for the basic living requirements of future occupants of a dwelling unit of this nature.
6. In addition to a shortfall with regard to the amount of internal living accommodation, the main (and only) window to the main living area is located between two substantial three storey outriggers at rears of No 219 and the adjoining property. Not only that, but the gap between them is limited, thereby heavily restricting the outlook from this room. Furthermore, I noted that the outriggers featured an unusual design in that the flank elevation kicks out into the yard to the extent that the rear facing windows at No 219 and the adjoining property are partly recessed behind the flank wall, thereby further restricting the outlook.
7. Having stood within the middle room and observed the outlook from it, I saw that outlook is restricted, with only a narrow sliver of the urban streetscape visible beyond the enclosing rear outriggers. As a consequence I found the room to be gloomy and oppressive. I was able to note that the door leading from the kitchen into the space between the outriggers was glazed and there was a small high level window serving the kitchen area. However, the limited distance between the opposing faces of the rear outriggers and the height, not just of the outriggers but the main building itself, are such that this area is as gloomy and oppressive as the room facing directly out between the outriggers.
8. I accept that the rear bedroom, which benefits from a bay window, has a more open aspect to the rear onto the main portion of the rear yard. The front room would also have a reasonably bright and open outlook, the existing shop front windows providing a light and bright southeast facing aspect to the street in front. However, the brighter outlook that would be achieved from the front and rear bedrooms would not outweigh the significant shortfall in the quantity of internal living accommodation, or the gloomy, overbearing and oppressive outlook from the middle room and the kitchen.
9. In addition to setting out GIFA requirements, LP policy 3.5 also states that new development should 'take account of factors relating to arrival at the building and the home as a place of retreat'. The proposed front bedroom would face directly out onto the street through the existing full height glazed shopfront. Although the appellant has indicated a willingness to fit obscure glazing to the lower portion of the front window in order to ensure privacy, this would not overcome the goldfish-bowl effect of a habitable room facing directly on to an otherwise relatively busy commercial street.
10. Thus, for the reasons set out, I conclude that the proposal would fail to provide adequate living conditions for future occupants of the building in terms of both the quantity, and quality, of the living accommodation proposed. It would therefore fail to accord with LP policy 3.5 and policies DMP1 and DMP18 of the Brent Development Management Policies (DMP) and the London Plan Housing Supplementary Planning Guidance which together seek, amongst other matters, to secure high quality developments that provide high levels of

internal amenity. The proposal would also fail to secure the good standards of amenity that the National Planning Policy Framework (the Framework) seeks as one of its core planning principles.

### *Strong and Viable Town Centre*

11. The appeal site is located within an existing shopping parade designated as a secondary shopping frontage within the Church End Priority Town Centre. DMP policy DMP2 states that residential uses will be acceptable in unviable secondary shopping frontages on the periphery of town centres.
12. The appellant seeks to draw support<sup>2</sup> from the Framework for the proposal by making a vague and unattributed reference to the Framework stating that the proposal would be compliant with the Framework in seeking an alternative use for the appeal property. However, DMP policy DMP2 is consistent with the Framework in setting out ways in which to determine whether or not there is any reasonable prospect of a site being used for an allocated or existing use.
13. Notwithstanding the presence of a bed within the area indicated as a shop on the submitted floor plans at the time of my site visit, the unit was fitted out as a barbers shop, described on the application form as the existing use of the unit. I have not been presented with any evidence that the appellant has sought to demonstrate that the retail use of the appeal property is unviable in the context of DMP policy DMP2, or that there is no reasonable prospect of it continuing to be used as such. Thus, on the available evidence, it has not been adequately demonstrated that the proposal would support strong centres with a diversity of uses in the manner that DMP policy DMP2 seeks to achieve.
14. The proposal would retain the existing shopfront so as to retain the retail character of the existing property and the surrounding area. The proposed dwelling, the appellant contends, would not appear as a break in the retail frontage. That might be so, but I am satisfied that DMP policy DMP2 already recognises that there will be situations where residential uses in secondary frontage can be acceptable. The appellant has not demonstrated that, and the retention of the existing shopfront does not persuade me that the proposal is otherwise acceptable.

### **Other Matters**

15. I have been referred to an appeal decision in respect of a proposal to convert a commercial unit to residential use. However, I have not been provided with the details of the proposal or the development plan as it applied to the proposal at that time and so cannot be certain that it provides a comparable example from which to draw conclusions. In any event, I have considered the appeal on the basis of the evidence before me, and so I give this matter limited weight.

### **Conclusion**

16. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie* INSPECTOR

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<sup>2</sup> Paragraph 5.2(c) – Statement of Case on behalf of the Appellant