



Appeal Decision

Site visit made on 4 February 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/M5450/W/19/3240891
56 Windsor Road, Harrow HA3 5PY

- 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 T Patel against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3800/19, dated 31 August 2019, was refused by notice dated 28 October 2019.
 - The development proposed is described as 'side and rear single/two storey extensions to existing property, front access ramp and conversion into 2 flats with associated bins, parking and cycles. Demolition of existing garage.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council amended the description of the development proposed to 'conversion of dwelling into two flats (1 X 1 bed and 1 X 2 bed); single and two storey side to rear extension; bin and cycle stores; external alterations.' This is also the description used by the appellant in the Planning Appeal Form. I consider this to be a more accurate description of the development proposed and have determined the appeal on this basis.
3. Within the information before me, references have been made to the draft London Plan 2017. Whilst I have had regard to these, their weight in my decision has been limited on account of the stage of preparation of this emerging plan.

Main Issues

4. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers of the first floor flat, with regard to the provision of private outdoor amenity space; and
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with regard to the functionality of its design and layout.

Reasons

Provision of private outdoor amenity space

5. The appeal site is a corner plot located at the junction of Windsor Road and Clewer Crescent within an established residential area. The appeal building is a semi-detached, two storey dwelling with a detached garage at the side, both of which are set back from the front boundary. It has a reasonably sized garden and driveway to the front and a modest wedge-shaped garden which tapers to the rear. The surrounding area is characterised by dwellings of a similar type and scale, many of which have been extended to the side.
6. The proposal comprises the demolition of the existing garage and the extension and conversion of the dwelling into two flats. Parking, cycle storage and refuse storage are provided to the front of the property. A previous scheme for the extension and conversion of the dwelling into two flats¹ was refused by the Council and then dismissed on appeal².
7. The rear garden of the proposed development would provide private outdoor amenity space for future occupiers of the two bedroom ground floor flat. Future occupiers of the one bedroom first floor flat would have no private outdoor amenity space provided as part of the proposal.
8. There is a dispute between the parties as to which plans were considered by the Inspector as part of the determination of the previous appeal decision. The appellant contends that the Inspector only considered the 'original plans' which, it is asserted, provided no split garden or side garden access for future occupiers of the first floor flat. In addition, the appellant states that the original submission clearly detailed, and made a case for, the lack of private outdoor amenity space onsite for future occupiers of the top floor flat, which included the provision of material cases for the Inspector to consider. The appellant declares that, from this, the lack of private outdoor amenity space or garden access for future occupiers of the first floor flat was not a material reason for dismissing the appeal.
9. The Council contends that the plans which were used in the consideration and determination of the previous application, and therefore considered by the Inspector, did show the subdivision of the garden area to provide private outdoor amenity space for future occupiers of both the ground floor and first floor flats.
10. I recognise that, in dismissing the previous appeal, the Inspector did not specifically refer to the lack of private outdoor amenity space for future occupiers of the first floor flat as being an issue. However, from the evidence before me, it is not entirely clear which plans were considered by the Inspector. On this basis, I am not absolutely certain that it was a matter which was brought to his attention and I note that, unlike in relation to the current proposal, it did not form part of the Council's reasons for refusal. Moreover, whatever the circumstances of that appeal, I consider that the lack of private outdoor amenity space for future occupiers of the first floor flat to be an issue relevant to the proposed development before me.

¹ Ref: P/0409/19.

² Ref: APP/M5450/W/19/3228119.

11. Private outdoor amenity space for the exclusive use of building occupiers is a highly valued asset. Its provision within new residential developments is important to enable onsite passive recreational activity such as sitting out, for active recreational activity such as gardening, and for other outdoor requirements such as drying clothes.
12. Standard 26, Paragraphs 2.3.31-2.3.33 of the London Plan Housing Supplementary Planning Guidance 2016 (LP Housing SPG) states that a minimum of 5 square metres of private outdoor space should be provided for 1-2 person dwellings. It goes on to state that it will only be where site constraints make it impossible to provide private open space for all dwellings, that a proportion of dwellings may provide additional internal living space to the area of the private open space requirement. In addition, Paragraphs 5.15-5.16 of the Harrow Council Residential Design Guide Supplementary Planning Document 2010 (Residential SPD) seek to ensure that all flats (except for the conversion of maisonettes above shops and mid terraced properties) have access to a garden, most likely in the form of a subdivision of an existing garden into two, private garden areas.
13. I am aware that the Harrow Weald Recreation Ground (HWRG) is nearby, and that it would be the personal choice of any future occupier(s) as to the value they attribute to the provision of onsite private outdoor amenity space in deciding whether to occupy the first floor flat. Nevertheless, I observed on my site visit, that the HWRG is approximately a 12 minute walk away and required crossing a busy road, which may discourage future occupiers to use it as an alternative. Moreover, it is apparent that, although the modest size and unusual shape of the rear garden would mean that the quantum of private outdoor amenity space for future occupiers of both the ground floor and first floor flats would be limited, it would still be functional and would not be impossible to incorporate it as part of the proposal. In these respects, I consider that the lack of onsite private amenity space, without clear justification and viable alternatives, would not provide satisfactory living conditions for future occupiers of the first floor flat.
14. I have had regard to the summaries of appeal decisions highlighted in the appellant's grounds of appeal and amenity statement³, where Inspectors have considered that the lack of onsite private outdoor amenity space is not uncommon and given weight to the presence of alternative public open space nearby. However, I do not know the full circumstances of these developments and in any event, I have determined the appeal before me on its own planning merits and the specific context of the appeal site.
15. To conclude on this issue, I consider that the proposed development would not provide acceptable living conditions for future occupiers of the first floor flat, with regard to the provision of private outdoor amenity space. As such, it would fail to comply with Standard 26 of the LP Housing SPG. It would also conflict with Policies DM1 D(i) and DM26 B of the Harrow Council Development Management Policies 2013 (HDMP) and the Harrow Council Residential SPD.

³ Harrow Appeal Refs: APP/M5450/W/16/3158255; APP/M5450/A/14/2225661; APP/M5450/A/13/2208687; APP/M5450/A/14/2222351; APP/M5450/A/10/2128380. Amenity Statement Appeal Refs: APP/Z5630/W/17/3168528 & APP/Z5630/W/17/3173718; APP/T5150/W/17/3169197; APP/A5840/W/15/3136539; APP/Z3635/W/15/3127979; APP/R5510/A/14/2220011; APP/M5450/A/14/2225661; APP/A5270/A/11/2162705; and APP/A5270/A/13/2210373.

16. Taken together, and amongst other things, the LP Housing SPG, policies and Residential SPD seek to ensure the provision of a satisfactory quantum and form of private outdoor amenity space for future occupiers of new housing developments; and require that where an existing garden is available, proposals must make this available for all future occupiers of the development.

Functionality of its design and layout

17. The proposed extensions would, in part, replace the existing garage. In the appellant's grounds of appeal it is confirmed that the proposal does not seek to provide any access to the rear garden from the side, but through the main ground floor flat itself. This would mean that any domestic or garden rubbish and equipment, or other items to be used at the rear of the property, would need to be carried through the main living areas of the ground floor flat.
18. I recognise that this arrangement is no different to some terraced houses where the rear garden or yard is only accessible through the property, and that these are not considered to be of sub-standard design and layout. I also note the examples of this arrangement in the surrounding area which have been highlighted by the appellant. Nevertheless, the proposed development relates to a semi-detached property where, it appears that, external access between the front and rear of the property could potentially be incorporated into the scheme.
19. Furthermore, this was an issue which was considered in the previous Inspector's decision and, although the problem of potential conflict and odours with regard to the location of parking, cycle storage and refuse storage have been addressed in this proposal, the lack of adequate external access between the front and rear of the property has not. From the evidence before me, I have no reason to reach a different conclusion that this design and layout, where access to the rear could only be gained through the main ground floor flat, would not be conducive to a satisfactory living environment.
20. Accordingly, I conclude that the proposed development would fail to provide acceptable living conditions for future occupiers, with regard to the functionality of its design and layout. Therefore, it would not comply with Policy 7.6 B of The London Plan (consolidated with alterations since 2011) 2016 (LP). It would also fail to comply with Policy DM1 A and B(f) and DM26 A of the HDMP. It would also conflict with the Harrow Council Residential SPD.
21. Taken together and amongst other matters, these policies and Residential SPD seek to ensure that new developments are of a high architectural quality; achieve a high standard of design and layout, particularly their functionality including, but not limited to, the convenience and safety of internal circulation; and provide a satisfactory standard of accommodation.
22. The Council also cites Policy 7.4 B of the LP, Policy CS1 B of the Harrow Core Strategy 2012, and Policies DM26 A(f) and C and DM45 of the HDMP in its reason for refusal. These policies relate to local character and context; storage and the collection of waste; and waste management. As the previous appeal decision concluded that the proposed development would not adversely affect the character and appearance of the surrounding area, and that the issues of the potential conflict and odours with regard to the location of parking, cycle storage and refuse storage have been addressed in this proposal, I consider that these policies are not relevant to this main issue.

Other Matters

23. I accept that the creation of two flats in an accessible urban location and an established residential area, which is within easy reach of a variety of services and facilities such as this, would contribute to the local housing stock, economy and society. However, the benefits arising from the creation and occupation of two flats would be limited and would not outweigh the identified harm to the living conditions of future occupiers.
24. I have had regard to the fact that the appellant has sought to address the issues raised in relation to the previous scheme and most recent appeal decision, and I note the aim to create energy efficient and adaptable 'lifetime' flats. However, these are only some of the matters that must be considered in assessing the proposed development and do not outweigh the harm that I have found.
25. I am aware that the previous appeal decision concluded that the proposed development would not adversely affect the character and appearance of the surrounding area. I also note that the Council raised no concerns about the proposal before me in relation to the standard of internal space within the flats; the impact of the proposed flats on the living conditions of neighbouring uses or occupiers; waste management; drainage; or parking and highways. However, these are neutral considerations in the planning balance and do not outweigh the harm that I have found. As such, they do not change my conclusions on the main issues.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR