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# Appeal Decision

Site visit made on 9 June 2020

**by D Peppitt BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7<sup>th</sup> July 2020**

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**Appeal Ref: APP/M5450/W/20/3245971**

**Land to the rear of 29 High Street, Wealdstone, Harrow HA3 5BY**

- 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 D Vakani against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/4540/19, dated 24 October 2019, was refused by notice dated 18 December 2019.
  - The development proposed is the partial demolition of existing underutilised structures and erection of single storey rear extensions to provide 1no. studio flat with associated private courtyard and associated works.
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## Decision

1. The appeal is allowed, and planning permission is granted for partial demolition of existing underutilised structures and erection of single storey rear extensions to provide 1no. studio flat with associated private courtyard and associated works at Land to the rear of 29 High Street, Wealdstone, Harrow HA3 5BY, in accordance with the terms of the application, Ref P/4540/19, dated 24 October 2019, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved drawings and the mitigation set out in the accompanying documents: PA-01 REV A; PA-02; PA-03 REV A; PA-04; and Flood Risk Assessment (FRA) for the proposed part demolition and residential conversion of Land to the rear of 29 High Street, Harrow HA3 5BY – EAS (January 2020).
  - 3) The development hereby permitted shall not be occupied until the cycle and bin storage have been implemented in accordance with the details shown on the approved plans, and shall be retained as such for the life of the development. Other than on collection days, all waste and recycling containers associated with the occupation of the approved development shall be housed within the approved bin store.
  - 4) The building hereby permitted shall not be occupied until the rooflight above the shower room has been fitted with obscured glazing, and no part of that rooflight shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the rooflight is installed and once installed the obscured glazing shall be retained thereafter.

## **Application for costs**

2. An application for costs was made by Mr D Vakani against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

## **Procedural Matter**

3. As part of the appeal process the appellant submitted revised plans, (ref: PA01 REV A and PA03 REV A) to provide further details of the proposed boundary treatment along the western boundary of the site, to address one of the Council's reasons for refusal. The difference being that a wall to the front of the property is now proposed to be lowered. The appellant also submitted the document "FRA for the proposed part demolition and residential conversion of Land to the rear of 29 High Street, Harrow HA3 5BY – EAS (January 2020)" to address the third reason for refusal.
4. The Council has not provided a Statement of Case for the appeal, however, it is clear that it would have had a chance to consider the amended plans and FRA. Given that the amended plans provide more detail on the boundary treatment proposed, I have accepted them as a non-material amendment as they do not fundamentally alter the nature or extent of the proposal, compared to what was applied for. Having regard to the Wheatcroft principles<sup>1</sup> and guidance<sup>2</sup>, I am satisfied that there is no risk of prejudice if I was to take the amended plans and documentation into account. I have therefore determined the appeal on this basis.

## **Main Issues**

5. The main issues are:
  - the effect of the proposed development on the living conditions of the future occupiers, with particular reference to outlook and light;
  - whether the proposed development would affect the ability of the site to provide future residential units and the sustainability of the associated retail use; and
  - risk of flooding.

## **Reasons**

### *Living Conditions*

6. The site is located on the western side of High Street and to the north of Harrow and Wealdstone Station. The property is a three storey mid terrace with a ground floor retail unit. The proposal is for the use of the rear of the ground floor of the premises as a studio flat (Class C3), with associated works, including small scale demolition to the rear of the existing building to facilitate a larger courtyard area for the new flat.
7. The first part of the Council's reason for refusal states that the proposal would result in a substandard, poor quality accommodation, to the detriment of the residential amenities of the future occupiers of the flat. Whilst the Council's

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<sup>1</sup> Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

<sup>2</sup> 'Procedural Guide Planning Appeals – England'

Officer Report states some aspects of the accommodation would be acceptable, those relating to light and outlook would not. The appellant has highlighted an appeal<sup>3</sup> which was allowed at a nearby property for a similar scheme. In the adjacent scheme the Inspector did not find harm with respect to light and outlook or internal floor space, private external space, refuse storage or cycle storage.

8. The Council suggests that the levels of outlook and daylight and sunlight for future occupiers of the flat would be inadequate as the elevation is west facing and it only has one aspect. Therefore, it would only receive direct sunlight in the late afternoon and early evenings. It also suggests that natural light could only reach the main window by being at an angle, where it would not be screened by the surrounding buildings. Whilst the proposal also provides rooflights, the Council consider that their limited size would only let a marginal amount of daylight and sunlight into the property.
9. In terms of outlook, the appellant has submitted amended plans which lower the wall adjacent to the courtyard to address the Council's concern with the outlook from the main window. The lowering of the wall would allow views out towards the surrounding area, part of which has recently undergone public realm improvements. This would also allow more light to enter into the property.
10. The Mayor of London Housing Supplementary Planning Guidance (2016) allows for single aspect flats. Although the proposed flat is west facing and its main window is a single aspect, it would receive some level of sunlight and daylight during the late afternoon and early evening. The proposal also includes three rooflights for the flat, which would provide further outlook and light opportunities for the future occupiers.
11. I find that the proposal would provide acceptable living conditions for the future occupiers, with reference to light and outlook. Therefore, it would accord with Policies 3.5 and 7.6B of The London Plan (2016), Policies DM1 and DM26 of the Harrow Development Management Policies Local Plan (2013), the Mayor of London Housing Supplementary Planning Guidance (2016) and the adopted Harrow Supplementary Planning Document Residential Design Guide (2010). These policies, amongst other things, seek to provide future occupiers of development with satisfactory amenity and that all habitable rooms have a satisfactory environment in terms of privacy, daylight and outlook.

#### *Future uses*

12. In the Council's second reason for refusal it states that the loss of the ancillary area to the rear would prejudice the ability of the application site to provide future residential units by conversion of the first and second floor areas, and the sustainability of an A1 retail use in relation to storage.
13. I note that the commercial premises directly to the north of the appeal site at no 33 and no 31 High Street already contain residential flats laid out in a similar arrangement to the proposals. Furthermore, there has been a letter of support received from the existing occupier of the retail unit adjacent to the appeal site fronting onto the High Street confirming no objection to the residential use of this underutilised part of the site.

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<sup>3</sup> APP/M5450/W/18/3194699

14. The appellant has also made reference to an appeal<sup>4</sup> at the nearby property where a similar issue arose, and where the Inspector found that, "adopted policies of the development plan do not offer any specific protection for the rear of shop units in this location."
15. Although the existing commercial occupiers could demonstrate an acceptable layout with the proposal, it is necessary to consider the attractiveness of the unit following the loss of storage space at the rear. The proposal would limit the prospect of further expansion of floorspace for the retail unit. However, there is no substantive evidence before me to suggest the existing operation or future operations could not be ran effectively at the site, or that the adjacent units have not been able to secure tenants or run the businesses effectively.
16. Whilst I understand the Council's concern that reducing the size of a unit may affect its attractiveness to potential occupiers, this appears to be a generalised concern with little evidence of a genuine risk of the unit becoming vacant. In light of this, I do not consider that the proposal would cause such harm to the functionality of the remaining ground floor unit.
17. The Council also states that the ancillary storage has often been used to make provision for bin and cycle stores in conversions above commercial units. The loss of this ancillary area would make it difficult to provide these stores for future residential units and could occur on the first and second floor. However, as previously stated there is no policy protection for these areas, and there is no substantive evidence to suggest that these areas would be converted to residential use. I also noted on my site visit that bins were stored at the back of the properties already, therefore, future conversions could place their refuse bins in these areas.
18. Accordingly, the proposal would not affect the ability of the site to provide future residential units or harm the sustainability of the associated retail use. Therefore, it would accord with Policy DM1 of the Harrow Development Management Policies Local Plan (2013) and the adopted Harrow Supplementary Planning Document Residential Design Guide (2010). These policies, amongst other things, seek to achieve high standards of design, privacy and amenity in development, achieve lifetime neighbourhoods through various criteria, including requiring changes of use to be located to sustain town centres, and requiring new residential development to have good access to services and facilities.

#### *Risk of flooding*

19. In the Council's Officer Report, it states that the site lies within Fluvial Floodzone 2 and 3, and that the High Street itself is within Surface Water Floodzone 3a and 3b. As such, a Flood Risk Assessment for the proposal with detailed flood maps and emergency planning details for evacuation would be required.
20. However, the appellant has provided evidence<sup>5</sup> to show that the site is located in Flood Zone 1 and is at low risk of flooding from most sources and with mitigation measures, the proposal would be resilient to flooding. However, the surface water mapping shows the site to be in an area which may become

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<sup>4</sup> APP/M5450/W/18/3194699

<sup>5</sup> FRA for the proposed part demolition and residential conversion of Land to the rear of 29 High Street, Harrow HA3 5BY – EAS (January 2020)

surrounded by surface water during an extreme event. The report recommended that mitigation measures are included in the development. These include the proposed greater elevation of the conversion and the inclusion of a solid wall (of external wall type construction) which would prevent flood water from entering the building. It is also recommended that the occupiers subscribe to the EA flood warning service and be provided with a Flood Warning and Evacuation Plan.

21. Consequently, the proposal would not have an unacceptable risk of flooding. Therefore, it would accord with Policy CS1.U of the Harrow Core Strategy 2012, policy 5.12 of the London Plan 2015 and policies DM9 and DM10 of the Harrow Development Management Policies Local Plan 2013. These policies seek to protect development from flood risk.

### **Conditions**

22. The Council has suggested a number of conditions, which I have considered against advice in the Planning Practice Guidance and amended accordingly.
23. In addition to the standard condition, which limits the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have also included reference to the submitted Floor Risk Assessment to ensure the appropriate mitigation is carried out. The combination of the raised floor level relative to the retail store and the barrier of the solid wall construction is considered to provide sufficient mitigation against the risk of surface water flooding for the proposed conversion.
24. The provision of a bin store and cycle store is shown on the submitted plans, and given the scale and layout of the proposed unit, it is quite unlikely that these facilities could be located elsewhere. Their provision is necessary, however, to make the development acceptable. I have therefore amended the conditions around cycle and bin stores to require their provision in accordance with the plans prior to the occupation of the development.
25. The Council has suggested that no development within Schedule 2, Part 3, Class L shall take place. However, this is overly restrictive as such removals of permitted development rights should only be in exceptional circumstances.
26. The Council has also suggested that rooflights could be conditioned to be potentially obscure glazed. However, it is only necessary to condition the rooflight to the shower area to protect the privacy of future occupiers.

### **Conclusion**

27. For the reasons set out above, I conclude that the appeal is allowed.

*D Peppitt*

INSPECTOR