



Appeal Decision

Site visit made on 28 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2020

Appeal Ref: APP/T5150/W/20/3248161

112 Herbert Gardens, London NW10 3BP

- 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 Premji Versani against the Council of the London Borough of Brent.
 - The application Ref 19/2870, is dated 8 August 2019.
 - The development proposed is conversion of a single dwelling at 112 Herbert Gardens into two flats.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of a single dwelling at 112 Herbert Gardens into two flats at 112 Herbert Gardens, London NW10 3BP in accordance with the terms of application, Ref 19/2870, dated 8 August 2019, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Premji Versani against the Council of the London Borough of Brent. This application is the subject of a separate Decision.

Procedural Matters

3. The Council failed to determine the application within the prescribed period. Following submission of the appeal, the Council has prepared an appeal statement. This identifies concerns in relation to living conditions for occupiers of the ground floor flat and the provision of access and parking on the site. The main issues below arise as a consequence of these concerns.
4. At my visit, I saw that the appeal building was already occupied as 2 flats, and the application is therefore in part retrospective. Within its evidence, the Council refers to discrepancies between the submitted plans and the situation observed on site with regard to the internal layout of the development and the arrangement of windows and doors. Prior to making the appeal, the appellant submitted to the Council a revised drawing no 160205-05-P2. This includes an additional 'as built' front elevation, and alters the layout of the site frontage and cycle storage from the plan originally submitted with the application.
5. Given the nature of the changes shown on this amended plan which do not materially alter the nature of the proposal, and that it was before the Council during its consideration of the application, I am satisfied that no party would be

prejudiced by my taking this plan into account. The fenestration shown to the side and rear of the building and the internal layout do not accord with the details that I observed at my visit, but the appellant has stated that the development as shown on this drawing would be reinstated as part of the proposal. For the avoidance of doubt, and notwithstanding the development currently on the site, I have determined the appeal on the basis of the proposed development as shown on drawing 160205-05-P2.

Main Issues

6. The main issues are:

- i) whether or not living conditions for occupiers of the ground floor flat would be acceptable with particular regard to light, outlook and the provision of internal space; and
- ii) whether or not the proposed access, parking and cycle storage arrangements would be acceptable including with particular regard to pedestrian safety and the character and appearance of the area.

Reasons

Living Conditions

7. The Council has not raised concerns in relation to living conditions for occupiers of the flat proposed at first and second floor levels. From the evidence before me, I see no reason to take a different view. My decision therefore focuses on the proposed three-bedroom flat at ground-floor level.
8. I agree with the Council's comment that most rooms within this dwelling retain good levels of light and outlook. I accept that there are no windows to the corridor serving rooms at the rear of the dwelling, but this corridor is not excessive in length, and receives some natural light from a rooflight. Moreover, it is doubtful given its size that the space would be used other than for access, and occupiers are therefore unlikely to spend any significant time here. I therefore consider that the proposal would provide for sufficient natural light and an acceptable outlook for occupiers.
9. The main parties have referred to suggested internal areas for dwellings within the Government's Technical Housing Standards - Nationally Described Space Standards (NDSS) which suggest an area of 86sqm for a three-bedroom, five-person dwelling. Policy DMP18 of the Development Management Policies 2016 (DMP) was submitted with the appeal questionnaire, and I note that this policy refers to compliance with the standards which are reflected within the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011. However, the Council's reason for refusal does not rely on this policy, and it is not discussed within the Council's statement as relevant to the appeal before me.
10. The Council contend that there would be a modest shortfall in the internal area of the dwelling of around 3sqm below the NDSS, though this is disputed by the appellant. I was able to see that the shape and layout of the dwelling and rooms offer a usable and functional area for occupiers, including reasonably sized bedrooms and main living space accommodating storage and a range of furniture, neither of which acted as a barrier to free circulation. The layout also provides a distinct kitchen area with sufficient space and surfaces to allow cooking, storage and food preparation. The dwelling additionally benefits from

direct access to private outdoor space within a rear garden, and the Council have not disputed that this exceeds the relevant requirement. Given these factors and the availability of natural light and outlook, the dwelling does not feel cramped or restricted.

11. In conclusion on this main issue, I cannot be sure from the limited evidence before me whether or not the internal area of the flat would meet the suggested standards within the NDSS. Nevertheless, for the reasons given above, I am satisfied that in this case, the development would offer acceptable living conditions for occupiers. The proposal would make effective use of the site to provide an additional dwelling, and I find that it would accord generally with Policies DMP1 and DMP18 of the DMP which broadly seek a high level of amenity, outweighing any conflict even if there were a shortfall against the NDSS of the scale suggested by the Council.

Access, Parking and Cycle Storage

12. Forward of the appeal building, the site comprises hardstanding which it is proposed would provide 1 space for each dwelling. The Council suggest that this would comply with relevant parking standards, but that the Local Highway Authority would be unlikely to approve widening of the crossover to provide access to these spaces. This is because the Domestic Vehicle Footway Crossover Policy 2013 advises that the total width of crossovers should not normally exceed 50% of the total frontage to retain on-street parking and maintain the safety of pedestrians.
13. The submitted plans do not show alterations to the crossover, but given that the parking would serve separate dwellings, this would seem necessary to avoid vehicles mounting the kerb or crossing the footway. However, I consider that the submission of a detailed scheme for this provision could be the subject of a condition should the appeal be allowed.
14. The site is within a controlled parking zone, with parking to the front of the site restricted between 0800 and 1830 Mondays to Saturdays. The Council also advise that Herbert Gardens is not heavily parked at night. In this context, I see no reason that widening of the access to the site would be detrimental to the availability of on-street parking. Given also the depth of the site frontage and its position on Herbert Gardens which is subject to traffic calming measures, I am also satisfied that pedestrian safety would be safeguarded and widening of the crossover would be unlikely to have a negative impact on highway safety or other forms of movement. I further saw that many sites nearby, including 114 Herbert Gardens, similarly have fairly wide crossovers.
15. DMP Policy DMP12 seeks to ensure that parking does not impact negatively on existing parking, highways, other forms of movement or the environment. It includes a requirement for adequate soft landscaping, permeable surfaces, boundary treatment and other treatments to offset adverse visual impacts and increases in surface run-off, and in this regard refers to 50% coverage of front gardens by soft landscaping. The Residential Extensions and Alterations Supplementary Planning Document 2 2018 (SPD) additionally seeks a balance between soft and hard landscaping as well as use of high quality, permeable materials; measures to minimise water run-off; and a front wall to prevent vehicle access across pavements. However, the guidance within the SPD is just that, and while it may provide an indication of harm, this is not an inevitable conclusion should a proposal not accord with its provisions.

16. The development does not provide 50% soft landscaping to the front garden or a front boundary wall. Be that as it may, the frontage is currently wholly hardsurfaced and used for parking with 2 vehicles parked at the time of my visit and it has no front boundary wall. Soft landscaping to most neighbouring properties is similarly very limited, and few have front boundary walls. In this context, the development would not appear unsympathetic or out of keeping. Moreover, the proposal includes new soft landscaping which the appellant suggests would be around 30% of the frontage area. This would be a significant uplift from the existing situation, and I find that the development would enhance both the character and appearance of the site and space available for drainage within the site overall. This is a material consideration which outweighs the guidance within the SPD, and in the absence of identified adverse visual impacts or increases in surface water run-off, I find no conflict with the requirements of Policy DMP12.
17. I therefore see no justification to require an amended layout to show just one parking space to the front of the site as suggested by the Council's Transportation consultee. I agree that the fairly narrow access to the cycle store indicated within the garden for Flat 1 would be likely to hinder convenient use, but additional provision to the front of the site could be secured through an appropriately worded condition.
18. For these reasons, I conclude on this main issue that access, parking and cycle storage would be acceptable to serve the development. Accordingly, I find no conflict with Policies DMP1 or DMP12 of the DMP which together seek satisfactory access and parking which does not negatively impact on existing parking, highways, other forms of movement or the environment.

Conditions

19. The Council has not suggested conditions in the event that the appeal is allowed. As the development has commenced, a time limit condition is not required. However, I have imposed a condition specifying the approved plans to provide certainty.
20. Given my findings on the main issues, a condition to ensure that details of vehicular access to the site and cycle storage are submitted, approved and implemented is also necessary in the interests of highway and pedestrian safety, and to encourage cycling. There is a strict timetable for compliance because it is not possible in this case to use a negatively-worded condition to secure the approval and implementation of these details before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met. The appellant was consulted on the wording of this condition.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted relates to the following approved plans: Location Plan and 16205-05-P2.
- 2) Unless within 2 months of the date of this decision, and notwithstanding the details shown on the approved plans listed at condition 1, schemes for:
 - i) vehicular access to the site from Herbert Gardens to serve the parking indicated on plan no 16205-05-P2; and
 - ii) secure storage forward of the building on the site for 2 bicycles per flat

are submitted in writing to the Local Planning Authority for approval, and unless the relevant approved scheme is implemented within 4 months of the Local Planning Authority's approval, the use and occupation of the site as 2 flats shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as schemes are approved and implemented.

If either or both of the schemes in accordance with this condition are not approved within 6 months of the date of this decision, the use and occupation of the site as 2 flats shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as schemes approved by the Local Planning Authority are implemented.

Upon implementation of each of the approved schemes specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.