



Appeal Decision

Site visit made on 29 September 2020

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/T5150/C/19/3232750

Land to the Rear of 125-127 Chalkhill Road, Wembley HA9 9AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by NNH Developments Ltd against an enforcement notice issued by the Council of the London Borough of Brent.
- The enforcement notice was issued on 30 May 2019.
- The breach of planning control as alleged in the notice is the change of use of a premises from residential accommodation ancillary to a nursing home to two self-contained flats.
- The requirements of the notice are:
 - 1) Cease the use of the premises as flats.
 - 2) Remove all items from the premises associated with the flat use.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

The appeal on ground (a) and the deemed planning application

Preliminary Matter

1. During the site visit, the appellant pointed out a nearby development that seemed to be relevant to the matters before me. The Council subsequently supplied details of the planning permission, which I have noted¹. There are several differences between the approved residential development and the development subject to this appeal. In particular, the means of access would be via Bridge Road. Therefore, the permission has limited relevance insofar as it demonstrates precedence.

Main Issues

2. The terms of the deemed planning application are derived from the allegation, hence, planning permission is sought for the material change of use of the premises to two self-contained flats.
3. The main issues are -

¹ Change of use of existing first floor (Use Class A2) space and erection of first floor extension to provide 2 x 1 bedroom flats and provision for cycle storage bays, secure storage cupboards and bin store along internal corridor, Ref 19/1018 dated 28 May 2019.

- i. whether the development provides adequate living conditions for the occupants with regard to floorspace, security, external amenity area, bin and cycle storage and access arrangements;
- ii. the effect of the development on the living conditions of neighbouring residents with regard to noise and disturbance and parking and;
- iii. the effect of the development on the character and appearance of the area.

Reasons

Living conditions – occupants

4. The appeal premises is a two-storey building located to the rear of a former nursing home. It has been converted into two self-contained flats; both were occupied at the time of my site visit. The first floor flat provides 37 sqm of total floorspace and the ground floor flat measures 42 sqm². The main access to the premises is via a service road which runs behind a commercial parade on Bridge Road. The building is sited towards the rear of the plot and there is a small area of shared garden to the front.
5. The Council argues that the development fails to comply with the adopted minimum floorspace standards, as specified in Policy 3.5 of the London Plan, which seeks 61 sqm minimum of gross internal floorspace for a two-bedroom flat. Policy 3.5 aims to ensure housing is of the highest quality internally, externally and in relation to its context. In this case, it is apparent that the flats are both limited in terms of the internal floorspace. However, they each provide two bedrooms of an adequate size, a separate bathroom and an open plan kitchen/lounge/dining area. There is sufficient natural light and a reasonable outlook for the main habitable rooms. Also, the layout of the flats is logical in terms of how they function as separate units and in relation to each other. As the appellant points out, the floorspace requirements could be made to comply with the relevant policy through some internal changes. However, this may have the undesirable effect of making them less suitable to the needs of the current and any future occupants. Overall, on the basis of the site-specific circumstances, I consider that reduced internal floorspace has not resulted in a poor quality of accommodation in this particular instance. In addition, I consider that the contribution the development makes to the provision of housing for smaller households in the Borough weighs in its favour.
6. The Council maintains that the access arrangements, via the service road, are inadequate. I saw that the access is used primarily for servicing the commercial units on Bridge Road. However, the service road is relatively wide and the appeal premises is sited within a reasonable distance of Chalkhill Road. This would enable an adequate level of surveillance and I do not consider the reliance on the access road by the occupants would increase potential for crime. The front door to the flats is hidden behind a fence but this is not unusual. There is limited evidence that this arrangement would be insecure to the extent that it would be detrimental to the occupants' safety and living conditions.
7. The service road is also used for commercial bin storage. However, the distance between the rear of the Bridge Road units, where the bins are likely to

² Taken from EPCs dated 2017.

be located for convenience of use, and the appeal premises is sufficient to ensure odour and nuisance from refuse would be within acceptable limits. Similarly, the flats are within a relatively busy neighbourhood with commercial premises and residential uses operating alongside each other. The traffic noise from the nearby roads would contribute to ambient noise levels. Given the likely activity and ambient noise levels in the vicinity, I do not consider the location to be unsuitable for residential use with regard to odour and/or noise and disturbance. With regard to bin storage to serve the flats, there is adequate space within the front garden area.

8. The front garden is not overly large but is sufficient to provide space for bin and cycle storage, along with an area of outdoor space for the use of the occupants. While this is not formally laid out, the available space is acceptable. I saw that the garden is currently used for bin storage and for child's play.
9. I conclude on this matter that the development provides adequate living conditions for the occupants with regard to floorspace, security, external amenity area, bin and cycle storage and access arrangements. The development accord with Policies DMP1, DMP18 and DMP19 of the Council's Development Management Policies Document (2016) and Policy 3.5 of the London Plan (2016) which seek to secure high quality housing, reduce the potential for crime and not unacceptably increase exposure to noise, smells and waste and general disturbance. It meets the aims of the National Planning Policy Framework (the Framework) insofar as it seeks to promote a high standard of amenity for existing and future users.

Living Conditions – neighbouring residents

10. The Council indicates that the development leads to material harm to neighbouring occupants due to noise and disturbance. The evidence to support this assertion is very limited. As set out above, the flats are within a busy neighbourhood with a medium/high level of activity. The development adjoins a service road, other flats and a relatively long rear garden. It is unlikely that the activity associated with the use of the premises as two flats would cause harm to the living conditions of neighbouring occupants given the pattern of development and the character of the area.
11. There is no dedicated parking to serve the development. Parking in the vicinity is restricted and demand in the wider area can be very high. Nonetheless, the premises is well-served by public transport and car use associated with the development is unlikely to be significant. I do not consider that any car use associated with the development would be likely to cause material harm to the neighbours' living conditions.
12. I conclude that the development would not have an adverse effect on the living conditions of neighbouring residents with regard to noise and disturbance and parking provision. The development accord with Policies DMP1 and DMP12 of the Council's Development Management Policies Document, which seek to ensure development complements the locality. It meets the aims of the Framework insofar as it seeks to promote a high standard of amenity for existing and future users.

Character and Appearance

13. The Council suggests the development would be harmful to the character of the area. The appeal premises has no street frontage, but this is not uncommon in the area, which is characterised by a mix of commercial and residential development with no established development pattern or layout. The building is of solid construction from materials that are appropriate to its use and function. I find, therefore, that the development does not have an adverse effect on the character and appearance of the area in accordance with Policy 3.5 of the London Plan and Policy DMP1 of the Development Management Policies Document, which seek to secure high quality housing development.

Conclusion

14. For the reasons given above, the appeal on ground (a) succeeds.

Conclusion

15. I conclude that the appeal succeeds on ground (a) and planning permission will be granted. The appeals on grounds (f) and (g) do not therefore need to be considered.

Formal Decision

16. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the use of the land to the Rear of 125-127 Chalkhill Road, Wembley HA9 9AL, as shown on the plan attached to the notice, for two self-contained flats.

Debbie Moore

Inspector