



Appeal Decision

Site visit made on 1 December 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2021

Appeal Ref: APP/M5450/W/20/3254734

Trinity House, 326 Station Road, London HA1 2DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (TCPA 1990) against a refusal to grant planning permission.
 - The appeal is made by Dandi Three Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2279/19, dated 17 May 2019, was refused by notice dated 28 May 2020.
 - The development proposed is the change of use of first floor from B1/D1 Use to 21 room shared living accommodation (HMO) (Use Class Sui Generis); the creation of 3rd and 4th floors comprising of 13 x shared living accommodation (HMO) (Use Class Sui Generis) to 3rd floor and ancillary amenity space to 4th floor; bin and cycle store; façade alterations.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of first floor from B1/D1 Use to 21 room shared living accommodation (HMO) (Use Class Sui Generis); the creation of 3rd and 4th floors comprising of 13 x shared living accommodation (HMO) (Use Class Sui Generis) to 3rd floor and ancillary amenity space to 4th floor; bin and cycle store; façade alterations at Trinity House, 326 Station Road, London HA1 2DR in accordance with the terms of the application, Ref P/2279/19, dated 17 May 2019, and subject to the following conditions on the attached Schedule A.

Procedural Matters

2. The description of the proposal differs between the revised application form and the Council's decision notice. Based on the submitted plans, the former accurately describes the proposal because it identifies the façade alterations to take place.
3. A Unilateral Undertaking (UU) dated 7 August 2020 is concerned with achieving a car-free development. Comments will be made on this within the reasoning of the decision. Details of the descriptions for a listed building at 315 Station Road and locally listed buildings at 329-353 station Road were requested.

Main Issues

4. The main issues are the effects of the proposal on the (a) character and appearance of the area, having regard to the setting of listed and locally listed buildings and (b) the living conditions of the future occupiers of the residential development, having regard to the sharing of communal facilities.

Reasons

Character and appearance

5. The appeal site comprises a three-storey building with a plant store above. The building also has a single storey projection across the rear. The ground floor of the building is separated into commercial units. The two upper floors have a lawful use for mixed B1/D1 commercial uses and are accessed via a communal entrance area.
6. This entrance area abuts a public access way which leads to developments of towering scale and height behind the site. The appeal building also backs onto the service road for developments to the rear. To the side of the appeal building and on the other side of the public access way from the Station Road pedestrianised area, there is a four-storey building with commercial use on the ground floors and residential uses above. The other flanking building is also four storey, having recently been extended, with commercial use on the ground floor and residential uses above, and with the upper floor set back from the front elevation.
7. The immediate area is within the Harrow Metropolitan Centre and Primary Shopping Area, Harrow and Wealdstone Opportunity Area, Protected Views Setting Corridor and Protected Views Restricted Corridor. There are buildings of two to three storey of more traditional design on both sides of Station Road but there is equally more modern development, differently scaled and designed. Thus, there is varied built-up character and appearance to this area.
8. The proposed HMO change of use would convert the existing building first floor and undertake external façade alterations to this and the second floor above. Above the second floor, there would be an additional storey with HMO units at third floor and at the fourth floor, there would be a stepped back top storey with communal facilities. The proposal does not propose any change of use of the second floor.
9. The extended building's scale and height would be greater than those immediately around it. However, there is significant variation in building scales and heights in the surrounding area. Furthermore, in the immediate area, the increased scale and height would comprise just one storey relative to adjacent buildings and would be stepped in from the footprint edges of the appeal building. The design and finishes of the additional storeys would be similar to the converted and altered storeys below. Overall detailed design would be in keeping with an area characterised by a mixture of modern and traditional styles. For all these reasons, the extended and altered building's scale, massing, bulk and design would not be prominent and overbearing within the area.
10. There is a Grade II listed building at 315 Station Road which was built in the early twentieth century. This bank building has a classical design, red brick construction and a grandiose quality. It is these architectural and historic qualities which are of significance and are appreciated in views up and down Station Road. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.

11. There is a row of locally listed buildings at 329-353 Station Road which have commercial ground floor frontages. Nos 329 and 331 have Georgian style upper floor with parapet and mansard type roof with dormers and openings. The remaining locally listed buildings have a matching traditional style consisting of white coloured two storey bays and projecting gables above. The gables have distinctive white vertical timber boarding inlaid within a white triangular frame. Although these buildings are non-designated heritage assets, these architectural and historical qualities are of significance.
12. However, the additions and alterations would not be domineering in design or scale, and would be in keeping with the modern style of the original building. They would also be separated by considerable distance from these designated and undesignated heritage assets. For all these reasons, the significance of these heritage assets would not be harmed. In accordance with the statutory test detailing special regard, there would be no harm to the desirability of preserving the setting of the listed building at No 315. The absence of harm is confirmed by the Council's Conservation Officer.
13. For all these reasons, the development would not harm the character and appearance of the area, having regard to the settings of national and local listed buildings. Accordingly, the proposal would comply with Policy AAP4 of the Harrow and Wealdstone Area Action Plan 2013, Policy DM 7 of the Harrow Development Management Policies (DMP) 2013, Policy CS1 of the Harrow Core Strategy 2012 and Policies 7.6 and 7.8 of the London Plan (LP) (2016).

Living conditions

14. Each proposed HMO unit would have floorspace, including bedrooms, which would exceed the relevant space standards as set out in the LP Policy 3.5, draft London Plan 2019 Policy D6 and DCLG Technical Housing Standards - 2015, and feature en suite facilities. The fourth floor would have shared communal spaces, including kitchens, dining areas, living areas, a gym, a library area, and feature a laundry room. The dining area would have a maximum capacity for 36 persons and seven cooking stations. Additionally, the outside balcony would provide a communal recreation area, including for outside dining and workout.
15. The HMO residents would not be able to rely exclusively on the facilities provided in their rooms but must use (to a greater or lesser extent) the communal facilities provided, such as kitchens, living areas and external amenity space. A significant number of residents would be unrelated to one another. However, there is no evidence before me that this would result in a poor living environment for residents and future residents would be fully aware of the communal living facilities, that the scheme relies upon, on taking up occupation. The extent of communal facilities would also be significant and furthermore, it is unlikely that all residents would use all the communal facilities, such as kitchen or living areas, at the same time.
16. For all these reasons, the proposal would provide a good quality of accommodation taking into account the development's layout, number of unrelated people within it, and type and extent of shared facilities. Accordingly, the proposal would comply with Policy AAP4 of the AAP and Policy DM 30 of the DMP.

Unliteral Undertaking

17. The obligation is concerned with achieving car-free development and requires developer to notify all HMO occupiers that they will not be eligible for a Council resident/visitor vehicle parking permit. Within any sale of contract, there would be a covenant that any HMO resident should not apply for a permit or knowingly permit an application to be made for a permit by any persons residing in the HMO and if such a permit is issued, it shall be surrendered within 7 days of request from the Council. All advertising or marketing of the units shall also indicate that owners, residents, occupiers or tenants are not entitled to apply for a permit. The only exception, to these requirements, are persons who are holders of a Blue Badge for the disabled.
18. Under TCPA 1990, section 106(1) sets out that a planning obligation may be used for restricting the development or use of the land in any specified way, but the above obligations would seek to control the actions of persons rather than the use of land. Having regard to the paragraph 56 tests within the National Planning Policy Framework, this obligation is therefore not enforceable. It would not be lawful to take it into account as a reason for granting planning permission.
19. Nevertheless, the application site is located within an area with a high Public Transport Accessibility Level (PTAL) and the location of the development would be highly accessible for services, such as shops, restaurants, cafes, etc. Cycle parking provision would be available on the site for residents. The small-scale nature of the HMO units would also be unlikely to generate any significant car parking needs. Accordingly, the lack of obligation car-free restrictions would not result in unacceptable impact on highway safety or severe residual cumulative impact on the road network. Similarly, it would not harm sustainable transportation objectives.

Conditions

20. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the guidance. As the development concerns internal alterations and upward extension of an existing building, there are pre-commencement condition requirements for the approval of details for some conditions.
21. For the avoidance of uncertainty and to allow for applications for minor material amendments, a condition is necessary specifying the approved drawings. In the interests of character and appearance of the area, conditions are necessary setting out the requirements for external materials of the alterations and additions, waste storage and cycle provision, and communal home entertainment external apparatus.
22. To protect the living conditions of residents, conditions are necessary to require the implementation of a construction method statement, privacy screens, lighting, noise limits on operating air ventilation and plant machinery, and noise mitigation measures. To promote sustainable housing construction and transportation, conditions are necessary to require suitable energy measures, electric vehicle charging points and cycle provision. As parking is restricted on site, the suggested electric charging point condition has been amended.

Conditions are necessary to secure disabled and service vehicle parking in accordance with planning policy and need.

23. The Council has provided no evidence on the need for security standards and the accommodation is above ground level accessible by a ground level secure entrance point. The suggested condition requiring Secured by Design Certification for the dwellings is therefore unnecessary. A condition requires no music or any other amplified sound being audible at the boundary of any residential premises either attached to, or in the vicinity of, the premises to which this permission. In the absence of any yardstick to measure audibility, such a condition is unenforceable and, in any case, the evidence justifying the need for such a restriction has not been submitted.
24. Turning to any requirement for a travel plan, the proposal would not generate significant private vehicle movements given the nature of accommodation and the residents' good accessibility to services and facilities and therefore, such a plan is not necessary in this instance.

Conclusion

25. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 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 following approved plans:; L(00)040 Rev P2; L(00)041 Rev P2; PL(00)141 Rev P3; L(01)040; L(01)041 Rev P2; L(01)042; L(01)043 Rev P2; L(01)044 Rev P2; L(01)140 Rev P3; L(01)141 Rev P3; L(01)142 Rev P3; L(01)143 Rev P4; L(01)144 Rev P4; L(01)145 Rev P2; L(02)040 Rev P2; L(02)041 Rev P2; L(02)042 Rev P2; L(02)140-1 Rev P2; L(02)140 Rev P2; L(02)141 Rev P2; L(02)142 Rev P2; L(02)0143; L(02)144; L(02)145; L(03)040 Rev P2; L(03)041 Rev P2; L(03)042 Rev P2; L(03)140 Rev P2; L(03)141 Rev P2 and L(03)142 Rev P2.
- 3) No development shall commence until samples and details of the materials to be used in the construction of the external surfaces of the alterations and additions, hereby permitted, have been submitted to and approved in writing by the local planning authority. The required samples shall be for the main external construction facing whilst the required details shall be for typical window/doors, balcony railings and privacy screens for amenity areas, and external staircase and rainwater goods. Development shall be carried out in accordance with the approved samples and details.
- 4) Notwithstanding the details shown on the approved plans, no development shall take place until elevation and plan details showing the number, location/layout and enclosure treatments of all waste storage bins have been submitted and approved in writing by the local planning authority. The approved details shall be implemented on the site prior to first occupation of the permitted development and retained as such thereafter. The refuse bins shall always be stored within the designated refuse storage area as shown on the approved elevation and plans details.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) the loading and unloading of plant and materials;
 - iii) the storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) measures to control the emission of dust and dirt during construction;
 - viii) measures for the control and reduction of noise and vibration measures; and

ix) how construction traffic would be managed to minimise disruption.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) Notwithstanding the details shown on the approved plans, no development shall take place, other than works of demolition, until the following details has been submitted to, and approved in writing by, the local planning authority:
- i) Full and amended details (including elevations, plans, materials and finishes) of the proposed cycle storage, which shall be secure and sheltered and shall include 5% accessible provision, which shall be accessible to occupants of the development only;
 - ii) Details of the 9 visitor cycle spaces storage provision, which shall be accessible to non-occupiers of the development;
 - iii) Details of the proposed privacy screens for the external amenity space; and
 - iv) Any external lighting proposed, if any, for the external amenity space

The development shall be carried out in accordance with the details as so agreed and the proposed cycle storage and privacy screens shall be in place prior to the first occupation of the development and retained thereafter in that form thereafter.

- 7) Notwithstanding the details shown on the approved plans, no development shall take place other than preparatory site works until details until details of sustainable design and energy efficiency measures have been submitted to and approved in writing by the local planning authority. Such measures shall comprise air source heat pumps, energy efficient mechanical ventilation and heat exchangers, and solar photovoltaic modules. These measures shall be fully operational prior to the first occupation of the development hereby permitted.
- 8) Prior to the first occupation of the development, details of electric charging points for the two disabled parking bays shall be submitted to and approved in writing by the local planning authority. The bays shall be constructed in accordance with these approved details prior to their use for the parking.
- 9) Prior to the first occupation of the development, details of a strategy for the provision of communal facilities for television reception (including aerials, dishes and other such equipment) shall be submitted to the local planning authority in writing to be agreed. Such details shall include the specific size and location of all equipment. The approved details shall be implemented prior to the first occupation of the development and shall be retained thereafter. No other television reception equipment shall be introduced onto the walls or the roof of the building without the prior written approval of the local planning authority.
- 10) No residential unit shall be occupied until the parking spaces have been laid out within the site in accordance with drawing no. L(00)141 Rev P3. The 2 residential parking bays shall be used solely for persons with a blue badge for the disabled and the commercial bay shall be used solely for short term parking of persons employed in servicing the permitted development. The rear area shall not be used for the parking of vehicles

by occupiers of the permitted development other than as specified within this condition.

- 11) The proposed mitigation measures of the Noise Impact Assessment [Report ref: 19270.NIA.01] shall be implemented on the site prior to the first occupation of the development and shall be retained as such thereafter.
- 12) The rating level of noise emitted from any plant, machinery and equipment on the site, shall be lower than the existing background level by at least 10 LpA. Noise levels shall be determined at one metre from the boundary of the nearest noise sensitive premises. The measurements and assessments shall be made in accordance with BS 4142:2014. The background noise level shall be expressed as the lowest LA90 (10 minutes) during which the plant is or may be in operation. Before any plant is used, measurements of the noise from the plant must be taken and a report / impact assessment demonstrating that the plant (as installed) meets the design requirements, shall be submitted and approved in writing by the local planning authority.
- 13) Any extraction plant, air conditioning units and any other plant or equipment that is required on the exterior of the building shall be installed in accordance with details to be submitted to and approved in writing by the local planning authority.