
Appeal Decision

Site visit made on 27 May 2021

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/T5150/W/21/3266414
66 Harrow Road, Wembley HA9 6PL

- 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 S Khan against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/3147, dated 2 October 2020, was refused by notice dated 25 November 2020.
 - The development proposed is the conversion of the rear of the ground floor shop to a self-contained studio flat area 43.2 m2.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since planning permission was refused the London Plan 2021 (LP) been published. This post-dates the date of the Council's refusal notice and now forms part of the development plan for the area. It replaces the London Plan 2016 as referred to in the Council's refusal notice. I have taken into account the LP in respect of the determination of this appeal.
3. Reference has been made to the Draft Brent Local Plan (DBLP). The Council has confirmed that there are no relevant policies in the DBLP in respect of the determination of this appeal.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of the proposed flat in respect of outlook, noise and disturbance.

Reasons

5. The proposed ground floor has previously been used for storage purposes in association with the ground floor shop. The appellant has indicated that the space is no longer required for the shop. It is proposed to utilise this space as a self-contained studio flat and with the only window serving habitable room space being to the rear elevation which abuts the rear access/service road.
6. The evidence before me indicates that there is potential for a high level of pedestrian activity along the rear access road. While rear of the nearby Islamic Cultural Centre (ICC) is gated on the access road, the evidence is that pedestrians do nonetheless also enter the building at this point. Indeed, on my site visit I was able to observe that there were signs on the front doors of the

ICC building (i.e. fronting Harrow Road) which said, '*entrance at the back*'. I was also able to see that directly opposite the appeal property, and immediately before the ICC access gate, was a door leading into what was labelled '*girls class 4*'. In addition, the evidence is such that there would also be pedestrian activity close to the proposed rear window of the appeal property in connection with use of existing upper floor residential units via the rear of the neighbouring pharmacy.

7. In order to ensure that there was an acceptable level of privacy for occupiers of the proposed flat, it would be necessary to ensure that at least part of the rear window was obscure glazed. While it may be possible to have less of the rear window obscure glazed than shown on the submitted plans, owing to the differences between the internal floor level and external floor level, this would still have the effect of leading to an enclosing and austere internal living environment for future occupiers leading to a poor level of outlook. This harm would be particularly severe in the context that there are no other windows serving habitable room space.
8. In this case, there would be a need for a large amount of obscure glazing to the rear window in order to ensure that the occupiers of the proposed flat had an acceptable level of privacy given the very close proximity of the window to the access road and the potential for many pedestrians to either congregate or to pass by. While the provision of a non-obscure glazed window would suitably address outlook concerns, this would lead to other harm in respect of unacceptable overlooking from those that pass by.
9. Unlike other residential properties in the immediate locality, which are at higher level and set well back from the access road, the proposed residential unit would be at ground floor level and tight up against the access road. The evidence indicates that this access road is used by visitors to the ICC, the adjacent pharmacy and some of the higher level existing flats.
10. Despite the Council's concerns, I do not consider that there would likely be any significant noise or disturbance from service vehicles close to the appeal site given the position of the gated entrance to the ICC. Indeed, this represents a barrier to any vehicular movements to other properties in the rest of the terrace.
11. It is of note that the ICC is a very large building and therefore there is a possibility of large numbers of people using the rear entrance. My site visit was only a snap shot in time and there were very few people visiting the ICC. However, and in the absence of any objective evidence to the contrary, owing to the size of the ICC, I consider that it is reasonable that I take the view that there is potential for very many visitors to this neighbouring property and, given the signs to the front of the ICC building, for most to use the rear access close to the appeal building. Indeed, this view is supported by the appellant's comment where he says '*the footfall to the Islamic Cultural Centre ensures there is daily activity within the area and therefore some degree of natural surveillance*', and the comment made by those that have signed the petition of support who say that the rear service road is '*mainly used for pedestrians to access their flats or the Islamic Cultural Centre*'.
12. Owing to the position of the proposed flat, and its very close proximity to the rear access road, I consider that there is potential that from time to time its occupants would therefore be subject to unacceptable levels of noise and

disturbance particularly from pedestrian activity associated with the ICC. This harm would be compounded, to a limited degree, by noise and disturbance associated with accessing nearby existing flats or from access to the rear of some of the neighbouring commercial properties.

13. I accept that the gate to the rear of the ICC is positioned away from the appeal development, but I am not persuaded that there is not the potential for large numbers of people to either gather outside or to walk close to the proposed flat in what is a relatively confined space. There is potential for this to be a particular problem at the beginning or end of events that may take place in the ICC or indeed for there to be prolonged periods of noise and disturbance from a steady flow of visitors using the ICC. In fact, the level of noise and disturbance has the potential to be on such a scale that occupiers of the proposed flat would be reluctant to open the rear window for ventilation purposes. In turn, this would also contribute to what would be an oppressive internal living environment.
14. For the reasons outlined above, I am unable to find that the development would lead to acceptable living conditions for occupants of the proposed flat in respect of outlook, noise and disturbance. Therefore, I conclude that the proposal would not accord with the amenity and design requirements of policy DMP1 of the Brent Development Management Policies 2016; Brent's Design Guidance SPD1 2018; policy D6 of the LP and paragraph 127(f) of the National Planning Policy Framework (the Framework).

Other Matters

15. I acknowledge that the provision of one additional dwelling would add to the choice of housing stock and would seek to boost the supply of houses in the area.
16. I accept that the proposal would result in the unblocking of a door and windows on the side elevation of the building. To this extent, there would be some improvement to the appearance of the building. However, these changes would be relatively minor and, furthermore, I am not persuaded that such improvements could only be made to the building in association with the appeal proposal.
17. I note the supportive comments made by a number of interested parties and the view expressed that there are other flats in London which have similar outlook arrangements and that this would be a matter of choice for any future tenant. I am not aware of the other similar flats in London and have, in any event, determined this appeal on its individual planning merits. Furthermore, chapter 12 of the Framework requires developments to be of good design and a high standard of amenity for existing and future users.
18. While there would be some social, economic and environmental benefits arising from the proposal, they would not be very significant from the creation of one studio flat and would not alter or outweigh my conclusion on the main issue which is a matter of overriding concern.

Conclusion

19. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in

accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR