
Appeal Decision

Site Visit made on 20 July 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2021

Appeal Ref: APP/A5270/W/21/3267467

16 Priory Gardens, Ealing W5 1DX

- 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 Niko Elezi against the decision of the Council of the London Borough of Ealing.
 - The application Ref 201349FUL, dated 1 April 2020, was refused by notice dated 20 August 2020.
 - The development proposed is described on the application form as 'Converting of a mid terraced house into two self contained flats: 2-bedroom flat on the ground floor and 2-bedroom flat on the 1st and 2nd floor. This proposal includes using already converted loft space as a bedroom'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development as provided on the planning application form does not accurately reflect the plans submitted to the Council. The proposed floor plans submitted to the Council show one bedroom annotated within the proposed ground floor flat (Flat 1) and one bedroom annotated within the proposed first and second floor flat (Flat 2). This is the basis upon which the Council considered the application.
3. I have sought clarification from the appellant with regard to the description of development. The appellant asserts that two 2-bedroom flats are proposed but then goes on to state that Flat 1 would comprise a 1-bedroom flat and Flat 2 would comprise a 2-bedroom flat. Therefore, the response is contradictory and does not sufficiently clarify the description of development.
4. In addition, the description of development as included on the decision notice refers to a 'retrospective' application. However, when I visited the site, I noted that there are currently 5 bedrooms. Flat 1 currently comprises 2 bedrooms and Flat 2 comprises 3 bedrooms. As such, based on the submitted plans, the application is not retrospective.
5. Having considered all of the representations received, the various descriptions provided and the submitted plans, I consider that the application relates to the conversion of a dwelling into two self-contained flats. I must consider this appeal based on the plans submitted to the Council which show two 1 bedroom flats. However, there are a number of rooms which are not annotated, which could be utilised as additional bedrooms. The inconsistencies highlighted above

support this assertion. I have therefore also considered the implications of this for this appeal.

6. The plans included within the appellant's appeal statement are not accurate and are inverted such that the front door is on the left-hand side of the plan as opposed to the right-hand side (the correct side). I have therefore not taken them into account. In any case, they appear to be shown within the appellant's statement for illustrative purposes only.
7. The application form submitted to the Council does not include a declaration date, as such I have taken the submission date from the appellant's appeal form.
8. Since the appeal application was decided, the London Plan (2021) has been published and is now part of the development plan. The previous policies have therefore been replaced. In relation to this matter, I have sought further representations from the Council and the appellant, and I have taken these into account accordingly.
9. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Both parties were invited to provide representations in relation to the revised Framework. Neither party responded. However, given that the Framework was not cited within the reasons for refusal and has not been referred to by either party, I have focussed my assessment on the relevant development plan policies.

Main Issue

10. The main issue is whether the proposed development would provide an acceptable standard of accommodation for future occupiers of the ground floor flat (Flat 1) and the first and second floor flat (Flat 2), with particular regard to the amount of floor space which would be provided.

Reasons

11. The proposed development is for the conversion of a dwelling into two self-contained flats. The Council's case report includes details of the planning history of the appeal site. It appears that a previous application¹ was refused for a similar development to that which is currently proposed and that an enforcement notice² was subsequently issued. However, neither party has provided me with copies of these decision notices or the associated plans. Notwithstanding this, the evidence before me indicates that the two existing flats do not currently have planning permission.
12. The Council's reason for refusal refers to the Technical Housing Standards – nationally described space standard document (Technical Standards), published in March 2015. These standards are reflected in Table 3.1 of London Plan Policy D6 and the Housing Supplementary Planning Guidance 2012 (SPG). Table 3.1 associated with London Plan Policy D6 clearly states that these standards are applicable to conversions.

¹ Council application reference 178841FUL

² Council enforcement reference 19EN0911

Flat 1

13. The Technical Standards set out two minimum floorspace standards, Gross Internal Area (GIA), for one-bedroom flats. They relate to dwellings that provide accommodation for one person (39sqm) and dwellings that provide accommodation for two people (50sqm). The appellant has indicated that Flat 1 would provide accommodation for 2 people and as such the 50sqm minimum standard applies.
14. The submitted plans show that Flat 1 would comprise a number of rooms, one of which is annotated as a bedroom. One of the rooms is not annotated but could be utilised as a bedroom. The appellant has stated that they consider that the floorspace provided would total 63sqm. The Council has concluded that the floorspace would total 39.35sqm. Given the discrepancies between the parties figures I have calculated the floorspace proposed based on the dimensions indicated on the submitted plans. Based on the dimensions provided, Flat 1 would provide a GIA of approximately 48sqm. The front door of Flat 1 would be accessed off the hallway and as such the stairs and hallway as shown on the submitted plans are a communal area outside of the flats. Therefore, this area is excluded from the GIA.
15. Flat 1 would therefore fall short of the minimum floorspace standards for a one-bedroom flat. If the additional room shown on the plans, which is not annotated, is used as a bedroom, then Flat 1 would fall even further short of the minimum standards.
16. The Technical Standards also provide minimum floorspace standards for double bedrooms, which should have a minimum GIA of 11.5sqm. The Council has suggested that this bedroom would only provide a floorspace of 7.56sqm. The appellant has not addressed this part of the Council's case within their representations and there is no evidence before me to suggest that the figures provided by the Council are incorrect. Indeed, having reviewed the plans, I consider that the proposed double bedroom within Flat 1 would provide less than the minimum floorspace required under the Technical Standards and set out under London Plan Policy D6.
17. The proposed development would therefore provide substandard accommodation, which would be harmful to the living conditions of future occupiers of Flat 1.

Flat 2

18. With regard to Flat 2, the submitted plans show one bedroom annotated. The Council and the appellant have provided differing floorspace figures of between 78.82sqm and 80sqm for Flat 2. Having reviewed the plans, I consider that both parties have underestimated the level of floorspace which would be provided. Flat 2 is accessed from the ground floor and therefore the upper landing and stairwell are included within the GIA³. I consider that the GIA exceeds 89sqm. As such, Flat 2 would exceed the minimum floorspace standards in respect of a one-bedroom flat.
19. The appellant has indicated, in his written representations, that Flat 2 would provide 2 bedrooms, accommodating four people. The Technical Standards set a minimum standard for floorspace (GIA) of 79sqm for two storey dwellings,

³ Technical Standards Paragraph 8 provides guidance on calculating GIA

comprising 2 bedrooms for four people. Therefore, if Flat 2 is considered to comprise 2 bedrooms it would still exceed the minimum standards.

20. During my site visit, I noted that the second floor is not significantly constrained in terms of floor to ceiling height. This is partly due to the fact that there is an existing dormer extension which provides an adequate floor to ceiling height on the second floor. In any case, the Technical Standards state that the minimum floor to ceiling height should be 2.3m for at least 75% of the GIA. I conclude that the proposed development would comfortably exceed this standard.

Summary

21. The proposed internal floorspace in respect of Flat 2 would provide an adequate standard of accommodation and as such would not be harmful to the living conditions of future occupiers of this flat. However, this does not outweigh my findings in relation to the harm which would be caused by the substandard accommodation of Flat 1 and the harmful effect that this would have on the living conditions of future occupiers.
22. My conclusions in this regard are not solely based on the conflict with the minimum standards set out under the Technical Standards. They are also based upon my observations during the site visit and an assessment of all of the evidence before me. As such, even taking a more qualitative approach, I consider that Flat 1 would not provide an adequate standard of accommodation for future occupiers.
23. The proposed development would therefore conflict with DMPDP⁴ Policy 3.5, London Plan Policy D6, the Technical Standards and the SPG, all of which set out the minimum space standards for residential development such that adequately sized rooms with comfortable and functional layouts are provided.
24. The Council's reason for refusal also refers to 'Ealing's development (Core) Strategy 2026 and Ealing local variation to London Plan'. However, no specific policies have been referred to and the Council's case report does not identify any specific conflict with policies in either of these documents. As such, I have not identified any conflict with them.

Other Matters

25. The appellant suggests that the proposed development would retain the existing appearance of the building as a larger family house. Whilst this may be the case, this does not outweigh the harm caused by the substandard accommodation and the harmful effect that this would have on the living conditions of the future occupiers of Flat 1.
26. The appellant asserts that the 'rear of the property benefits from a lawful ground floor rear extension that would be used to form part of the ground floor flat'. It is not clear whether the appellant is asserting that the existing property has been extended or that there is an existing consent for an additional extension to the ground floor. However, if the former is true, then I have taken this into account in assessing the proposed floorspace for Flat 1. If the latter is the case, then no evidence has been provided to substantiate this position and as such this is not a consideration to which I can attribute any weight.

⁴ Ealing Development Management Plan Development Plan Document 2013

27. The proposed development would result in a net increase of one dwelling to the Borough's housing stock. There would be social and economic benefits associated with the increase in housing stock. However, these benefits would be limited given the small scale of the proposed development. As such, I afford these benefits only moderate weight and they would not outweigh the harm that the development would cause.

Conclusion

28. The proposed development would result in substandard accommodation in respect of Flat 1. As a result, there would be a harmful impact upon the living conditions of future occupiers of this flat. The proposed development would therefore conflict with the development plan taken as a whole. There are no other considerations which indicate that a decision should be made other than in accordance with the development plan policies. As such, I conclude that the appeal should be dismissed.

Luke Simpson

INSPECTOR