



Appeal Decision

Site visit made on 10 August 2021

by B.S.Rogers BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2021

Appeal Ref: APP/M5450/C/20/3252137
204 Harrow View, Harrow, HA2 6PL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Shams Kassam against an enforcement notice issued by the Council of the London Borough of Harrow.
 - The enforcement notice was issued on 2 April 2020.
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the single storey rear extension to shop from ancillary retail (Class A1) to a self contained flat (Class C3).
 - The requirements of the notice are 1. Cease the unauthorised use of the single storey rear extension to shop as a self contained flat; 2. Remove all paraphernalia associated with the conversion of the rear single storey extension to a self contained flat, including (a) the kitchen, (b) bathroom and (c) all internal partitions; 3. Remove from the land all materials and debris arising from compliance with the aforementioned requirement of the notice.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (e) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeal on ground (e)

2. The appellant states that a copy of the notice was posted to his former address, not to his current address at the time the notice was issued. However, the promised evidence to substantiate this claim has not been submitted and the appellant has not pursued this ground in his statement of case. The appellant appears to have been aware of the notice in good time to pursue this appeal and, in my view, he has not been substantially prejudiced by any error that may have occurred. The appeal on ground (e) fails.

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

3. The appeal property is located on the west side of Harrow View and comprises a retail parade of shop units with two floors of flats above. The appeal relates to one of two single storey rear extensions erected pursuant to the grant of planning permission ref: P/1478/14 in September 2014 for "*Demolition of existing single storey rear extensions at 204-214, replacement with single*

storey rear extensions for use as work area at the rear of the dry cleaners (Use Class A1) and a showroom at the rear of the bathroom shop (Use Class A1)". The extension to the rear of no.204 has been converted into a self-contained flat.

4. The development plan comprises the London Plan, the Harrow Core Strategy and the Harrow Development Management Policies Local Plan. These are supported by Technical Housing Standards, the Mayor's Housing Supplementary Guidance and the Supplementary Planning Document Residential Design Guide (SPD). Together with the National Planning Policy Framework (NPPF), they seek a high quality of design which reflects the local context and provides suitable living conditions for present and future residents.
5. The scale, form and design of the extension were approved under the 2014 planning permission and the physical form of the development does not appear incongruous in this context.
6. The principle of residential development in this general location is not disputed by the Council. There would be no loss of a retail unit in this parade. This is a predominantly residential area and there are flats on the upper floors of this and of neighbouring buildings. The retention of the flat would increase the housing stock in line with the objectives of the London Plan. Accordingly, the main issue in this case is whether the flat in question provides suitable living conditions for its present and future occupants.
7. The flat in question is stated to have a floor area of 37.65 m² and includes a lounge/kitchen a bedroom and a shower/wc room. It exceeds the minimum gross internal area required by the London Plan for a one bedroom flat of 37m². It is submitted that this flat could be further enlarged by extending into the adjacent part of no.204, which appears to be undergoing conversion to a separate residential use. However, an appeal on ground (a) can only relate to the development set out within the breach of planning control; in this case that relates solely to the present change of use of the single storey rear extension.
8. The flat gains pedestrian access via an alley alongside no.204, which has a lockable security gate; there is no direct access from Harrow View as exists for the upper floor flats. The alley leads into a concrete surfaced rear service yard/garage court which was virtually full of parked cars at the time of my visit. The door to the flat opens directly onto this yard.
9. The adopted SPD states that all habitable rooms such as living rooms and bedrooms must benefit from an external window providing natural light and a means of outlook. There are windows to the living room, kitchen area and bedroom. However, they are modest in size, apparently to give some privacy to the residents and, as a result, allow little light to enter the flat. My site visit was conducted on a very bright and sunny day, yet much of the flat was very dark and the occupants needed the lights to be on. It is suggested that additional high level windows or rooflights could be added to improve daylighting. However, I consider that would only have a limited beneficial effect and would not be sufficient to outweigh the disadvantages inherent in this unsatisfactory location for a dwelling.
10. The windows offer a very limited and unsatisfactory outlook, particularly the bedroom window into the side alley. The principal aspect is of parked cars in the service yard. I note that some of the flats in the upper floors have some

aspect over the rear service yard but their elevated position gives more opportunity for a better outlook and for better standards of daylighting.

11. Given the number of cars parked in close proximity to the flat and the presence of several lock-up garages close by, I consider that the occupants of the flat must suffer considerable noise and disturbance at very close quarters from both pedestrian and vehicle movements.
12. In conclusion on the main issue, whilst the provision of an addition dwelling is desirable in principle, this does not override the need for such provision to be made in a way that achieves acceptable living conditions for the residents in accordance with local and national policy. The development clearly fails to do this and it is therefore not in accordance with the development plan.
13. Turning to other matters, because of the highly accessible location by public transport, there is no requirement for car parking provision. However, cycle provision is required by the London Plan, as are suitable facilities for storage of refuse. It is suggested that both of these requirements could be provided by replacing the adjacent outbuilding with a suitable storage building.
14. As the flat is not considered to be a family unit, there is no development plan requirement for outdoor amenity space; there are locally accessible green areas.
15. The appellant has submitted that the flat would have been permitted development had the need for prior approval been met. However, it was not met and I have no way of knowing if such approval would have been granted.
16. None of the above considerations alter my view that the development is unacceptable. Therefore, for the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

B.S. Rogers

Inspector