



Appeal Decision

Site visit made on 21 September 2021 by A J Sutton BA (Hons) DipTP MRTPI

by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2021

Appeal Ref: APP/T5150/W/21/3275262

45 Kilburn High Road, London, NW6 5SB

- 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 Michael Rubinow against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/0477, dated 4 February 2021, was refused by notice dated 16 April 2021.
 - The development proposed is described as 'Reconfiguration of internal space, with a mansard extension to provide an additional 4 rooms within an existing 6 bedroom HMO. With 2 no. shared kitchens, dining and sanitary facilities. Reinstate decorative cornice to front elevation.'
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Accordingly, the parties have been provided with a further opportunity to make submissions in respect of the publication. The comments received have been taken into account within the appeal decision.
4. My attention has been drawn to emerging development plan policies. The Draft Brent Local Plan has been subject to examination and is at a comparatively advanced stage. However, it is not part of the development plan, and I therefore attach only moderate weight to it and the policies therein.

Main Issue

5. The appeal property forms part of a terrace which is locally listed and described as an impressive parade of shops with residential accommodation above in the Italian Renaissance Revival style. It is also within the South Kilburn Conservation Area. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas

that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

6. The Council has concluded that the proposed mansard roof and dormers would be in character with the property. It would be set back and would match in terms of detail and fenestration that existing at No 45. The reinstatement of historic architectural detail at a high level would make some improvement to the existing façade and its contribution to the prominent period terrace. As such I agree with the Council's conclusion on this matter and the proposal would preserve the character of the Conservation Area.
7. The Council has also concluded that the principle of non-self contained accommodation has been established at the property and this is not a matter that is in dispute between the parties.
8. The main issue is therefore whether the proposal would provide satisfactory living conditions for the future occupants, with regards internal communal space.

Reasons for Recommendation

9. The appeal property comprises bedrooms on the first, second and third floors. A further bedroom is located in the basement with access to an internal communal staircase. Submitted plans also show a shared kitchen/living space on the second floor which at the time the site visit was conducted was not accessible. There appeared to be no external private space for existing occupants.
10. The proposal would create ten non self-contained single rooms with en-suite facilities. Two communal kitchen and living spaces would be provided on the first and third floors.
11. The Council does not have any adopted local plan policies setting out minimal internal floorspace standards. In accordance with the guidance contained within the Planning Practice Guidance (PPG), I have not had regard to the nationally described space standards contained within the Government's Technical housing standards. However, Policy DMP 20 of the London Borough of Brent Local Plan Development Management Policies (Local Plan) provides support for accommodation with shared facilities subject to satisfying certain criteria, which includes, ensuring development is of an acceptable quality making appropriate standards for the needs of its occupants, including appropriate communal facilities. The supporting text elucidates that the policy seeks to create a good standard of accommodation.
12. The two communal areas would be convenient in terms of location and access for future occupants. However, despite high ceilings and large windows, the spaces would be exceedingly narrow. Moreover, whilst the images submitted show small kitchens and furniture for the dining and living spaces, the layout would be extremely tight when used by occupants.
13. The kitchens shown indicate limited lengths of worktops. They would not be of a sufficient length to be practical for the preparation of meals, washing up and other activities that would reasonably take place in a kitchen used by five adults. There would also be minimal storage space for food and equipment belonging to the future occupants. Indeed, it is unclear from the submitted evidence how essential appliances, such as a refrigerator, could be

satisfactorily accommodated whilst still maintaining adequate space for other functions necessary for acceptable living conditions.

14. The communal spaces would only be capable of accommodating modestly sized furniture shown as dining tables and sofas. Although I have had regard to the computer-generated imagery submitted by the appellant, I am not persuaded that the living space combined with the limited kitchen space, would provide a sufficiently practical, comfortable or appealing social spaces for future occupants in which to relax or entertain visitors. Securing a reasonable quality of internal communal space would be of particular significance in a property that would have single rooms and that would be devoid of outside space. The layout could be altered but given the limited dimensions and shape of the rooms, I am not persuaded that they would adequately function as satisfactory communal areas for the quantum of occupation proposed. Arrangements for periodic cleaning and maintenance checks would not address the unsatisfactory living conditions that would arise from this development.
15. In this respect the proposal would not provide an appropriate standard of living conditions for future occupants.
16. I accept that the reinstatement of the cornice would make a modest improvement to the external appearance of the property. The proposal would make a limited contribution to the supply of residential units that are well related to services and public transport and would make efficient use of the site. The internal shared halls and stairways and decorative condition of bedrooms would be improved. Although in need of refreshing, the existing internal areas of the property appeared in reasonable condition and therefore this improvement in living standards would be of limited benefit. The communal space would also be more conveniently located which would be of some benefit to occupants of the basement room. These benefits weigh moderately in favour of the proposal however, they would not outweigh the harmful aspects of the development outlined above.
17. No evidence has been provided regarding the letting arrangements to Brent Council. Nor have I been provided with any certainty that the property would be made available to people with mental health issues. Regardless, even if this could be ensured this would not justify a proposal that would result in an unacceptable quality of living conditions for future occupants, and I have attached limited weight to this matter accordingly.
18. In light of the foregoing, the proposal would not provide satisfactory living conditions for the future occupants, with regards internal communal space. It would be contrary to policies DMP 1 and DMP 20 of the Local Plan which collectively, amongst other matters, state that development will be acceptable provided it is of a design that provides a high level of internal amenity.
19. The appellant has drawn my attention to the policies of the London Plan 2021, the Brent Core Strategy and supplementary planning guidance. However, these documents have not been relied upon to justify the proposed development with the focus on the policies of the Local Plan and in the absence of any details or analysis, they have not been determinative in this case.
20. There is no dispute that the proposed bedrooms and communal spaces would meet and in this instance exceed the standards set out in the Brent licensing requirements for Houses of Multiple Occupation (HMO). However, although I

note the reference to the licensing requirements is set out within the accompanying text to Policy DMP 20, this does not preclude a qualitative assessment of the accommodation provided, as has been undertaken in this instance. Furthermore, Appendix 1 of the requirements clarifies HMO amenities and standards are provided as guidance. I have found in this case, given the circumstances outlined above, that the two communal spaces would provide a poor standard of living conditions and the development would therefore conflict with Local Plan policies in this respect.

Other Matters

21. I have had regard to the cited appeal decision¹ and revisions following that scheme are noted. However, in considering the merits of the proposal before me I have found it would conflict with the development plan. Furthermore, there is no compelling evidence that this harmful proposal would be the only viable option for the development of the appeal property. As such these issues have not been decisive in this recommendation.

Conclusion and Recommendation

22. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and agree with the recommendation. The appeal is therefore dismissed.

Martin Seaton

INSPECTOR

¹ Ref APP/T5150/W/20/3249279