



Appeal Decision

Site Visit made on 27 September 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2021

Appeal Ref: APP/T5150/W/21/3269032

45 and 47 Kingsway, Wembley HA9 7QP

- 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 Ms S Andon against the decision of London Borough of Brent.
 - The application Ref 20/2643, dated 26 August 2020, was refused by notice dated 17 November 2020.
 - The development proposed is described as “retrospective application for the amalgamation of nursing home, and attached single family dwelling house, into supported living accommodation comprising 14 independent units (Use Class C2), works to include replacing a single storey rear conservatory, the conversion of a garage, infilling a door and two windows and internal alterations”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appellant’s appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.
3. The Council’s decision notice refers to policies of the emerging Brent Local Plan. This emerging Local Plan has not been adopted yet therefore my assessment of this appeal is based on the relevant statutory development plan policies.
4. At the time of my site visit the conversion of the building had been undertaken. I do note that the conversion is not identical to the plans submitted including bed 5 not been provided as indicated on the plans. I have dealt with the appeal accordingly.
5. Whilst the address on the application form refers to 45 Kingsway only, the appeal form and the decision notice both refer to 45 and 47 Kingsway. In the banner heading above I have therefore referred to both 45 and 47 Kingsway as the address.

Main Issues

6. The main issues are the use of the proposal; the effect of the proposal on the living conditions of occupiers of neighbouring properties and the proposed rooms in terms of outlook, accessibility and communal space; the effect of the proposal on housing stock in the area; the effect of the proposal on the surrounding area; and the effect of the proposal on highway safety regarding parking, access and refuse facilities.

Reasons

Use of the premises

7. The bedrooms of the appeal premises each have en-suite facilities, sinks and kitchenettes. There are also separate communal and kitchen areas which provide cooking facilities. As observed at my site visit, these bedrooms are not large in size and the kitchenette facilities are not extensive therefore it is unlikely that occupants would rely entirely on the provisions within each individual bedroom.
8. The appellant has described the care needs for the residents of the property including requirements for carers to be present in the building on a 24 hour basis. Including observations during my visit, I do not dispute the care requirements that are needed at the premises for the residents.
9. On this basis, I am satisfied that the premises can be classified as a nursing home and would therefore fall within the use class C2 category.

Living conditions

10. The appeal premises are in close proximity to neighbouring residential properties. Given the activities associated with the use of the building and that the proposal has increased the intensity of the use, there is potential for occupiers of neighbouring properties to be disturbed in terms of noise, and I note that a previous noise nuisance case had been recorded by the Council.
11. It is apparent that there is management in place at the premises. Numerous documents have been submitted including Individual Service User Support Agreement, Ablegrange (Wembley) Ltd List of Policies, Guide to the Care Act 2014 and Ablegrange (Wembley) Ltd Support Plan. However, there is insufficient evidence before me in terms of specific management plans and processes for the premises and how matters are dealt with should disturbance occur such as noise issues. It would be unreasonable to attach a condition in respect of a management plan given the necessary details that would need to be assessed and possibly require consultation with interested parties.
12. The Council have concerns that there would be insufficient communal space in the building. During my visit, I noted there were several communal areas for residents and the carers. One of these communal areas is proposed to be converted into bedroom 5 and thus would reduce the amount of communal space in the building. Due to the number of bedrooms that are proposed and the number of residents and carers that would be in the building, the amount of communal space provided would be substandard and would compromise the living conditions of the occupants of the building.
13. Bedroom 7 has a window which is in close proximity to the adjacent neighbouring property. The window is large in bedroom 7 nevertheless the room has an oppressive feel given its close proximity to the neighbouring property and the lack of suitable communal space at the premises.
14. There is an access ramp immediately adjacent the windows of bedrooms 1 and 2 which look over the communal rear garden. The footfall past these bedroom windows is unlikely to be significant and in that respect the outlook from these windows would be adequate and not detrimental to the living conditions of the occupants. This access ramp adjacent to bedrooms 1 and 2 provides suitable

accessibility arrangements for all requirements and along with the other accesses to the building I am satisfied that the building is accessible for all users.

15. Reference is made to the Nationally Described Space Standards and that the size of the bedrooms are substandard. As previously indicated I am satisfied that the proposal falls within a nursing home C2 use category and therefore I do not consider that the size of the bedrooms need to necessarily meet the described standards as a nursing home setting would usually incorporate communal areas. This matter however does not alter my findings with regards to a lack of communal space at the appeal site.
16. From the evidence before me, I am not satisfied that the proposal would not have a harmful effect on the living conditions of occupiers of neighbouring properties and the appeal premises with particular regard to noise and internal communal areas. The proposal would fail to accord with Policies DMP1, DMP18 and DMP20 of the London Borough of Brent Local Plan Development Management Policies 2016 (DMP) and Policies D6 and D7 of the London Plan 2021 (LP) which seeks development to provide high levels of internal amenity and not unacceptably increase exposure to noise.

Housing stock

17. The proposal has resulted in the loss of a 3 bedroom property that has effectively extended the size of the nursing home facility. From my observations and the evidence presented, the majority of the properties in the immediate area appear to be in a C3 residential use.
18. My attention has been drawn to Policy CP2 of the London Borough of Brent Core Strategy 2010 (CP) which states that at least 25% of new homes should be family sized. The proposal is not for a new home and whilst the proposal results in the loss of a family home, this would only be one unit in an area which appears to be dominated by family homes. The proposal provides an alternative residential use within an area of predominantly family sized properties and would contribute to a balanced and mixed housing stock in the area. I therefore find that the proposal would not have a harmful effect on the housing stock in the area.
19. The Council are concerned about the lack of suitable management plans for the proposal. I have commented on management plans in the heading above and this matter does not alter my findings in terms of housing stock within the area.
20. As I have found that the proposal falls within a C2 use category then the requirement for affordable housing provision would not be applicable with regards to this proposal.

Surrounding area

21. The proposal is for the conversion of an existing property, and there are fundamental alterations that have been made internally. There is a lack of substantial evidence with regards to carbon reduction, air quality and water use and I therefore cannot be sure that these matters would not have a harmful effect on the immediate local environment. The use of conditions to provide information in relation to these matters would not be appropriate in this

instance given the level of detail that might need to be submitted along with potential further consultation with interested parties.

22. Accordingly, I am not convinced that the proposal would not have a harmful effect on the surrounding area with regards to carbon reduction, air quality and water use. The proposal would not accord with Policy CP19 of the CP and Policies SI1, SI2, SI5 and SI13 of the LP which seeks development to contribute towards improving air quality, minimising greenhouse gas emissions, provide sustainable drainage, promote improvements to water supply and achieve sustainable development, including climate change mitigation.
23. The appellant has indicated that the Council had not requested the submission of further information in relation to carbon reduction, air quality and water use, during the application process. Nevertheless, this does not alter my findings above.
24. The Council are concerned with the lack of landscaping to the front of the property. There are hedgerows within the site as well as trees sporadically located along Kingsway and I do not consider that the proposal detracts visually from the character and appearance of the surrounding area.

Highway safety

25. A detailed parking plan including vehicles, ambulances, cycle parking and refuse has not been submitted. There is however, ample amounts of space on the forecourt area of the appeal site for multiple vehicles to be parked. There would also be sufficient space for cycle parking and the storage of refuse within the forecourt, as well as large amounts of space to the rear of the building which could accommodate cycle parking and refuse storage.
26. Given the size of the proposed operations and the areas available to the front and rear of the appeal property, there would be sufficient space for parking and refuse storage that would not adversely compromise highway safety in the area.

Other Matters

27. I have had regard to the appellants statement of case including other schemes and appeal decisions. Insufficient evidence has been submitted with regards to these other schemes and I cannot be sure that they represent a direct parallel with the appeal scheme, particularly with regards to location and relevant development plan policies. In any case, I have determined this appeal on its own merits. I also note that pre-application advice had been undertaken prior to an application being submitted, this does not alter my findings and the conflict with development plan policies.
28. The Council have provided a HMO licence for the appeal premises, along with the Council's New Accommodation for Independent Living project team providing help and support in carrying out conversion works. It is also indicated that the Council also have and continue to place residents in the facility at the appeal site, and the appeal premises is inspected quarterly by the Quality Assurance Team.

Conclusion

29. I have found that the proposal would not have an adverse effect in terms of housing stock and highway safety. However, these matters and the benefits described above would not outweigh the significant harm I have identified with regards to the living conditions of occupiers of neighbouring properties and the appeal premises in respect of noise and internal communal areas, and the surrounding area with regards to carbon reduction, air quality and water use.
30. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
31. Therefore, for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR