



Appeal Decision

Site visit made on 17 January 2022

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2022

Appeal Ref: APP/A5270/W/21/3275247
148 Wood End Lane, Northolt UB5 4JR

- 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 Krishan Naidoo against the decision of the Council of the London Borough of Ealing.
 - The application Ref 203500FUL, dated 3 September 2020, was refused by notice dated 20 November 2020.
 - The development proposed was originally described as to complete the construction of a basement which has been partially begun below part of the existing residential development. The proposed basement to be used as a gymnasium.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I noted on my site visit that work had commenced but had not been completed. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.
3. Since the Council determined the planning application, the London Plan (2021) (LP) has been adopted. Therefore, Policies 7.4, 7.6 and 7.15 of the London Plan (2016) referred to in the reason for refusal are no longer relevant. My attention has been drawn to various policies within the LP, including Policies GG2, D1, D3, D8, D10, D14 and S5, and I have determined the appeal accordingly.

Main Issues

4. The main issues are:
 - Whether or not the proposal would be ancillary to the residential use of the building;
and linked to that;
 - The effect of the development on the living conditions of the occupiers of the host building and neighbouring properties, having regard to noise, vibration and disturbance; and
 - The effect of the development on the character of the host building and surrounding area.

Reasons

Ancillary

5. Policy D10 of the LP states that Boroughs should establish policies in their Development Plans to address the negative impacts of large-scale basement development beneath existing buildings, where this is identified as an issue locally. There are no local planning policies before me which specifically relate to basement developments. Nonetheless, SPD4 (Residential Extensions) sets out that proposals to extend dwellings by adding a basement will be assessed in the same way as other extensions.
6. The appeal relates to a detached two-storey building, with accommodation within the loft, which has been subdivided to provide eight separate residential units. It is not clear whether the gym would serve the building as a whole or one of the flats. Nonetheless, the gym would be accessed from a stairway situated in a communal area of the building. It would also be difficult to ensure that the gym could only be used by one of the flats, for example through a planning condition. Without any evidence to suggest otherwise, I have assessed the appeal on the basis that the gym would be used by all the occupiers of the flats.
7. The proposed basement would be large and would contain separate WCs for males and females. However, there is no robust evidence before me to demonstrate that the scheme would have a commercial element. The appellant has applied for planning permission for a gym connected to the building rather than a commercial gym. Should the gym not be used as proposed, or if there is a future material change of use to create a commercial gym then this could result in enforcement action unless planning permission is obtained. A planning condition could be attached, as suggested by the appellant, to ensure that the gym is ancillary to the building. For these reasons, based on the information presented, I am satisfied that the proposal would be ancillary to the residential use of the building.

Living conditions

8. Local residents have highlighted that the building works already undertaken have impacted their living conditions. Given the size of the gym, the scheme, including during the construction phase, could result in an increase in noise, vibration and disturbance. For example, due to music and movement whilst carrying out exercise.
9. The gym would be situated primarily below flat 2. Based on the evidence presented, the gym could be used by the occupiers of all the flats. Given the number of flats within the building, the gym could be used frequently by various occupiers. It could also be used at times of the day when occupiers of the flats would expect a degree of peace and quiet.
10. Therefore, based on the information submitted, given the size of the proposed gym and the associated noise, vibration and disturbance with such a use, the proposed development would have an unacceptable impact on the living conditions of the occupiers of the host building, particularly flat 2. The appellant suggests that sound proof materials could be conditioned but have not provided any suggested wording. Based on the information before me, I am

not satisfied that an appropriately worded condition, which is precise and enforceable, could address this matter.

11. Given my findings in the previous section, subject to appropriate conditions for example relating to a Construction Method Statement, I am satisfied that the development would not have an unacceptable effect on the living conditions of neighbouring properties.
12. For these reasons, the development would have an unacceptable effect on the living conditions of the occupiers of the host building, having regard to noise, vibration and disturbance. Accordingly, the proposal would conflict with Policies 7A and 7B of the Council's Development Management Development Plan Document (2013) (DPD). These policies seek, amongst other matters, to ensure that new development achieves a high standard of amenity for adjacent uses. It would also conflict with Policies D3 and D14 of the LP which seek to ensure development proposals deliver appropriate amenity and should avoid significant adverse noise impacts.

Character

13. The surrounding area is predominantly residential. It is characterised by detached, semi-detached and terraced properties which vary in scale and design. The host building is large compared to the surrounding properties.
14. The proposed development would not be conspicuous from the surrounding area due to the nature of it being for a basement and the high boundary wall. Given my findings relating to the first main issue, the building would remain as a residential property and the scheme would not be out of character with the suburban residential nature of the building or area.
15. For the reasons given above, the proposed development would not have an unacceptable effect on the character of the host building or the surrounding area. Accordingly, the proposal would comply with Policies 7B and 7.4 of the DPD. These policies seek, amongst other matters, to ensure that developments complement their street sequence, building pattern, scale, materials and detailing. It would also not conflict with Policy D3 of the LP which seeks to ensure good design that responds to a site's context.

Other matters

16. I have had regard to the other matters highlighted by the appellant. These include that the development would make effective use of the building and would optimise the potential of the site, which are encouraged by national and local planning policy. Furthermore, my attention has been drawn to other approved developments which the appellant asserts have set a precedent.
17. Compliance with local and national planning policies does not amount to a positive factor in favour of the scheme. The context of the appeal site and the size of the proposed gym cannot be directly compared to the planning applications highlighted. Those developments do not set a precedent, and in any event, I have determined the appeal on its individual merits. The other matters highlighted by the appellant do not outweigh the harm identified.

Conclusion

18. I have found that the proposed development would not have an unacceptable effect on the character of the host building or the surrounding area. However, it would have an unacceptable effect on the living conditions of the occupiers of the host building to which I attach significant weight.
19. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L M Wilson

INSPECTOR