



Appeal Decisions

Site visit made on 24 March 2022

by Katherine Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2022

Appeal A Ref: APP/T5150/W/21/3276962

282 Dollis Hill Lane, London NW2 6HH

- 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 Abdelmajid Elghzal against the decision of London Borough of Brent.
- The application Ref 21/0708, dated 26 February 2021, was refused by notice dated 10 May 2021.
- The development proposed is the conversion of dwelling house into two self-contained flats and works to include a single storey rear extension, creation of new external access and landscaping to front garden.

Appeal B Ref: APP/T5150/W/21/3285563

282 Dollis Hill Lane, London NW2 6HH

- 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 Abdelmajid Elghzal against the decision of London Borough of Brent.
- The application Ref 21/2175, dated 10 June 2021, was refused by notice dated 9 August 2021.
- The development proposed is the conversion of dwelling house into two self-contained flats and works to include a single storey rear extension, creation of new external access and landscaping to front garden.

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ in the scale and design of the single storey rear extension which would allow an additional bedroom to be provided in the ground floor flat of the Appeal A scheme. I have considered each proposal on its individual merits.
4. The Council altered the description of the development of both planning applications (refs: 21/0708 and 21/2175) to read in the manner set out in the banner above. I am satisfied that this is an accurate description of the proposal and removes a large amount of superfluous description and information from the application forms. I have noted that the appellant has used this description on the appeal forms, and it is therefore assumed that they agrees with the alteration. I have dealt with the appeals accordingly.
5. Since the appeals were submitted, the Brent Local Plan 2019-2041 (BLP) was adopted by the Council on 24 February 2022, and policies of the Core Strategy 2010 and Development Management Policies 2016 were superseded. The main

parties were given the opportunity to make representations on any implications of the change in policy, and I am therefore satisfied that no party would be unfairly prejudiced by my determination of the appeal giving full weight to the policies of the BLP. I make no further reference to the now superseded parts of the development plan.

Main Issues

6. For Appeal A the main issues are:

- Whether the proposed accommodation would provide adequate living accommodation for future occupiers with regard to internal floorspace provision, outlook and light and access to external amenity space; and
- the effect of the proposed development on the character and appearance of the appeal property and the surrounding area.

7. For Appeal B the main issue is:

- Whether the proposed accommodation would provide adequate living accommodation for future occupiers with regard to internal space provision and adequate access to external amenity space.

Reasons

Appeal A

Living Conditions

8. The appeal property would be divided into two self-contained residential flats. Both the ground floor flat (GFF) and upper floor flat (UFF) would be 3-bed 5-person units.

Ground Floor Flat

9. The window of bedroom 2 would utilise an existing small window in the side elevation facing 284 Dollis Hill Lane which would be fitted with window film for privacy purposes. It was evident from my site visit that due to the closeness of the neighbouring property the bedroom would be poorly served by natural light. This would be exacerbated by the application of window film. The resultant lack of outlook and poor levels of natural light would create an unduly gloomy and oppressive form of accommodation for its occupiers.

10. I acknowledge that the appellant has offered to enlarge the window to increase light levels into the room and suggests this could be covered by a condition. However, this is not a matter which could be reasonably dealt with in this way, and I do not consider that the harm would be overcome by inserting a bigger window, mainly because it would still be the same distance from the neighbouring property. Therefore, this bedroom would not provide adequate living conditions for future occupiers.

11. With regard to bedroom 3, the space created by the partitioning of the space. I do not agree with this view. The space which might be construed to be a corridor would be wide enough to accommodate furniture or hanging racks. Therefore, it could not be considered to be unusable or impractical in that sense. Consequently, I find the layout of bedroom 3 to be acceptable and would not adversely affect the living conditions of future occupiers.

Upper Floor Flat

12. Bedroom 2 would have a floor area of around 7.1m². Minimum gross internal floor area requirements are set out by the Technical Housing Standards (Nationally Described Space Standard) (NDSS) (2015) and Policy D6 of the London Plan (LP) (2020) at Table 3.1. They require a single bedroom to be 7.5m² and be at least 2.15 metres wide. Whilst there is only a marginal shortfall of floorspace, this combined with the substandard accommodation proposed in the GFF is symptomatic of wider shortcomings of the proposal when considered as a whole.

External Amenity Space

13. The Council is concerned that insufficient information has been submitted to assess whether adequate outdoor amenity space would be provided for each dwelling. The layout plans I have before me do not show the rear garden of the property. From my observations on site, however, the property has private garden space to the rear which is commensurate of a property of this size in this location which could be utilised as private amenity space.
14. BLP Policy BH11 sets out the expected provision of external private amenity space for new dwellings and requires that for dwellings of 3 bedrooms or more a garden or private amenity space is accessible from a main living room without level changes. As the rear garden is accessible at level from the GFF the Council has assumed that the space would be utilised by this dwelling and not by the UFF. I have no evidence that the UFF would be provided with any meaningful external amenity space which is a requirement of the policy.
15. I note that the appellant has stated that it was a mistake that a plan of the rear garden was not submitted, and I acknowledge the appellant's concerns over the Council's handling of the application in this respect. However, this is not a matter that I can consider under a Section 78 planning appeal, and I am obliged to determine the appeal with the information I have before me. This indicates that the UFF, which is capable of family occupation would not have level access to private amenity space.
16. On this main issue, therefore and having taken the above into account, I conclude that the proposed development would not provide adequate living conditions for future occupiers with regard to outlook and light to bedroom 2 of the GFF, the amount of internal floorspace provided by bedroom 2 of the UFF and the lack of level accessed external amenity space for the UFF. The proposal would therefore conflict with BLP Policies DMP1 and BH11 and London Plan (2021) (LP) Policy D6 which, amongst other things, seek to ensure that new development provides a good standard of accommodation for its occupiers.

Character and Appearance

17. The immediate area around the appeal property is characterised by pairs of semi-detached properties constructed of mostly red brick and render. On the north side of the lane houses are elevated and set back from highway. On my site visit I observed that where properties have been modernised, more contemporary materials and finishes are commonplace. This gives the area a varied character and appearance.
18. An external staircase would provide access to the UFF and the return of the structure would provide access to the rear garden. It would be fitted with a

glass balustrade. The Council is concerned that the introduction of a staircase in this position would appear bulky and would create a cluttered appearance to the side elevation.

19. The staircase would be in a narrow gap between the appeal property and No 284. The restricted width of the gap and the distance from the highway of the proposed staircase would mean that it would only be visible fleetingly and would not appear as a prominent or bulky addition to the side elevation of the appeal property. It would therefore not read as out of place. Consequently, it would not cause significant harm to the character or appearance of the appeal property or the surrounding area.
20. The use of contemporary materials in this context would not be inherently harmful. Whilst the use of glass balustrading is not prevalent on this part of the lane, I did observe its use on other properties reasonably close by. I do not consider that it would cause undue harm to the character or appearance of the appeal property or the street scene.
21. For these reasons, the proposal would not have a significant adverse effect on the character and appearance of the host property or its surroundings. It would not conflict with BLP Policy DMP1 and the Council's Residential Extensions and Alterations Supplementary Planning Document (2018) which seeks to ensure good design.

Appeal B

22. The appeal property would be subdivided into 2 self-contained residential flats. The GFF would be a 2-bed 4-person unit and the UFF, a 4-bed 5-person unit. The rear garden would be divided to provide private amenity space for each of the flats. Occupiers of the UFF would access the garden amenity space allocated to the flat via a staircase on the side elevation and a path along the side of the property.

External Amenity Space

23. BLP Policy BH11 requires dwellings of 3 bedrooms or more to provide a garden or private amenity space which is accessible from a main living room without level changes. Exceptions to this will only be made where the existing dwelling is not likely to be occupied by a family due to a deficiency in amenity standards which could not be reasonably overcome. No evidence has been submitted that the property, as it currently stands, is not suitable for family occupation. From my site visit, I saw no evidence which would dispute this either. Whilst no such evidence was requested by the Council it nevertheless remains that this is a prerequisite of the policy. The proposal therefore fails to comply with its requirements in providing level access to the external amenity space for a family sized dwelling.

Internal Space Provision

24. From my observations on site the loft space is currently in use as living accommodation and there is more than adequate headroom and floorspace available to provide the bedroom accommodation proposed. I therefore find that that the proposal would provide adequate accommodation in this respect.
25. For the reasons given above, although I have found that the proposal would provide adequate living conditions in respect of the internal accommodation in

the loft, I find that it fails to comply with BLP Policy BH11 which seeks to maintain an adequate supply of family sized dwellings and ensures that future occupiers of those dwellings have adequate access to external amenity space.

Other Matters

26. I note that the subdivision of the property provides an opportunity to re-configure the dwelling's internal layout and to accommodate the appellant's family. However, these are personal circumstances which can change over time and the development would remain long after such circumstances have ceased to be relevant. Accordingly, this has limited weight in the overall planning balance.
27. The appellant states he had positive pre-application discussions. However, pre-application discussions are not binding on any future decision the Local Planning Authority may make once a proposal has been subject to the formal planning process. This does not lead me to a different conclusion on the main issues of either of the appeals before me.
28. I acknowledge the appellant's concerns over the Council's handling of the applications. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposals.

Conclusion

29. For the reasons given, neither proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeals should be determined other than in accordance with the development plan. I therefore conclude that both appeals should be dismissed.

Katherine Robbie

INSPECTOR