



Appeal Decision

Site visit made on 16 August 2022

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2022

Appeal Ref: APP/T5150/W/21/3289220

6 Deerhurst Road, London NW2 4DE

- 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 Kunverji Arjan Kerai, Shree Swaminarayan Temple against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/2561, dated 5 July 2021, was refused by notice dated 10 September 2021.
 - The development is proposed conversion of single dwellinghouse into 5x self-contained flats works including, loft conversion, rear dormer window and 3x side rooflights, relocation of front entrance door, removal of window and replacement of door with new window to front elevation, subdivision of rear garden, provision of off-road parking, cycle and waste storage and associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr Kunverji Arjan Kerai against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Preliminary Matters

3. I have used the description from the Council's decision notice, which is the same as on the appeal form, although there has been some discussion about amending the description, the appeal form indicates the change in description was agreed.
4. During the appeal the Brent Local Plan 2019-2041 (Local Plan) was adopted revoking the Brent Core Strategy 2010 and The London Borough of Brent Local Plan Development Management Policies. The London Plan (2021) policies have also been referred to. The main parties have had the opportunity to comment on the changes, particularly to the reason for refusal which now only refers to Local Plan Policy DMP1 and The London Plan Policy D6, and therefore would not be prejudiced by my taking them into account.
5. I have also been provided with drawings which showed annotated cross sections of the roof to flat 5 relative to ceiling heights, and photographs. Therefore, it was not necessary for me to enter the building to assess the proposal, which I must consider from the appeal proposal drawings.

Main Issue

6. The Council's refusal reason solely relates to the living conditions of future occupiers of proposed flat 5. As a consequence, the main issue is whether appropriate living conditions would be provided for the future occupiers of flat 5, with particular regard to internal space, height, ventilation and outlook.

Reasons

7. The appeal property is a substantial dwelling sited in large grounds, within a leafy area, close to public transport links including the Jubilee line, services, and facilities. It has sufficient space to accommodate residential parking, cycle storage, garden space and refuse associated with the appeal proposal. The ground and first floor would accommodate flats 1 to 4 and flat 5 would be a one-bedroom 2-person (1b-2p) flat, formed in the existing sloping roof area, which would be extended by way of a rear 3 light dormer window.
8. The Gross Internal Area (GIA) of flat 5 would exceed The London Plan minimum internal space standards for a 1b-2p flat set out in Policy D6. However, the internal space would be restricted as a result of the sloping roof, with at least 75% of the GIA of flat 5 having a ceiling height of less than 2.5m. It is therefore not disputed between the parties that the proposal would fail to meet point 8) of Policy D6 of The London Plan. The justification for this requirement is to address the impacts of the urban heat island effect and provide adequate space to reside. There is no evidence provided which would obviate this requirement in this location.
9. The limited height across a significant proportion of the flat would also be to the extent that it is likely to restrict its use and options for furnishing. Thus, the accommodation is likely to feel cramped and inflexible and thus would not provide adequate space for the intended future occupiers of it. This is particularly the case with the narrower living room area. As a result, it would not provide appropriate living conditions for future occupiers with regard to sense of space.
10. The dormer window whilst being large enough to provide adequate daylight and sunlight for the bedroom, would only consist of 1 window light for the living room. This would be partially restricted by the internal layout. Whilst the addition of rooflights would provide additional natural light and ventilation, these are also relatively small for the overall size and use of the room and positioned at a high level. Being set above kitchen units, this would also provide a constrained outlook. These factors would result in the proposed development not providing a satisfactory outlook for future occupiers and restricted daylight to the living/kitchen/dining room overall.
11. Therefore, even though the requisite floor space would exceed the guidance for a 1b-2p flat, the proposed development would not provide appropriate living conditions for the occupiers of the proposed 1b-2p flat with regard to internal space, height, ventilation, and outlook. As such the proposal would be contrary to Policy DMP1 of the Local Plan and Policy D6 of The London Plan where they set minimum requirements for appropriate living standards and internal space. They align with Paragraph 130 of the National Planning Policy Framework (the Framework) which also requires that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

12. I appreciate that the appellant has amended the scheme to seek to overcome concerns raised in the previous application. Whilst it has been indicated that the appellant may be willing to explore a smaller scheme, this has not been provided to me or shown how this would fulfil the requirements of The London Plan minimum space standards. It has been suggested that The London Plan Policy D6 applies to new homes. There is nothing in the policy to suggest it does not apply to conversions of existing buildings which create new residential accommodation. I have also been made aware of similar cases for other flats, but there is no evidence to explain how these are relevant to the issue at hand and appear to relate to external appearance, and other matters which are not in dispute.
13. I acknowledge that there is no dispute in respect of the principle, scale and design of development, increased occupancy, intensity of the use, car parking, waste arrangement, trees or living condition for flats 1 to 4. As such, these issues have not been transposed to the Council's reasons for refusal, and do not form the focus of my attention in this appeal.
14. If I were to have allowed the appeal, I am satisfied that amended conditions could have been imposed to make the appeal proposal acceptable in these respects. Other aspects such as sustainable construction, proximity to local services within an up-and-coming Zone 2 area and being in Flood Zone 1 are all neutral factors that would not weigh in favour of the scheme.
15. The proposal would align with local and national policy, to increase the supply of housing and would be a small-scale development which could be built out quickly. The site is in a location accessible to services and facilities and would be a more efficient use of land. However, the contribution towards housing supply and mix, along with economic and social benefits from the construction and occupation of the properties, would be small. I have identified unacceptable harm from this scheme as a result of window sizes, room shape, and ceiling height which does not meet the objective requirements of the minimum internal space standards of The London Plan and this outweighs the benefits of the scheme.
16. It is standard practice for a Council to provide third-party correspondence from the time of the application. Comments raised by third parties about the appellant are not a matter relevant to my assessment of the appeal and have no bearing on my decision.

Conclusion

17. The appeal proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, for the reasons given above, I conclude the appeal should be dismissed.

K Williams

INSPECTOR