



Appeal Decision

Site visit made on 29 November 2022

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/A5270/W/22/3297581

47 Hortus Road, SOUTHALL, UB2 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Baljit Malhi against London Borough of Ealing.
 - The application Ref 216479FUL, is dated 25 October 2021.
 - The development proposed is rear roof extension, and installation of three roof lights to front roof slope; forming one additional self-contained flat at second floor level with associated internal changes to existing flats.
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Decision

1. The appeal is allowed and planning permission is granted for rear roof extension, and installation of three roof lights to front roof slope; forming one additional self-contained flat at second floor level with associated internal changes to existing flats at 47 Hortus Road, SOUTHALL, UB2 4AJ in accordance with the terms of the application, Ref 216479FUL, dated 25 October 2021, subject to the conditions in the Schedule below.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting their views on the application for planning permission. The Council's concerns are that the proposal would fail to provide an acceptable standard of accommodation for future occupiers. I have had regard to the Council's statement in framing the main issues.
3. The appellant has submitted amended plans which include changes to the internal arrangement of the proposal. These changes relate only to the internal arrangements of the proposed units and the development applied for would continue to reflect the description of development. The Council have stated that they are happy for these plans to be considered at appeal. Consequently, in my view, these plans do not represent a notable or significant change to the scheme. As such, I will proceed to determine the appeal on the basis of the amended plans.

Main Issue

4. The main issue is whether or not the proposal would provide satisfactory living conditions for future residents with particular regard to space.

Reasons

5. The appeal site currently comprises two four bedroom flats spread across two floors. The proposal is for extensions and alterations to the building to facilitate an additional flat.
6. Policy D6 of the London Plan 2021 (The London Plan) sets out the expected standards for housing quality including requirements in respect of size. The policy states that dwellings must provide at least the gross internal floor area (GIA) and built-in storage area set out in Table 3.1. The parties are in agreement that the existing flats do not meet the required standards.
7. The proposal as originally submitted and revised prior to this appeal being lodged envisaged relatively few changes to the layouts of either existing flat. The plans dated 5/1/22 which appear to have formed the basis of the Council's assessment show the removal of a ground floor and first floor study to facilitate a revised stairwell, the enlargement of a ground floor bedroom and the alteration of bedroom four on the first floor to a living area. The additional flat would be accommodated within the roof slope and would consist of a bedroom, a bathroom and a kitchen/living area. The addition of this flat would be facilitated by the reconfiguration of the stairwell, two rear dormer windows and three rooflights to the front elevation.
8. Table 3.1 of the London Plan states that under this scheme Flat 1 (4b7p¹) would require a GIA of 108 square metres, Flat 2 (3b6p) would require 95 square metres and Flat 3 (1b2p) would require 50 square metres. The parties are in agreement that Flat 3 would meet the required space standards. However, Flat 1 would have a GIA of between around 102 and 103 square metres (there is a small discrepancy between the parties measurements) and Flat 2 would have a GIA of approximately 81 square metres. As such, these flats would not meet the requirements set out in the London Plan.
9. I note the appellant's view that if the smaller double bedrooms within Flats 1 and 2 were considered to be single bedrooms then the standards would be met. However, these rooms are well in excess of the GIA required to be considered a double bedroom and enforcing their use as single bedrooms would be unreasonable and impractical.
10. The amended plans dated 22/09/22 have sought to address the issues raised by removing bedroom 3 and a study and replacing them with a living area at ground floor level and removing bedroom 3 at first floor level to create a large living area. Under this arrangement Flat 1 would become a 3b6p unit with a GIA requirement of 95 square metres and Flat 2 would be a 2b4p unit which would require a GIA of 70 square metres. With GIAs of around 102/103 square metres and 81 square metres respectively both Flats would exceed the requirements set out by Policy D6 of the London Plan. This scheme would, therefore, represent a significant improvement to the living conditions provided by the existing flats.
11. For the reasons set out above I consider that on the basis of the amended plans dated 22/09/22 the proposal would provide satisfactory living conditions for future residents with particular regard to space. The proposed development would, therefore, accord with Policy D6 of the London Plan which sets out the

¹ b = bedroom, p = person

expected standards for housing quality including requirements in respect of size.

Conditions

12. The National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
13. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans as this provides certainty. In the interests of protecting the character and appearance of the area I have imposed a condition with regard to the materials to be used. In order to promote sustainable transport I have imposed a condition requiring cycle parking spaces.
14. I have imposed a condition requiring the provision of refuse and recycling storage in the interests of protecting the living conditions of residents within the area. In order to protect the living conditions of the future occupiers of the proposed development I have imposed a condition regarding sound insulation. The Council had suggested that this be a pre-commencement condition, however, such conditions should only be used where there is a clear justification and in this instance I consider that a pre-occupation condition will serve the same purpose.
15. In order to ensure that the development does not have an adverse effect on the living conditions of neighbouring residents I have imposed a condition to ensure that the proposed balustrade is obscure glazed and retained as such.
16. The Council have suggested a condition which would restrict the installation of windows and other openings within the building. However, no detailed or compelling evidence to explain why such a condition is considered necessary in this case has been provided and as such I consider this condition would not meet the test of reasonableness or necessity and I have not imposed it.
17. The Council have also suggested the imposition of a detailed condition regarding the construction of the development. However, given the scale of the development I do not consider that this condition in its current form would meet the tests of reasonableness or necessity. I have, however, imposed a condition regarding the hours of work in order to safeguard the living conditions of neighbouring residents.

Conclusion

18. For the reasons given above I conclude that the appeal is allowed.

L J O'Brien

INSPECTOR

Schedule of Conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Number KKC/45-47/2021/A, Drawing Number KKC/45-47/2021/B Revised 22/09/22.
- 3) Notwithstanding the details shown on the approved plans the external surfaces of the development hereby permitted shall be constructed in materials which match the appearance of the existing building.
- 4) None of the units hereby permitted shall be occupied until secure, undercover lockable space has been laid out within the site for five bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 5) The development hereby permitted shall not be occupied until refuse and recycling storage has been provided within the curtilage of the property in accordance with the adopted standards of the Local Planning Authority. Such provision shall be retained thereafter.
- 6) Prior to the occupation of the development, details shall be submitted to and approved in writing by the Council of a scheme for sound insulation for the floor/ceiling/wall structures separating different types of rooms/uses in adjoining dwellings/areas, namely, kitchen/living/dining room above/below bedroom of separate dwelling and bedrooms adjoining communal staircase. The assessment and mitigation measures shall have regard to the adopted standards of the Local Planning Authority and noise limits specified in BS8233:2014. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.
- 7) No activities which would be audible beyond the site boundary shall take place on the premises before 0800 on Mondays to Saturdays nor after 1800 on Mondays to Fridays and 1300 on Saturdays, or at any time on Sundays or on Bank or Public Holidays.