



Appeal Decision

Site visit made on 24 May & 27 June 2023

by S Rawle BA (Hons) Dip TP Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/M5450/W/22/3311776

1 Spencer Road, Harrow HA3 7AN

- 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 D Kerai against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4263/21, dated 21 October 2021, was refused by notice dated 9 November 2022.
 - The development is the conversion of the dwellinghouse into 3 no flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed reference to the proposal being retrospective from the description of development in the banner heading as this is not in itself development.
3. I visited the appeal site on 24 May 2023 but was unable to access flat 3. As a result, it was necessary to make a further visit on 27 June 2023. I saw that some works at the appeal property have already been undertaken, but these are not consistent with the proposed development before me. For the avoidance of doubt, I have determined the appeal based on the submitted plans.
4. Revised plans have been submitted with the appeal. However, the appeal process should not be used to evolve the scheme. It is important that what is considered at appeal is essentially the same scheme that was considered by the Council and interested parties at the application stage. I consider the revised plans would materially change the development. Therefore, I have not had regard to the amended plans in determining the appeal.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupants with regard to the internal space and configuration of the flats, and privacy for flat 3; and
 - The effect of the development on the character and appearance of the host building and the area.

Reasons

Living conditions

6. Although the existing dwelling has already been converted into three flats, some alterations are proposed. These include increasing the size of flat 3 by incorporating the living room that currently serves flat 1 with a resulting decrease in the size of flat 1.
7. There is disagreement between the parties about the size of each flat, how many persons it should be assumed they accommodate and in the case of flat 2 whether it's a duplex unit or single storey. Given the inclusion of a separate double bedroom, flat 1 should be considered to be a 1 bed two person dwelling. Amongst other things, Policy DM26 of the Harrow Council Development Management Policies July 2013 (HCDMP) sets out that proposals for the conversion of houses to multiple homes will be supported where they provide a satisfactory standard of accommodation and that proposals will be required to comply with the London Plan minimum space standards.
8. Policy D6 of The London Plan – The Spatial Development Strategy for Greater London – March 2021 (the London Plan) seeks to ensure that housing development is of a high quality design and provides adequately sized rooms (set out in Table 3.1), with comfortable and functional layouts which are fit for purpose. Table 3.1 sets minimum internal space standards. For a 1 bedroom two person dwelling that is 50 sq.m. This is the same as the Nationally Described Space Standard (NDSS).
9. Flat 1 would fall significantly short of this minimum internal space standard and importantly, although the bedroom would have a suitable layout, the other rooms in the flat would not have an adequate amount of space to provide a suitable living area. As a result, flat 1 would not be a comfortable and functional layout, would not be fit for purpose, and would not provide acceptable living conditions for its future occupants.
10. I agree with the appellant that flat 2 is not a duplex and as such it meets the minimum internal space standards, and the bedrooms also meet the minimum floor area requirements set out in the London Plan and the NDSS and provides sufficient storage space. Moreover, flat 2 would have a comfortable and functional layout and would provide suitable living conditions for future occupants.
11. In relation to flat 3, the minimum gross internal floor requirement is 58 sq.m. The appellant sets out that the floor area of flat 3 would exceed that requirement, whereas the Council considers it would fall short. Even if I accept the Council's figure, flat 3 would provide satisfactory accommodation. Although the current living arrangements are unsatisfactory and are not fit for purpose, as outlined, the existing living room currently serving Flat 1 would be incorporated into flat 3. This would provide a good standard of accommodation on the ground floor and the bedroom, and the room designated as a study on the upper floors would be comfortable, functional living accommodation and have adequate storage for future occupants.
12. It is proposed that the garden would be subdivided to provide private outdoor garden space for each flat. There would also be a communal area outside the kitchen of flat 3 which would accommodate refuse bins and would provide

access to the gardens serving flat 2 and 3. Although flat 3 would have a window and half glazed door facing the communal area, as the main living space would be located at the front of this flat and each flat would have its own private outdoor space, other residents would be unlikely to linger for too long in the communal area. As a result, this arrangement would not result in an unacceptable loss of privacy for the occupants of flat 3.

13. Overall, although the living conditions of the future occupants of flats 2 and 3 would be acceptable, flat 1 would not provide a comfortable and functional layout and would not be fit for purpose.
14. I therefore conclude that the development would unacceptably harm the living conditions of the future occupants of flat 1 with particular reference to the internal space and configuration of the flat in conflict with Policy D6 of the London Plan, and Policies DM1 and DM26 of the HCDMP which seek to ensure that all development proposals achieve a high standard of amenity and conversions achieve configurations that are practical and fit for purpose and meet minimum space standards.
15. The proposal would also be contrary to the relevant part of the Supplementary Planning Document – Residential Design Guide (SPD) adopted 15 December 2010, which seeks to ensure that the amenity of occupiers of proposed dwellings is safeguarded. The development would also conflict with the minimum standards contained within the NDSS and the National Planning Policy Framework (Framework) which seeks to ensure that developments result in a high standard of amenity for existing and future residents.

Character and appearance

16. The appeal property is located in an established residential area comprising a mix of property types including two storey terraced, semi-detached and detached houses as well as a small three storey block of flats located on the opposite side of the road. The character and appearance of the area derives to a significant extent from the fact that a number of the houses along Spencer Road have been converted to flats and that secondary front doors to provide additional access to these converted flats are not an uncommon feature in the streetscene.
17. The appeal property has had a subservient side extension added and has already been converted into three flats. Flats 1 and 2 are accessed via the original front door, whereas flat 3 is accessed via a new front door that has been created as part of the side extension. This arrangement is compatible with the existing character and appearance of the host building and the area and does not appear incongruous or contrived given the many other examples of a similar feature that are evident along the same road.
18. I therefore conclude that the development does not harm the character and appearance of the host property or the area and does not conflict with Policy D3 of the London Plan, Policy CS1.B of the Harrow Core Strategy February 2012 or Policy DM1 of the HCDMP. Amongst other things, these policies seek to ensure development comprises high quality design appropriate for its surroundings which responds positively to the local context.
19. The proposal also accords with the relevant part of the SPD which provides guidance for residential conversions and amongst other things seeks to ensure

that new exterior alterations such as doors should reflect the prevailing local character. The development also complies with the Framework which promotes development that is sympathetic to local character.

Other Matters

20. I note that the existing tenant of flat 3 has written a letter in support of the development explaining that the property is finished to a good standard, that they do not want any changes to the property, do not want any disruption and point out that their family, including their children would be homeless without this home.
21. I recognise that the failure of this appeal could affect the living arrangements for the current occupants of the flats including children. I have had due regard to Articles 1 and 8 of the Human Rights Act 1998 (HRA), Article 3 of the United Nations Convention on the Rights of the Child and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Age is a protected characteristic to which the PSED applies. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified in the public interest. The concept of proportionality is key.
22. Flat 3 does not currently provide an acceptable standard of accommodation and although that would be improved as a result of the proposed alterations, that would be at the expense of the living conditions of the occupants of flat 1.
23. I have had regard to the development plan policies and the Framework, which aim to provide a suitable standard of accommodation in the public interest. Overall, the unacceptable harm that would be caused to the living conditions of future occupiers of flat 1 outweigh any benefits to the living arrangements of other tenants or in terms of eliminating discrimination against persons with the protected characteristics of age.
24. On that basis it is proportionate and necessary to refuse to grant planning permission. There will be no unacceptable violation of the existing occupants or their family's human rights. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified, but the protection of the public interest cannot be achieved by means that are less interfering with their rights.

Conclusion

25. For the reasons given above, I do not consider that the proposal would harm the character and appearance of the host building or the area, nor would it unacceptably harm the living conditions of the future occupants of flat 2 and 3. However, the proposal would unacceptably harm the living conditions of the future occupiers of flat 1. Overall, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, that outweigh the harm identified. Further, I have had regard to the HRA 1998, the Rights of the Child and the PSED set out under s149 of the Equality Act 2010. However, I conclude that it is proportionate and necessary to dismiss the appeal.

S Rawle

INSPECTOR