



Appeal Decision

Site visit made on 5th September 2023

by Megan Thomas KC, Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/R5510/W/23/3318295

35 Bedford Avenue, Hayes UB4 0DP

- 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 Setandar Junaja against the London Borough of Hillingdon.
 - The application Ref 64163/APP/2022/2894, is dated 15 September 2022.
 - The development proposed is a ground floor side extension, first floor rear extension and a change of use from a house to two flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are the effect of the change of use of the dwelling on highway and pedestrian safety and parking feasibility, living conditions for future occupants of the first floor flat with regard to living space, space on which to provide landscaping and adequacy of access and usability of proposed private amenity space for the first floor flat.

Reasons

Highway Safety and Parking Issues

3. The appeal site is located on the south west end of Bedford Avenue. It is at the northwestern end of a terrace of 4 properties. No. 34 is its nearest neighbour. No.36 to the north of site and is separated from the site by an accessway.
4. The site houses a two storey end of terrace dwelling. It has a full width ground floor rear extension with a flat roof. The land shown as part of the appeal site is divided by fencing. There is a rear garden behind the house which is fenced off from a hardstanding area to its north west. There is also a broadly triangular area of land within the appeal site which makes up the north western corner of the site.
5. The proposed development includes the construction of ground floor single storey side extension and a first floor rear extension. The latter would be partially above the existing ground floor rear extension.

6. Conversion of the house into two self-contained flats is also sought as part of the scheme. There would be a ground floor two bedroomed flat with an entrance off the proposed new ground floor side extension. This would entail a future occupant of the ground floor flat walking along the accessway in order to access the ground floor flat. The upper floor would comprise a one bedroomed flat and would incorporate the proposed new first floor extension. Its entrance would be from the existing front door at the front of the property.
7. The proposed parking for the first floor flat is shown in the plans as using the existing on-site parking space on the front forecourt of the property. Parking for the ground floor flat is shown as space immediately to the north west of the proposed ground floor side extension.
8. Amenity space for each flat is shown as a rectangular area to the rear of the property for the ground floor flat and a triangular parcel of land to the north west of this area is shown as the amenity area for the first floor flat. How access by foot into that amenity area would be gained is not shown on the plans.
9. The proposed extensions at both ground and first floor levels benefit from an extant planning permission dated 7 June 2022 (application reference: 64163/APP/2022/1169), which appeared not to be implemented at the time of my site visit.
10. The development would result in a 1 x 2 bedroomed (3 person) flat (ground floor) and a 1 x 1 bedroomed flat (2 person) flat. The existing house has, according to the plans, three bedrooms.
11. Between the appeal site and no.36 Bedford Avenue there is an accessway. It is currently rather overgrown. It is not shown as part of the red-lined application/appeal site nor is it shown as land in the control of the Appellant (usually denoted by blue edging.) The Appellant describes the accessway as a "private right of way for both vehicles and pedestrian use to houses 34, 35, 36 and 37". He says it was designed as such in the original development of the estate.
12. It is clear that in order to use the vehicular parking space for the ground floor flat, and in order to access the ground floor flat on foot, and to gain access to the amenity land dedicated to the first floor flat there would have to be use of the private accessway. No documentation to support those statements is submitted with the appeal. Nevertheless, as the land necessary to support pedestrian and/or vehicular movements in order to use the appeal site as flats has not been included in the red-lined area then owners with a legal interest in that land have not been notified of the application or appeal. Notice would have had to have been served on other landowners if the scheme used land outside the red-lined application site. In this case it does. It is not possible to rule out the possibility that a landowner has been prejudiced in not being notified about use of the accessway.
13. As such the proposal fails to demonstrate how the ground floor flat pedestrian access and parking space could be used when relying only on the land within the application/appeal site. Furthermore, the private right of way is fairly narrow and there is no evidence of turning movements to show how a vehicle could manoeuvre in and out of the ground floor flat parking space easily. Reversing into it from Bedford Avenue would appear to be awkward and

potentially hazardous to pedestrians and being able to leave the parking space in a forward gear if the space was entered in a forward gear is also unproven on the documentation before me.

14. The Appellant refers to the number of potential occupants of the two flats being similar to the number typically able to occupy the existing house so that vehicles movements generated would probably not increase. However, the proposal would create a new location for a vehicular parking space and more intensive pedestrian use of the accessway.
15. I do not consider that in isolation the fact that the two flats have only one vehicle parking space each is a robust reason on which to refuse permission even though local Hillingdon policy suggests 1 to 1.5 spaces per flat for the proposed flats should be provided.
16. On the first issue, putting aside the issue of the lack of notification to all landowners, I conclude that the proposed development of the land to change the use to two flats has failed to produce sufficient information to show that the ground floor vehicular parking space is useable and that the scheme as shown would be detrimental to pedestrian and highway safety. It may also interfere with the free movement of vehicles on the local public highway network. I conclude that it would be contrary to policies DMT 2 and DMT 6 of the Hillingdon Local Plan Part 2 Development Management Policies (adopted 2020) "LP2" and policy T6 of the London Plan 2021.

Living Conditions for Occupants of First Floor Flat

17. Policy DMHB 16 of LP2 states that all housing development should have an adequate provision of internal space in order to provide an appropriate living environment. To achieve this all residential development or conversions should meet or exceed the most up-to-date internal space standards as set out in Table 5.1. The standards in Table 5.1 are the same as those in Table 3.1 of policy D6 of the London Plan 2021. Those include the advice that a one storey dwelling with 1 bedroom 2 person occupancy as is the case for this appeal proposal should provide a gross internal area of at least 50sqm. The first floor flat would provide less than 50sqm GIA and so would fail to meet that standard by more than a small margin.
18. The London Plan also advises that a floor to ceiling height of at least 2.5m is required and the submitted drawings fail to demonstrate that that would be achieved.
19. Consequently, on this issue I conclude that there would be inadequate living conditions for the future occupants of the proposed first floor flat by reason of cramped, unsatisfactory and poor provision of internal space. There would be conflict with policy D6 of the London Plan 2021 and policy DMHB 16 of LP2.

Landscaping Space

20. There is concern from the Council that the parking spaces as shown would result in no landscaping to the front of the property therefore resulting in a built form that would not be broken up through the use of soft landscaping. There is policy DMHB 14 which indicates that all development (which would include material change of use) will be required to provide a landscaping scheme that includes hard and soft landscaping appropriate to the character of the area. On my site visit, I noted that soft landscaping was provided and

maintained at the front of a sizeable number of properties in the immediate grid of streets in which the appeal site is located.

21. I consider that there would be room for some modest soft landscaping to be provided at the front of the property and that this concern of the Council could be overcome by the attachment of a suitably worded landscaping condition on a potential planning permission. For these reasons, I conclude that the proposal should not be refused on the basis of lack of landscaping.

Adequacy of access and usability of private amenity space

22. The submitted plans identify dedicated amenity space for the ground floor flat to the rear of the building. This could be easily accessed from the main door to the ground floor flat. It would be overlooked by future occupants of the first floor flat but that would not be sufficient reason in my view to refuse planning permission in this case in this close-knit residential area. Amenity space for the first floor flat is shown on the submitted plans as a freestanding parcel of land in the north western area of the appeal site. It would appear that pedestrian access over this could only be via the accessway which is outside the red line of the application site. Consequently, for reasons referred to in relation to issue 1 above, there is insufficient information to demonstrate how that garden land could be accessed using only the red-lined application site area.
23. Consequently, I conclude that in relation to the proposed first floor flat there is insufficient information to demonstrate that the proposed amenity land would be accessible and therefore useable. It would be contrary to policy DMHB 18 (Private Outdoor Amenity Space) of LP2.

Other Matters

24. The Council make reference to Policy DMH 1 of LP2 "Safeguarding Existing Housing". I do not consider part A of this policy to be relevant as there would be two self-contained units created if the development proceeded, whereas there is one existing self-contained house currently. In respect of DMH 1(B) I have expressed doubts about the access to a parking space and the first floor flat amenity area and about sufficiency of living space in the first floor flat. I therefore consider this policy to be breached.

Conclusion

25. Whilst I have found that the lack of landscaping could be overcome by a suitable planning condition attached to a future planning permission, I have identified harm in relation to highway and pedestrian safety, parking and access feasibility, living conditions of the future occupants of the first floor flat, and insufficient information about the accessibility and usability of the private amenity land for the first floor flat occupants. The harm I have identified comfortably outweighs the benefits of the proposed scheme and consequently I do not consider that planning permission should be granted.
26. Having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas KC

INSPECTOR