



Appeal Decision

Site visit made on 14 November 2023

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/A5270/W/22/3312800

159 Clitherow Avenue, Ealing, Hanwell W7 2BU

- 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 Chris Wang against the decision of the Council of the London Borough of Ealing.
 - The application Ref 224014FUL, dated 15 September 2022, was refused by notice dated 9 November 2022.
 - The development proposed is conversion of 2 self-contained flats into 2 flats and loft studio.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of existing two self-contained flats into three self-contained flats with associated bin storage, bicycle parking and off-street vehicle parking at 159 Clitherow Avenue, Ealing, Hanwell W7 2BU in accordance with the terms of the application, Ref 224014FUL, dated 15 September 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of the development in the banner heading is taken from the application form. However, the wording used on the decision notice and appeal form is "Conversion of existing two self-contained flats into three self-contained flats with associated bin storage, bicycle parking and off-street vehicle parking". I consider this to be a more accurate description of the appeal proposal, and I have therefore used it in my formal decision.
3. The proposed floor plans identify the proposed first-floor flat as Flat 2 and the proposed second-floor flat is also labelled as Flat 2 on these plans. In the interest of clarity, I have referred to the proposed first-floor flat as Flat 2, and the proposed second floor flat as Flat 3, throughout this decision.
4. At the time of my site visit I noted that internal works were being undertaken in the property, however these works were not entirely consistent with the proposed floor plans. Nevertheless, I have determined the appeal based on the submitted plans.

Main Issues

5. The Council's decision notice includes three reasons for refusal. However, having read the submissions, including comments from interested parties, I consider there to be four main issues. Therefore, the main issues are:
 - the effect of the proposal on the residential character of the area.

- the effect of the proposal on the provision for family accommodation.
- whether the proposal would provide appropriate living conditions for future occupiers of the top floor flat (Flat 3) with regard to floorspace and ceiling height within the bathroom; and
- whether the proposal would make adequate provision for car and cycle parking.

Reasons

Residential Character

6. Number 159 Clitherow Avenue is a semi-detached property located on a long residential street which is predominantly characterised by similar semi-detached dwellings, a number of which, including the appeal property, have been extended in a variety of ways. According to the submitted documents, and existing floor plans, the appeal property was last in use as two flats, with a three-bedroom flat provided at ground floor level, and a three-bedroom flat provided over first and second floor levels.
7. The proposal seeks to convert the property into three flats. The existing three-bedroom ground floor flat would not be altered. However, the first and second floor flat would be subdivided to provide a one-bedroom flat at first floor level and a one-bedroom studio flat at second floor level. The appeal proposal does not include any external alterations to the building.
8. As the proposal would not result in any external alterations to the building, when viewed from the street the appeal property would have the outward appearance of a dwelling and externally would not appear discernibly different to other properties in the area.
9. In addition, the property has already been subdivided into two residential flats, and the provision of a third flat within this building would not unduly affect the character of the appeal property, the local area or the wider Clitherow Avenue street scene.
10. Furthermore, I observed on my site visit that there are two blocks of three-storey flats in relatively close proximity to the appeal site, at the junction of Clitherow Avenue and Haslemere Avenue. Thus, there are examples of flats and smaller units within the surrounding area. Notwithstanding this, these existing nearby blocks of flats, and the existing / proposed flats within the appeal property, help to create mixed and inclusive communities.
11. Additionally, the provision of an additional residential unit would make a positive, albeit small, contribution to the Council's housing land supply and help to deliver the pressing need for more homes in London. Furthermore, the provision of an additional 1x bedroom unit also accords with London Plan Policy GG4 and the National Planning Policy Framework (Framework), which both seek to ensure more homes are delivered, with mixed and inclusive communities provided.
12. In view of the above, the subdivision of the appeal property from two flats to three flats would not harm the residential character of the area. I therefore find no conflict with Policies D3, D4 and D6 of the London Plan (2021) insofar as

they together seek to ensure, amongst other things, that development makes the best use of land and delivers high quality design.

13. The Council's reason for refusal on residential character refers to conflicts with Policies 3.5, 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) (DPD). Policy 7.4 relates to visual appearance and as this proposal does not include any external alterations to the existing building, this policy is not determinative on the issue of residential character in relation to the proliferation of smaller units within the property.
14. Policy 7B seeks to ensure proposals achieve a high standard of amenity for users, and adjacent users, and Policy 3.5 relates to space standards. Whilst both these policies are considered later in this decision, they are not relevant to the issue of residential character.

Family Accommodation

15. The Council's second reason for refusal states that the proposal would fail to meet the Ealing Council's strategic requirement for larger homes, contrary to Ealing's Strategic Housing Market Assessment (2018) (SHMA) and Policy H9 of the London Plan.
16. London Plan Policy H9 promotes the efficient use of existing stock, and the Council has not directed me to any specific part of this policy to which they consider the proposal would be in conflict. Having reviewed this policy, I have found no reference to the provision of family accommodation.
17. The Council has also referred to the SHMA, however again the Council's evidence is vague and general in respect of the conflict with this document, and do not direct me to any specific sections, paragraphs or tables in support of their case.
18. In view of the above, I find the Council's evidence in respect of this reason for refusal to be unsubstantiated and lacking in detail.
19. Nevertheless, having reviewed the SHMA, I acknowledge that Figure 35 details that there is an objectively assessed need for 3-bedroom market housing in the borough. The SHMA also identifies that there are three main sources of household growth in the area and these sources are associated with the continued occupation of family sized dwellings by older couples or single people, or new households who require family sized dwellings. As such the need and demand for family accommodation in the borough is evident.
20. The proposal would result in the loss of a three-bedroom flat; however, it would also retain an existing three-bedroom flat at ground floor level. The three-bedroom flat that would be lost is currently situated at first and second floor level and does not have access to any outdoor amenity space. As such, its current functionality as family accommodation is questionable.
21. Furthermore, Policy H10 of the London Plan identifies the role that the provision of one- and two-bedroom properties can play in freeing up existing family housing that is currently occupied by single persons or couples without children, and these demographics are specifically identified in the SHMA as occupying family housing.

22. As such, the loss of a three-bedroom flat with no access to any outdoor amenity space, in order to provide two one-bedroom flats, which could be occupied by people that are seeking to downsize from family accommodation elsewhere would comply with Policy H10 of the London Plan, insofar as recognising the role smaller units can play in freeing up existing family housing elsewhere.
23. In view of the above, based on the evidence presented to me by the Council I have found no direct conflict with Ealing's Strategic Housing Market Assessment (2018) (SHMA) and Policy H9 of the London Plan in relation to the loss of family accommodation. Furthermore, for the reasons detailed above I have found that the proposal would comply with Policy H10 of the London Plan.

Future Occupiers

24. The Council's third reason for refusal, and Officer Report, contends that the bathroom for proposed Flat 3 is small and the proposed floor to ceiling height make this room impractical to use.
25. A bathroom is not considered to be a habitable room and the Council has not directed me to any minimum space standard requirements for bathrooms, either in respect of floor area, nor ceiling heights. As such, the practicality of the use of the bathroom in Flat 3 is a matter of planning judgement.
26. The submitted plans identify the parts of the bathroom that are above 2.5m in height; below 2.5m in height but above 1.5m in height; and below 1.5m in height. The plans show that the shower cubical would predominantly be situated in the area that is above 2.5m in height, with the sink and toilet in the area between 1.5m and 2.5m in height.
27. Having reviewed the plans and carefully considered the practicalities of the room during my site visit, I consider that whilst small in size, the layout of the bathroom, and fixtures and fittings, as shown on the submitted plans would allow for its practical use. Furthermore, the existing floor plans show that the existing three-bedroom flat within the property currently uses this second-floor room as a bathroom, which further suggests it is suitable for this use.
28. I therefore conclude that the proposed development would provide appropriate living conditions for future occupiers of proposed Flat 3 with regard to floorspace and ceiling height within the bathroom. The proposed development therefore complies with Policy D6 of the London Plan, and Policies 7B and 3.5 of the Ealing DPD, insofar as they together seek to ensure, amongst other things, that housing development should provide adequately sized rooms with functional layouts and adhere to the space standards.

Car and cycle parking

29. Whilst not a reason for refusal on the Council's decision notice, a number of interested parties have raised concerns in respect of the impact the proposal would have upon car parking provision in the area, as well as cycle parking provision.
30. In respect of car parking provision, the appeal site has a Public Transport Accessibility Level (PTAL) of 3. In accordance with the maximum parking standards set out in Policy T6.1 of the London Plan, the existing use of the property as two three-bedroom flats would be permitted a maximum of 2 car

- parking spaces. In accordance with the same maximum standards, the use of the property for one three-bedroom flat, and two one-bedroom flats would be permitted a maximum of 2.5 car parking spaces, which therefore also equates to 2 car parking spaces because these figures are maximum standards.
31. Consequently, in accordance with Policy T6.1 of the London Plan, the proposed development would not result in a need for any more parking provision at the site in comparison to the existing use as two flats.
 32. The submitted plans show that the appeal site currently has provision for the parking of one vehicle within the front yard area and this would be retained as part of the appeal proposal. As such, for the reasons detailed above, in accordance with the parking standards contained within the London Plan the appeal proposal would not result in the need for any more parking provision than existing, and the existing parking provision would remain the same as existing.
 33. Notwithstanding the above, I acknowledge that whilst the parking standards do not require the proposal to provide additional parking, the increase from two flats to three flats could result in additional vehicles seeking to park on-street within the Controlled Parking Zone.
 34. During my site visit I observed cars parked within the front driveway areas and also on the street. However, I observed there were a number of available spaces on the street for additional cars to park. Whilst I acknowledge that my site visit was a single snapshot in time, I have not been provided with any substantive evidence to demonstrate the existing demand for parking in this area is high.
 35. In my view, the potential additional demand for parking arising from the subdivision of one three-bedroom flat, into two one-bedroom flats would not have any undue impact upon parking capacity within the surrounding area. Furthermore, the site is located within a sustainable location with access to nearby shops, including a Sainsbury's Local for everyday items, and Boston Manor tube station, only a short walk from the appeal property. As such, future occupiers of the appeal proposal would not be reliant upon a private car for access to amenities.
 36. The Council's Officer Report suggests car parking at the appeal site could be restricted by way of a Section 106 Agreement or planning condition. The Council's suggested conditions however do not include such a condition, and no details have been provided in respect of how this could be dealt with via a Section 106 Agreement. Nevertheless, for the details given above I do not consider the Council's suggestions in the Officer Report for car parking at this site to be restricted to be either necessary and/or reasonable in this case.
 37. In accordance with the London Plan standards for cycle parking, this development is required to provide 5no. secured cycle spaces for the proposed flats. The submitted plans show that a secure lockable cycle storage facility would be provided to the front of the property for the storage of 4no. cycles, however there is space to the front of the property to provide a facility that can store 5no. cycles. The provision of this cycle storage facility can be secured by condition in order to ensure the proposal would adhere to the cycle parking standards.

38. I note interested parties' comments that the existing use as two flats does not currently provide any cycle storage provision. I have not however been provided with the details of any breaches of planning conditions in relation to this matter.
39. In light of the above, I conclude that the proposal complies with Policies T5, T6 and T6.1 of the London Plan, which require, amongst other things, car-free development to be the starting point, car parking to be restricted in sustainable locations that are well connected and accessible by public transport, and the appropriate provision of cycle parking.

Other Matters

40. In respect of the concerns raised by interested parties, for the reasons detailed in this decision I consider the use of the property as three flats to be in keeping with the residential character of the area and therefore the proposal does not result in an overdevelopment of the site.
41. Concerns have been raised in respect of the proposal being too close to neighbours, too high, would result in a loss of light and a loss of privacy, and that the existing property is an eyesore. However, the proposal does not result in any external alterations to the building and thus I find no harm in relation to these matters. Furthermore, the conversion of two flats into three flats would not have a significantly greater impact upon neighbouring occupiers by way of noise nuisance or pollution as the residential use of the property would be retained and the total number of bedrooms in the property would not be increased.
42. Interested parties have also commented that the proposal would put a strain on local facilities, impact upon ecology and queried fire safety / evacuations at the building. However, I have been provided with no substantive evidence of any conflict with the relevant planning policies in relation to these matters. Furthermore, the concerns that the proposed conversion would attract unruly tenants and increase the potential for antisocial behaviour are unsubstantiated by any evidence.
43. A number of interested parties have commented that the proposal is retrospective. As detailed earlier in this decision letter I observed on my site visit that internal works were taking place within the property, however it was not in use as three flats.

Conditions

44. The Council has provided a list of suggested planning conditions, some of which I have edited for clarity and enforceability.
45. Whilst some internal works were taking place within the property at the time of my site visit, it was unclear whether these works were related to the proposed development as they did not fully accord with the submitted plans. As such, I have attached the standard time limit condition, as well as a condition specifying the approved plans to provide certainty.
46. A condition requiring details of the cycle storage facilities to be provided within the site has been included to support the use of sustainable modes of transport. Furthermore, a condition requiring the bins storage and recycle facilities to be provided in accordance with the details shown on the approved

plans has been attached. This condition is necessary in the interest of visual amenity and to ensure satisfactory waste facilities are provided for future occupiers.

47. The Council requested conditions requiring the external materials used on the development to match those of the existing building and the proposed rooflights to not project more than 150mm from the roof plane. However, this proposal does not include any external alterations to the building, or any new rooflights, and subsequently these conditions are not necessary.
48. The Council has suggested conditions requiring the flats to be fitted with Ultra Low NOx boilers, and a scheme to ensure sound insulation values at least 5dB above Building Regulations. However, the relevant local plan policies suggested in the reasons for these conditions do not require these specific measures to be provided. As such I do not consider these conditions are necessary to make this development acceptable and these matters are covered by other regulations.
49. The Council has also requested a condition be added to prevent the existing single storey flat roof rear extension from being used as a balcony, roof garden or roof terrace. The rear extension is an existing feature and is not being applied for as part of this application. Furthermore, there is no evidence or indication that the roof of this existing extension will be used as a balcony, roof garden or roof terrace and as these properties are flats planning permission would in any case be required to install a rear access door at first floor level. This condition is therefore not considered to be reasonable nor necessary and has not been included.

Conclusion

50. For the reasons given above, and having regard to all matters raised, the proposed development would accord with the development plan when taken as a whole and there are no material considerations that indicate it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

R Major

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:
UK2122-TP-A-101; UK2122-TP A-103; UK2122-TP-A-202; and
UK2122-TP-A-301.
- 3) Notwithstanding the details shown on the approved plans and the requirements of condition 2, the development hereby approved shall not be occupied until details of the siting and design of secure / covered cycle parking spaces for 5no. cycles have been submitted to and approved in writing by the Local Planning Authority. The cycle parking spaces shall be provided on site in accordance with the approved details prior to first occupation of the development and retained as such thereafter.
- 4) Refuse and recycling storage facilities, as shown on approved drawing UK2122-TP-A-103, shall be provided and brought into use prior to the first occupation of the development hereby approved and retained thereafter.

*****END OF CONDITIONS*****