



Appeal Decision

Site visit made on 5 March 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2024

Appeal Ref: APP/T5150/W/23/3329017

27 Evelyn Avenue, Brent, London NW9 0JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alvernaz Vaz against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/0940.
 - The development proposed is described as change of use from C3 to C4 (HMO) for 6 residents. The creation of a technical room for the boiler and megaflo at the rear of the property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. Based on the evidence before me and at my site visit, the development has commenced and is therefore partly retrospective. On my site visit, I noted that there have been some changes to the submitted plans, including to the technical room extension to the rear. However, I must determine the appeal on the basis of the submitted plans and information considered by the Council. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 29 Evelyn Avenue, with particular regard to outlook and light;
 - whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to internal space standards; and
 - whether the proposed development would provide adequate cycle parking provision.

Reasons

5. The appeal site comprises a two-storey, mid terrace, house located in a predominantly residential area. The property has already been extended to the rear, by virtue of a single storey extension and loft conversion with dormer.
6. The proposed development is seeking approval for the change of use of a dwelling to a House of Multiple Occupancy (HMO). The only external alteration to the property being proposed is the erection of a single-storey, rear extension, which would house the boiler and megaflow for the proposed HMO. Overall, the HMO would provide six bedrooms, with a communal kitchen/dining/living room on the ground floor.

Living Conditions of Existing Occupiers

7. The proposed single-storey rear extension is described as a 'technical room' and would be located on the boundary with the neighbouring property 29 Evelyn Avenue (No.29). It would extend by approximately 2 metres from the existing rear wall of the dwelling, be 0.9 metres wide, and with a height of 2.3 metres. It would also be attached to the previous rear extension which also extends approximately 2 metres in depth from original rear wall of the dwelling. As a result, the overall projection from the original rear wall of the dwelling along the side boundary with No.29 would be approximately 4 metres.
8. The Residential Extensions and Alterations SPD2 2018 (SPD2) states that single storey extensions of up to 3 metres in depth are usually allowed. An extension of up to 6 metres in depth may be acceptable where the extension is set in from the boundary by 1 metre for each additional metre in depth. The SPD2 also states that extensions to extensions may be acceptable if it is well designed to integrate with the existing extension.
9. The proposed extension, as shown on the submitted plans, is a modest extension. However, the depth of the building and its relationship to the boundary of No.29 and windows within their rear elevation results in a highly visible addition that would result in harmful sense of enclosure experienced to the outlook from the rear window of No.29. It is also likely to result in a harmful impact on daylight and sunlight experienced from the rear window closest to the proposed development.
10. In addition, there would also by virtue of the height and proximity of the proposed extension, be some harm to the enjoyment of the garden, in particular to an area of patio located adjacent to the boundary. However, No.29 has a large garden and therefore, given the limited scale of the proposed extension, any harm is likely to be minor.
11. Whilst I understand that the extension is required to house a boiler and megaflow system to serve the proposed HMO use, I have not been presented with any substantive evidence that the building must be located in this position. I therefore attribute this limited weight.
12. I have had regard to the Appellant's statement which sets out that if the 'technical room' is a detached building, then it would benefit from permitted development right granted planning permission under the Town and Country Planning (General Permitted Development) Order 2015 (GPD0). However, whilst I observed at my site visit that the 'technical room' appears to have been detached from the main building, I have not been provided with any

amended plans to show this. The submitted plans show that the 'technical room' forms an extension to the main building and I have to consider the appeal on this basis.

13. In any case, it is not for me, under a Section 78 appeal, to determine whether or not alterations or extensions would comply with the GPDO or be lawful. It is open to the appellant to apply to the Council for a separate determination under Sections 191/192 of the Act regardless of the outcome of the appeal.
14. Consequently, I find that the proposed extension would cause unacceptable harm to the living conditions of the occupiers of No.29, with particular regard to outlook and light. The proposal would therefore be contrary to Policies DMP1 and BD1 of the Brent Local Plan, which require, amongst other things, the highest architectural and urban design quality and provided high levels of internal and external amenity, which complements the locality.
15. It would also be contrary to guidance contained within the SPD2, for the reasons set out above.

Living Conditions of Future Occupiers

16. Policy BH7 of the Local Plan states development is required to be of an acceptable quality, meeting appropriate standards for the needs of its occupants. The Brent Houses in Multiple Occupation Supplementary Planning Document 2022 (HMO SPD) states that given the importance of bedrooms as private spaces to HMO occupants, the net internal floorspace standards of Policy D6 of the London Plan 2021 are considered to be the minimum acceptable standard.
17. Under Policy D6 of the London Plan, the minimum acceptable standard for a single bedroom is to provide internal floorspace of at least 7.5m² and be at least 2.15m wide. For a double bedroom, it should provide 11.5m² of floorspace and be at least 2.55m wide. The Council's concerns appear to relate solely to bedroom 2 and bedroom 5, which are both single bedrooms.
18. Whilst Bedroom 2 would meet the minimum floorspace requirement, it would not be 2.15m wide for the entirety of the accommodation. Bedroom 5 would not meet the minimum floorspace requirement but would meet the minimum width standard for the majority of the floorspace. Therefore, neither bedroom 2 nor bedroom 5 would meet the minimum acceptable standard.
19. Whilst I recognise that the deficiencies are small, the proposed accommodation would nevertheless not meet the minimum standards. This is particularly relevant within a HMO where the bedroom is the occupant's only private living space and is the space, they are likely to spend most of their time in. It is, therefore, necessary to ensure that the room has sufficient floorspace to provide adequate living conditions, which the proposed development would not.
20. For these reasons, it has not been demonstrated that the proposed development would provide adequate living conditions for the future occupiers with particular regard to internal space standards. It would therefore be contrary to Policy BH7 of the BLP, which requires, amongst other things, accommodation to be of an acceptable quality meeting appropriate standards for the needs of its occupants.

21. It would also be contrary to the guidance contained with the HMO SPD in so far as the accommodation would not meet the minimum acceptable standards as set out in Policy D6 of the London Plan.

Cycle Parking

22. It is not disputed that the proposal would provide the required amount of cycle parking. However, the proposal indicates that four cycle parking spaces would be located at the front of the property, with a further four spaces located to the rear of the property. Access to the rear garden of the property is provided by using a side lane adjacent to the side wall of No.25, the next-door property.
23. From my observations of the surrounding area, this does not appear to be an uncommon arrangement for access to the rear of the property, where the property is mid-terrace. In addition, there is a rear access door to a communal space within the property which could be used for access to the cycle storage. I am not therefore persuaded that the access arrangements to the rear are convoluted or impractical as has been suggested by the Council.
24. For these reasons, I therefore find that the proposed development would provide adequate cycle parking provision. It would thus comply with Policy T5 of London Plan, which requires amongst other things, that development proposals secure the provision of appropriate levels of cycle parking which should be fit for purpose, secure and well-located.

Other Matters

25. I have had regard to the Framework which states that decision-makers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. I also recognise that the proposed creation of a 6-bedroom HMO would be suitably sited in a relatively accessible location close to public transport links, shops and other provisions.
26. However, these benefits are limited and not sufficient to outweigh the harm that I have identified to the living conditions of No.29 and of the future occupiers of the development.

Conclusion

27. For the reasons given, the proposal would therefore not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR