



Appeal Decision

Site visit made on 6 March 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2024

Appeal Ref: APP/T5150/W/23/3329963

16 Alexander Avenue, London NW10 3QS

- 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 Issam Fayez against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/2239.
 - The development proposed is the conversion of single dwellinghouse into 3x self-contained flats, internal alterations, removal of side and rear doors and windows, addition of side windows, addition of rear doors.
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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.

Main Issues

3. The main issues are:
 - the effect of the proposal on the supply of family sized dwellings and access to public transport;
 - whether appropriate living conditions would be provided for future occupiers of the proposed development with particular regard to adequate internal ceiling height; and
 - whether the proposed development would achieve the highest standards of fire safety.

Reasons

Family Sized Housing

4. The appeal site is a large, detached property, located in a residential area, which is predominantly characterised by larger family dwellings. The dwelling has a pitched roof with a double bay facing the highway. It is constructed of render with a tiled roof and is set-back from the highway with a driveway.

5. Policy BH11 of the Brent Local Plan 2022 (BLP) states that the conversion of a family sized house, being a house with three or more bedrooms, to two or more dwellings, will only be permitted if: the existing house is 130sqm or more; the conversion results in at least a three bedroom dwelling, preferably with direct access to a garden; and it is within an area of PTAL 3 or above.
6. Policy BH4 is also concerned with the supply of housing on small sites, including through conversions. This policy supports development in 'priority locations' which are defined as areas with a PTAL rating of 3 to 6, intensification corridors and within town centre boundaries.
7. Policies BH4 and BH11 of the BLP and the London Plan prioritise development which reduces reliance of private car ownership/use and encourages intensification in areas with better public transport provision.
8. It is not disputed that the proposed development meets the first criteria of Policy BH11. Based on the evidence before, I see no reason to disagree. The proposed development would involve the creation of three dwellings, of which two would have three or more bedrooms and Flat 1 would have access to private outdoor amenity space. As such, the proposed development would also comply with the second criteria of Policy BH11. However, it would be contrary to the third criteria, as the appeal site is located in an area with a PTAL rating of 2. The site is also not located within any of the priority locations listed above, or within a priority location.
9. The use of PTAL ratings is the established approach to assessing accessibility set out in the BLP. As such, whilst the appeal site is located within approximately 650 metres of Willesden Town Centre, which would provide future occupants with access to services and facilities. The location is nevertheless a location which is identified as having poor access to public transport. I have not been presented with any substantive evidence in respect of the location to outweigh the conflict with Policy BH11 of the BLP, which seeks to maintain family size housing and only supports conversion of larger homes into two or more dwellings, where the dwelling is located in areas with a PTAL 3 or above.
10. I acknowledge that there may be an under provision of flats within converted houses in the area, and that two of the flats would have three or more bedrooms and would therefore be suitable for families. I also acknowledge that the proposal would make a small contribution to boosting the supply of housing in the area. However, the location of the appeal site is in an area poorly served by public transport and would therefore be likely to result in a higher level of car dependency. The site is also located within an area characterised by larger family dwellings.
11. I have had regard to a previous appeal decision¹ which has been brought to my attention. Whilst I do not have the full details before me, it does not appear to be directly comparable to the scheme before me as it refers to a House in Multiple Occupation.
12. Consequently, I therefore find that the proposed development would harm the supply of family sized housing and have limited access to public transport. It would therefore be contrary to Policies BH11 and BH4 of the BLP, which

¹ APP/Z5060/A/11/2167184

amongst other things, seek to ensure that development is located in areas with better public transport provision and a PTAL rating of 3 or above.

Living Conditions

13. Policy D6 of the London Plan states that the minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area of each dwelling. The appellant has confirmed that the ceiling height of the smallest flat (Flat 3) would be below the minimum requirement, by approximately 0.2 metres.
14. Although the proposed gross internal floor area would exceed the minimum requirement by a small amount, I have not been presented with any substantive evidence that the proposed development would provide accommodation which meets the minimum requirements of Policy D6 of the London Plan in relation to internal ceiling heights. As a consequence, it has not been demonstrated that the proposed development would not result in the provision of cramped accommodation for the occupiers of Flat 3.
15. I acknowledge that the Council found that the accommodation would be dual aspect, have an acceptable outlook and access to daylight and based on the evidence before me, I see no reason to disagree. However, this does not alter my above findings.
16. For these reasons, I therefore conclude that that the proposed development would not provide adequate living conditions for future occupiers with particular regard to internal ceiling heights. It would therefore be contrary to Policy D6 of the London Plan which requires amongst other things, a minimum ceiling height of at least 2.5 metres for a minimum of 75% of the total accommodation.

Fire Safety

17. Policy D12(A) of the London Plan requires all development proposals to achieve the highest standards of fire safety and sets out a number of criteria to be addressed. While it does not require the submission of a Fire Statement or Reasonable Exception Statement, the supporting text to this policy states that the fire safety of developments should be considered from the outset.
18. The appeal is accompanied by a Fire Safety Strategy (FSS) and the date of this document would suggest that it was prepared after the Council issued its refusal on the planning application. Nevertheless, the Council has had an opportunity to review this document as part of the appeal process and submit any comments as part of their appeal submissions. The Council has not provided any comments on the submitted FSS and its content.
19. Within the FSS, the appellant has provided further details including in relation to fire safety including information on access provisions for fire appliances and assembly points, internal construction details and means of escape and evacuation strategy. Based on the evidence before me and given that such details would be required as part of building regulations then I do not find that the proposed development would result in unacceptable harm in relation to fire safety.
20. For the above reasons, I conclude that the proposed development would be capable of achieving the highest standards of fire safety. It would therefore

accord with Policy D12 of the London Plan which explains that in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety.

Other Matters

21. The proposed development would make a modest contribution towards the areas housing supply boosting the supply of homes, in an area which is fairly close to bus and train transport services and local facilities, including schools, parks and shops. It would also contribute towards the type and mix of housing supply, thus complying with the aims of Policy H10 of the London Plan and make efficient use of brownfield land. It would also contribute towards the local economy, including through the creation of construction jobs associated with the development, increased local expenditure and taxation derived from the increased number of residents and units on site, and by accommodating additional local workforce. However, given the scale of the development, these benefits would be limited in extent and not sufficient to outweigh the harm which I have identified.

Conclusion

22. For the reasons given above, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations of sufficient weight, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR