



Appeal Decision

Site visit made on 4 March 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/M5450/W/23/3330223

152 Malvern Avenue, Harrow HA2 9HB

- 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 Kalpesh Patel against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/2179/23.
 - The development proposed is full planning permission for conversion of existing house into 2 self-contained dwellings with associated bins and cycle provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide adequate living conditions for future occupants of the flats, with particular regard to internal layout and private external amenity space; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Living conditions

3. The application site is located in a predominantly residential area, comprised of a mix of two storey terraced and semi-detached properties. The dwellings are set back from the road with modest front gardens, many have no front boundary treatment and are hard surfaced to create private parking areas. The appeal property, 152 Malvern Avenue, is semi-detached and has been extended to the side to fill the entire width of the plot.
4. The proposal is for the subdivision of the property into two separate flats, a two bedroom flat on the ground floor and a three bedroom flat on the first floor and loft floor.
5. The appeal site is in a moderately accessible location within a reasonable distance from shops, services and public open space. One of the flats would have three bedrooms therefore the development would not result in the loss of family accommodation. The Council raises no concerns regarding the principle of the conversion of the property into flats and given the evidence before me, I find no reason to disagree with their assessment. The internal floor area of

each property would meet the minimum requirements at set out within Policy D6 of the London Plan 2021 (LonP) and each flat would be dual aspect and would provide occupants with an adequate outlook and light.

6. It is acknowledged that structural details of the proposed conversion, such as acoustic insulation between properties, would be assessed under separate Building Regulations. However, the provision of adequate living conditions for future occupants is also a planning matter and a policy requirement in this instance. Where the proposed development involves the conversion of property into flats, Policy DM26 of the Harrow Council Development Management Policies (2013) (DMP) requires that 'the arrangement of rooms secures the separation of bedrooms and other room uses between homes' and that development proposals 'have regard to adequacy of any measures to prevent noise transference'.
7. The internal layout of the properties would be such that the rear bedroom of the first floor flat would be above the kitchen/living area of the ground floor flat, and a front bedroom of the ground floor flat would be below the kitchen/living area of the upper floor flat. This would likely result in a transfer of noise between the respective living and sleeping areas, and result in an uncomfortable relationship between the properties. There is also no substantive evidence before me detailing any measures, such as acoustic insulation, to prevent noise transference between the properties. As such the proposal fails to accord with the requirements of Policy 26 of the DMP as detailed above.
8. The provision of private external amenity space as part of a housing development is a requirement of Policy D6 of the LonP that states 'where there are no higher local standards in the borough Development Plan Documents, a minimum of 5 sq.m of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m should be provided for each additional occupant'. The local development plan documents do not stipulate minimum requirements for garden areas. However, Policy DM26 of the DMP requires the provision of amenity space for future occupants and that where an existing garden is available that it is divided to form private amenity spaces for each home, or if this cannot reasonably be achieved a communal garden area.
9. The entire rear garden would remain part of the ground floor flat and the upper floor flat would have no private garden ground. Families in this property would have no outside space where children can play, or they could sit, relax, socialise, and dry clothes in privacy. In my judgement the proposal would fail to provide adequate living conditions for future occupants of the upper floor flat in terms of private external amenity space. While access to nearby public open space could be beneficial to future occupants of the development it would not ameliorate the harm to the living conditions of the occupants of the upper flat in having no private outdoor space.
10. No provision for private outdoor space for the upper floor flat is contrary to the requirements of policy D6 of the LonP. Given the layout of the properties in the area, it is accepted that the erection of a balcony may not be appropriate in this location. However, there is no substantive evidence before me to demonstrate that it would be impossible to convert the property in such a way that would allow for an appropriate amount of private outdoor space for each dwelling.

11. For the reasons stated above the proposal would fail to provide adequate living conditions for the occupants of both flats in relation to internal layout and the occupants of the upper flat in relation to private external amenity space. Therefore, the proposal is contrary to Policies D3 and D6 of the LonP, Policies DM1, DM26 and DM27 of the DMP. These policies are consistent with the National Planning Policy Framework (NPPF) in requiring that housing development provides adequate living conditions for future occupants, delivers appropriate amenity and indoor and outdoor environments that are comfortable to use, this includes the separation of bedroom and other room uses between homes and the provision of an appropriate area of private outside space.

Character and appearance

12. The front garden of the appeal property is hard surfaced to create a private parking area and, as detailed above, this reflects other properties on the street. No external alterations to the building are proposed as part of the development. The front garden would be landscaped, retaining a single car parking space and including the provision of a bin store and cycle locker to store cycles for the upper floor flat.
13. The Council raised concerns that the proposed cycle store would result in harmful visual clutter within the street scene. However, the landscaping plan includes a hedge that would screen views of the cycle locker. In my judgement, the hedge, along with the other soft landscaping proposed, would mitigate the impact of the cycle locker in relation to both the existing house and the street scene.
14. For the reasons stated above the proposal would not have a harmful effect on the character and appearance of the area. As such, the proposal is considered to be in accordance with Policy D3 of the LonP and Policy DM1 of the DMP, which require that all development must make the best use of land by following a design-led approach, that optimises the capacity of the site and results in a high standard of design and layout.

Other Matters

15. The proposal would not have a harmful effect on the living conditions of the occupants of neighbouring properties, would meet energy efficiency requirements, would be in an area at low risk of flooding and would incorporate low water use measures. The absence of harm in these respects are neutral factors that weigh neither for nor against my determination of this appeal.
16. My attention has drawn to three previous appeal decisions, for sites in Harrow, relating to housing development where at least one proposed dwelling would have no private external amenity space. In each case the Inspector has found that the provision of no private external amenity space would not result in unacceptable living conditions. However, each of the appeals were determined prior to the adoption of the LonP in 2021, which sets out a minimum requirement for private outdoor space. Accordingly, the circumstances that applied to the other cases are not directly comparable to those before me.

Conclusion

17. I have found that the development would not harm the character and appearance of the area, this is a neutral consideration in my determination of the appeal.

18. In providing an additional dwelling the proposal would make a modest contribution to the housing supply in the area and the development of windfall sites is encouraged within both the Framework and the LonP as a means to increase housing supply. There would also be an economic benefit during construction.
19. However, the development would fail to provide an internal layout that would minimise noise transference between properties and there would be no private external amenity space provided for the occupants of the upper floor flat. Therefore, the proposed development would fail to provide adequate living conditions for future occupants. The adverse effects in these respects are considerable and are not outweighed by the benefits detailed above.
20. The development would conflict with the development plan taken as a whole. This conflict is not outweighed by other considerations. Therefore, the appeal is dismissed.

C Livingstone

INSPECTOR