



Appeal Decision

Site visit made on 26 March 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 May 2024

Appeal Ref: APP/A5270/W/23/3328680

66 Northfield Avenue, West Ealing W13 9RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr K Woolf of Aristocrat Property Investments Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 222435FUL.
 - The development proposed is part change of use from dry cleaners (class E) to residential (C3); two storey rear extension, dormer formation; conversion to provide 4 residential units.
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Decision

1. The appeal is allowed and planning permission is granted for part change of use from dry cleaners (class E) to residential (C3); two storey rear extension, dormer formation; conversion to provide 4 residential units at 66 Northfield Avenue, West Ealing W13 9RR in accordance with the terms of the application, Ref 222435FUL and subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal remain broadly the same. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring occupants of 68 Northfield Avenue (No 68), having particular regard to enclosure;
 - whether the proposed development would provide acceptable living conditions for future occupants of Unit 1, with regard to daylight and sunlight; and,
 - whether the reduction in size of the commercial floor space would affect the operation and viability of this unit.

Reasons

Character and appearance

4. The appeal site lies on the corner of Northfield Avenue and Mayfield Avenue and consists of a two storey, end of terrace building. The appeal property has a commercial unit on the ground floor, with residential accommodation above. There are a range of architectural styles along Northfield Avenue, ranging from traditional to modern. Development in the immediate locality typically ranges from single storey to three storeys in height. There are a mix of uses in the area, including retail, commercial and residential.
5. Mayfield Avenue is predominantly residential in character and consists primarily of two storey semi-detached and terraced houses, which have gable frontages and projecting bay windows.
6. The proposal seeks to change the use of part of the commercial unit on the ground floor to residential. A two storey rear extension, dormer window and changes to fenestration are also proposed. The proposal would provide a net gain of 3 flats on site.
7. The Council's first reason for refusal alleges that the proposed terraces would be harmful to the character and appearance of the area. However, it is common ground between both main parties that the terraces were removed from the scheme during the course of the planning application and they do not feature on the plans before me. As a result, I find no harm in this regard.
8. Although not specifically mentioned in the Council's reason for refusal, the Council's delegated report states that the proposed extension would be harmful to the character and appearance of the area. The existing rear projection has a relatively bland side elevation, which is visible from the street. The proposal would extend the existing rear projection, but add visual interest in the way of windows, doors, Juliet balconies and gable features. Gables are a strong feature in the street scene and the proposal would reflect the architectural character of adjacent dwellings. The proposed extension has been well designed and would enhance the character and appearance of the area.
9. The apartment building opposite extends the full depth of its plot. The proposed extension would not extend as far rearwards as the apartment building opposite. As a result, the proposal would not conflict with the established development pattern of the area.
10. For the reasons given above, I conclude that the proposed development would not be harmful to the character and appearance of the area. It would accord with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (DMDPD) December 2013, Policies 1.1 and 1.2 of the Ealing Development Strategy 2026 Development Plan Document adopted April 2012 (the Core Strategy) and Policies D3 and D4 of The London Plan March 2021. These policies among other things require that development in Ealing's built areas complement their street sequence, building pattern, scale, materials and detailing and that new development is of high quality design and responds positively to local distinctiveness.
11. Although the Council alleges that the proposal would be contrary to the Framework, it is not clear from the evidence before me, where this conflict arises.

Living conditions of occupants of No 68

12. No 68 has glazed doors and a window that face into a light well and serve a bedroom and kitchen respectively. The light well is currently enclosed on all sides by the two storey built form of No 68, its existing single storey rear projection and the existing single and two storey built form of the appeal property.
13. The existing two storey rear projection of the appeal property currently extends further rearwards than the light well and is visible from the openings within the light well. The Council argues that the proposed extension would traverse the horizontal and vertical 45 degree line and would conflict with BRE guidelines. However, it is common ground between both main parties that the proposal would not result in a harmful loss of daylight or sunlight to No 68.
14. The proposed extension would be set in from the shared boundary and would be sited further away from the light well than the existing two storey rear projection. The appellant has submitted a 3D model view, which demonstrates that the proposed extension would not be visible from the midpoint of the bedroom window. As a result of the above, I find that the proposal would not result in a harmful sense of enclosure to this window and would have a negligible impact on the living conditions of No 68.
15. Given the above, I conclude that the proposed development would not result in a harmful sense of enclosure to occupants of No 68. The proposal would comply with Policy 7B of the DMDPD, Policy 1.1 of the Core Strategy and Policy D6 of The London Plan. These policies among other things require that new development achieves a high standard of amenity for adjacent uses and protects and enhances suburban communities. The proposal would also accord with the Framework, which requires that proposals create places with a high standard of amenity for existing and future users.

Living conditions of future occupants of Unit 1

16. The openings for Unit 1 would be predominantly sited on the north-west elevation of the building. However, a rooflight is also proposed, which would light the rear section of the kitchen and living room. The Council alleges that the rooflight is likely to be obscure glazed and would be partially obscured by the new screen adjacent to the access to the flats. The appellant has submitted a Daylight, Sunlight and Overshadowing Assessment with the appeal, which demonstrates that all rooms within Unit 1 would meet BRE guidelines¹ and BS EN 17037:2018² and would receive adequate levels of daylight and sunlight. Based on the evidence before me and my site visit, I find that the proposal would provide acceptable levels of daylight and sunlight to future occupants of Unit 1.
17. For the above reasons, I conclude that the proposal would not be harmful to the living conditions of future occupants of Unit 1, in respect to daylight and sunlight. The proposal would comply with Policies 3.5, 7B and 7D of the DMDPD and Policy D6 of The London Plan. These policies among other things require that development provides sufficient daylight and sunlight to new housing that is appropriate for its context. The proposed development would also accord

¹ BRE - Site layout planning for daylight and sunlight: a guide to good practice by P J Littlefair et al. (2022)

² BS EN 17037:2018 Daylight in buildings

with the Framework, which requires that proposals create places with a high standard of amenity for existing and future users.

Commercial floor space

18. The proposal seeks to convert part of the existing commercial unit on the ground floor to residential accommodation. The commercial unit would be reduced in size from approximately 82sqm to 29sqm. The site lies within the Northfields Neighbourhood Centre and forms part of a secondary shopping parade. The proposed commercial floorspace would be slightly larger than the adjacent unit, which was approved under ref: 160203FUL. It would also be comparable in size to other units along the street. The proposal would not change the shopfront, only the depth of the unit. As a result, the character of the shopping parade would remain unaltered.
19. The appellant has provided a Retail Market Assessment with their appeal, which concludes the proposed retail unit would be of a sufficient size to be viewed as commercially attractive by retail agents and prospective tenants and that demand is strong in the locality. The proposed unit would be appropriately sized to accommodate a range of potential tenants and occupiers. The provision of 2 small units adjacent to each other would not harm the vitality and viability of the commercial area.
20. For the above reasons, I conclude that the proposed development would not harm the operation or viability of this unit. The proposal would comply with Policy 4A of the DMDPD. This policy among other things seeks to retain employment uses. The proposal would also accord with the Framework, which seeks to build a strong, competitive economy.
21. It is clear from the proposal description that the existing unit does not fall within Class B of the Town and Country Planning (use Classes) Order 1987 (as amended). As a result, Policy E2 of The London Plan is not applicable to this main issue, as Policy E2 relates solely to uses within Class B.

Other Matters

22. The appeal site lies within a Controlled Parking Zone. Policy 1.1 of the Core Strategy seeks to promote healthy travel behaviour and reduce the need to travel. The appellant has submitted a completed unilateral undertaking dated 27 November 2023, made pursuant to Section 106 of the Town and Country Planning Act 1990 and other Statutes. The unilateral undertaking restricts future occupants from obtaining parking permits, thereby ensuring the development would be car free.
23. I consider the obligation to be necessary to make the development acceptable in planning terms, directly related to it and fairly and reasonably related in scale and kind to it. Accordingly, I consider that the unilateral undertaking meets the relevant statutory³ and national policy tests⁴ and meets policy objectives that seek to promote healthy travel behaviour and reduce the need to travel.

³ Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

⁴ Paragraph 57 of the Framework

Conditions

24. In addition to the standard time limit condition, in the interests of certainty, I have included a condition specifying the approved plans. In order to protect adjoining occupiers from noise, vibration and dust during the construction period, a Construction Method Statement is required. To protect future residents from noise and vibration, a noise assessment, noise mitigation strategy and measures to restrict noise and vibration from plant/ventilation systems are necessary. A ventilation strategy is also required to ensure a satisfactory internal living environment for future occupants.
25. Conditions requiring the provision and retention of cycle and refuse storage are necessary to ensure appropriate cycle and refuse storage provision are provided on site. To ensure an appropriate finish, a condition requiring that the rooflights project no more than 150mm from the plane of the roof slope is required.
26. Details of external materials are not required as they are shown on the proposed plans. A condition requiring the first storey side elevation windows to be obscure glazed is not necessary, given the distance to neighbouring properties, the intervening highway and requirement for the development to be carried out in accordance with the approved plans.

Conclusion

27. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed, subject to conditions.

A James

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: 100: Proposed Location and Site Plans; 101: Location and Site Plans; 102: Existing Ground, First and Loft Plans; 103: Existing Front, Side, Rear and Access Deck Side Elevations; 111: Proposed Section thr Flats; 120: Proposed Ground, First and Loft Plans; and, 121: Proposed Front, Side, Rear and Access Deck Side Elevations.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide details of:
 - i) noise and vibration mitigation measures and monitoring arrangements for noise and vibration by a suitably qualified noise specialist. Noise and vibration mitigation measures must accord with the Mayor's 'Best Practice Guidance' and Approved CoP BS 5228-1 and -2:2009+A1:2014;
 - ii) measures to control the emission of dust and dirt during construction;
 - iii) delivery, demolition and construction working hours;
 - iv) notifications/liaison with interested parties and neighbours; and,
 - v) public display of contact details including accessible phone numbers for persons responsible for the site works for the duration of the works in case of emergencies or complaints.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Prior to the commencement of the development hereby approved, a noise assessment and mitigation strategy shall be submitted to and approved in writing by the local planning authority, which shall include external noise levels from transport, industrial, commercial and other neighbouring uses. The noise assessment shall have regard to the assessment standards of the Council's Supplementary Planning Guidance (SPG) 10 including aircraft noise.

The noise mitigation strategy shall include details of sound insulation of the building envelope including glazing specifications (laboratory tested including frames, seals and any integral ventilators, approved in accordance with BS EN ISO 10140-2:2010) and of acoustically attenuated mechanical ventilation and cooling as necessary to achieve internal noise limits specified in SPG 10.

The noise mitigation strategy shall also include an enhanced sound insulation value of at least 5dB above the maximum Building Regulations value, for the floor/ceiling/wall structures separating different types of rooms/uses in adjoining dwellings/areas, namely, bedrooms adjoining the shop and below/above/adjoining kitchen/living/dining/bathroom of separate dwelling.

The mitigation measures shall have regard to SPG 10 and noise limits specified in BS8233:2014. The noise mitigation measures shall be fully installed prior to the first occupation of the residential development hereby approved and maintained thereafter.

- 5) Prior to the commencement of the development hereby approved, a Ventilation Strategy Report shall be submitted to and approved in writing by the local planning authority. The Report shall contain details for providing fresh air ventilation to habitable rooms on the "Northfield Avenue" facade, the supply to be provided from the rear of the building at high level. The Report shall include details and locations of the ventilation intake and extracts for all floors.

The approved details shall be fully implemented prior to the first occupation of the residential development hereby approved and thereafter permanently retained and maintained.

- 6) The individual and combined external sound level emitted from plant, machinery or equipment at the development site shall be lower than the lowest existing background sound level by at least 10dBA, as measured at/ calculated to the nearest and most affected noise sensitive premises at the development site and at surrounding premises. The assessment shall be made in accordance with BS4142:2014, with all machinery operating together at maximum capacity.
- 7) Prior to use, machinery, plant or equipment/ extraction/ ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
- 8) Prior to the first occupation of the residential development hereby approved, the cycle parking and refuse storage shall be provided in accordance with the approved plans and thereafter retained.
- 9) The rooflights hereby approved shall not project more than 150mm from the plane of the roof slope when measured perpendicularly and shall be retained as such for the lifetime of the development.