



Appeal Decision

Site visit made on 7 August 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 4th September 2024

Appeal Ref: APP/T5150/W/24/3337015

37 Sudbury Court Drive, Harrow, Brent HA1 3SZ

- 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 and Mrs Muhammed and Safa Adam against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/2254.
 - The development proposed is the conversion of a single dwelling house to 3 self-contained flats, including minor alterations to the elevations and associated internal works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal submission the appellant has submitted a revised Proposed Plans and Elevations¹ drawing. The proposed changes to the scheme are the removal of one bedroom within Flat 3, the conversion of the communal external area to a private garden, and an amended driveway layout to reduce the number of off-street parking spaces. Given the numerous amendments and the modest scale of the development the proposed alterations are significant. Therefore, the amended plans represent a substantive change from the proposal that was before the Council.
3. The Procedural Guide² is clear that the appeal process should not be used to evolve a scheme. Moreover, interested parties have not been specifically consulted on the amended proposal. Having regard to this and the principles established in the Holborn Studios Judgment³, I will assess the proposal based upon the plans that were before the Council when they determined the application.
4. A planning application⁴ for a similar scheme at the appeal site was refused in March 2023. The appeal proposal represents an amended scheme as the proposed number of flats has been reduced from four to three.
5. On 30 July 2024 the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and "National Planning Policy Framework: draft text for consultation". Also, a Written Ministerial Statement entitled "Building the

¹ Drawing No. 220903-03-P7

² Procedural Guide: Planning appeals - England

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

⁴ Planning application Ref. 23/0212

homes we need” was published on the same date. The Council and the appellant were given the opportunity to comment on these publications. I have considered their responses when determining this appeal.

Main Issues

6. The main issues are:

- the effect of the proposal on the provision of large family-sized dwellings;
- whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook and the provision of external amenity space; and,
- whether the proposal would provide an acceptable level of vehicle and cycle parking.

Reasons

Large family-sized dwellings

7. Policy BH11 of the Brent Local Plan 2019-2041, February 2022 (BLP) seeks to restrict the conversion of a large family-sized dwelling to two or more smaller dwellings, to specific circumstances. The Policy outlines three criterion which proposals should comply with and provides an exception where the amenity of the existing family home is so deficient that family occupation is unlikely.
8. It is not disputed that the appeal proposal complies with the first two criterion. Nonetheless, the third criterion requires the appeal site to be within an area of Public Transport Accessibility Level (PTAL) 3 or above. The appeal site is in PTAL 2, which means it has less connectivity to public transport than required by BLP Policy BH11. Furthermore, the existing dwelling provides appropriate amenity for its occupiers; without the proposed conversion I see no reason why it would not be occupied by a family. As such, the proposal does not meet the specified exception.
9. I acknowledge that the appeal site, is in an established residential neighbourhood, close to an area within PTAL 3, it is also in proximity to several services and facilities as well as public transport. Given the above, future occupiers would not be entirely dependent on the use of private motor vehicles. Nonetheless, by only supporting proposals for the sub-division of dwellings in areas of PTAL 3 or above, the Council is seeking to ensure that higher density housing is in areas which have very good access to public transport. Whilst the appeal site has good access to public transport, there are other areas within Brent which have much better access.
10. I note that the appeal proposal would result in a four-bed and two three-bed flats which could be occupied by families. However, BLP Policy BH11 seeks to retain larger family-sized dwellings due to an identified need for this type of housing. There is no substantive evidence which indicates that the identified need has been met. Moreover, the existing dwelling could be occupied by a larger family than any of the proposed flats.
11. Although there is evidence of an historic under delivery of housing in Greater London, there is no substantive evidence of a shortfall in the supply or delivery of housing in Brent. Without evidence of a local shortfall, the weight ascribed to the net gain in dwellings is reduced compared to areas where there is a shortfall.

12. Overall, I conclude that the proposal would have a harmful effect on the provision of large family-sized dwellings. Therefore, it would be contrary to BLP Policies BH4 and BH11 which indicate that small housing developments delivering a net addition of dwellings through the more intensive use of a site will be supported within locations of PTAL 3-6, amongst other matters.

Living conditions

13. Bedroom 3 within Proposed Flat 3 would only have one window, which would be obscurely glazed and non-openable up to a height of 1.75m. Although the window would allow some light into the room, it would restrict most views out of the window. As it would be the only window within the room, future occupiers would feel enclosed when using this space. As such, the outlook from this bedroom would be unacceptable. Furthermore, this is not disputed by the parties.
14. BLP Policy BH13 specifies that all new dwellings, situated at ground floor, of three or more bedrooms would be expected to have external private amenity space of 50m², and all other dwellings would be expected to have 20m² of external private amenity space.
15. The Proposed Plans and Elevations⁵ drawing shows that both proposed flats 1 and 2 would have external private amenity spaces which are in excess of the minimum standard. I acknowledge that the proposed rear garden for Flat 2 would be irregularly shaped and of limited depth in some areas. This would reduce the usability of the space. However, the amount of external private amenity space would be well above the minimum standard. Furthermore, I note that the amount of usable space for both gardens would be reduced by landscaping, but an alternative landscaping scheme could be secured by condition which would ensure that there would be a suitable amount of usable space in each garden.
16. Notwithstanding this, proposed Flat 3 has no external private amenity space. The justification text for BLP Policy BH13 indicates that where sufficient private amenity space cannot be achieved individually for each dwelling, the remainder should be supplied in the form of communal amenity space. The proposal includes 36.25m² of communal amenity space. This is significantly more than the required external private amenity space for Flat 3.
17. The Residential Amenity Space SPD⁶ supports communal spaces which are well overlooked and easily accessible for all the residents who share them. The proposed communal space would be easily accessible and would be suitably overlooked by future occupiers of the proposal.
18. Given the above, I conclude that the appeal proposal would include adequate external amenity space for all of the proposed flats. It would be in general accordance with BLP Policy BH13 and the Residential Amenity Space SPD.
19. Whilst the appeal proposal would provide adequate external amenity space, it would have a harmful effect on the living conditions of future occupiers, with regard to outlook. It would therefore be contrary to BLP Policy DMP1 and Policy D6 of The London Plan, the Spatial Development Strategy for Greater London, March 2021 (LP). These policies indicate that proposals that provide high levels

⁵ Drawing No. 220903-03-P4

⁶ Residential Amenity Space & Place Quality Supplementary Planning Document, June 2023.

of amenity will be acceptable, and developments should be high quality and provide adequately-sized rooms with functional layouts.

Vehicle and cycle parking

20. The LP specifies that the maximum vehicle parking allowance for the proposed housing mix would be three spaces. The proposal includes four off-street parking spaces. As such, the appeal proposal would provide too much vehicle parking and would consequently encourage the use of private motor vehicles.
21. I note that the appellant sought to provide an amended scheme during the determination of the planning application which reduced the number of spaces to three. However, the Council did not accept the amendments and therefore interested parties have not been consulted on the amended plans. My assessment is based upon the original Proposed Plans and Elevations⁷ drawing.
22. The LP specifies that the minimum cycle parking spaces for the proposed housing mix would be six spaces. The proposal includes six secure cycle parking spaces. However, these would be across two storage facilities which would be very cramped. As such, private storage would not be provided to each flat and the design of the storage would discourage future occupiers from using it. Notwithstanding this, an alternative design of the cycle storage could be secured by condition. Subject to this, the proposal would comply with LP Policy T5.
23. Although the proposal would provide an acceptable level of cycle parking, it would not provide an acceptable level of vehicle parking. Therefore, the proposal would be contrary to BLP Policies BT1 and BT2, which indicate that the Council will prioritise active and sustainable travel over private motor vehicles and developments should be consistent with parking standards.

Other Matters

24. The fact the appeal site is not within a conservation area nor is it in proximity to a listed building, and the appeal proposal would not have a harmful effect on the character and appearance of the area, are neutral factors. Furthermore, the conduct of the Council during the determination period is a matter between the parties and is not determinative to the outcome of the appeal.

Conclusion

25. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR

⁷ Drawing No. 220903-03-P4