

Appeal Decision

Site visit made on 5 August 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Appeal Ref: APP/M5450/W/24/3339313

1 Spencer Road, Harrow HA3 7AN

- 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 Dhiresh Kerai against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2433/23 dated 23 August 2023, was refused by notice dated 23 January 2024.
 - The development proposed is Single Storey Rear Extensions, Loft Conversion with Rear Dormers and Front Skylights, Change of Front Door and Fenestration and Conversion of Dwellinghouse into 4no Flats.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of dwelling into four flats, single and two storey side extension, single storey rear extension, two rear dormer windows, external alterations, separate amenity space, bin and cycle stores at 1 Spencer Road, Harrow HA3 7AN in accordance with the terms of the application, Ref P/2433/23, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I saw that the property currently incorporates a two-storey side extension. A two-storey side extension was previously granted planning permission¹, however, the property as it currently stands does not wholly reflect the drawings approved under that permission in terms of window arrangement.
3. The description of the proposal makes no reference to a two-storey side extension, although it is shown on the provided drawings with changes to the windows and doors.
4. The Council amended the description of development to include this extension, although there is no evidence before me to indicate that it had the appellant's agreement to do so. However, the planning statement provided by the appellant as part of the planning application describes the proposal in detail and makes clear and specific reference to the retention of the two-storey extension, as built, albeit with further alterations to its fenestration.

¹ P/0964/20

5. Therefore, in the interests of clarity and consistency, I have amended the description of the development in my decision above to reflect that used by the Council as it better describes the proposal which is before me. I have considered the proposal on the basis of the proposed plans.

Main Issues

6. The main issues are:

- whether the proposal would provide suitable living conditions for future occupiers of Flat 4 with particular regard to the standard of accommodation in terms of outlook, light and ventilation, and;
- the effect of the proposal upon the character and appearance of the area.

Reasons

Living conditions

7. Flat 4 would comprise a studio flat accommodated within the roofspace and dormer windows. The floor level of the proposed bedroom and bathroom would be set at a lower level than that of the main living area. Both the bedroom and living area would be served by windows in rear elevation dormer windows, with windows at a consistent height above ground level.
8. As a result, the height of the window serving the bedroom would be higher than that serving the living area, relative to the floor level. The Council states, and it has not been disputed, that the lower sill of this window would be 1.9 metres above floor level.
9. While it is therefore likely that not all future occupiers of Flat 4 would be able to easily make use of this window for direct views from this bedroom out over the property or towards the ground, it would nevertheless provide adequate light and sky outlook for all users.
10. The larger windows serving the living area would be at a lower level in comparison to the floor level, and with a maximum ceiling height in this area of an indicated 2.3 metres, it is apparent that they would provide suitable outlook and light, including affording views towards the ground that may not be provided by the bedroom window.
11. Furthermore, the provided plans indicate that the proposed studio configuration would not include any separation between the bedroom and living area, other than by means of the change in levels. Accordingly, the flat would be occupied as a single space as opposed to separate rooms. Even if occupiers within the proposed bedroom would be provided with predominantly sky-focused views, this would not be unacceptably harmful in the context of the proposed use of this area of the flat, and its relationship with other living space.
12. It is unclear whether the windows within the roof extension to accommodate Flat 4 would be unopenable. However, it is indicated on the provided plan that it would be possible to open the rooflights within the front roof slope. This being the case, even if the bedroom area was to have no direct means of ventilation as rooflights would serve the bathroom only, the main living area would be. Given the open plan studio arrangement, it has not been shown

that this arrangement would lead to less than satisfactory levels of ventilation being provided for future occupiers.

13. The proposal would therefore provide adequate living conditions for future occupiers of Flat 4. It would accord with Policies D3 and D6 of the London Plan ('the LP') and Policies DM1 and DM26 of the Harrow Development Management Policies ('the HDMP'), which together and amongst other factors state that new development should provide sufficient daylight and sunlight, whilst avoiding overheating, deliver appropriate outlook, and achieve indoor environments that comfortable and inviting.
14. It would also be in accordance with advice within the Harrow Residential Design Guide ('the HRDG'), which states that habitable rooms must benefit from an external window providing natural light and means of outlook, and with Chapter 12 of the National Planning Policy Framework ('the Framework') insofar as it relates to the creation of places which promote wellbeing and have a high standard of amenity.
15. The Council has also cited conflict with the Nationally Described Space Standards and the London Housing Supplementary Planning Guidance ('the LHSPG'), however I have not been directed to any specific wording within these documents relating to this main issue. Therefore, these documents have not been determinative in my considerations.

Character and appearance

16. The proposal would result in the subdivision of the existing garden to provide separate gardens for each flat, with a further communal area for refuse storage and to provide access to the individual gardens.
17. I saw that the garden is relatively large, however its subdivision would reduce it into smaller areas. This would lead to a greater level of fencing than would normally be expected within a residential garden, but the subdivided areas themselves would remain of a reasonable size.
18. The area to the rear of the property is surrounded on all sides by other development and is therefore well screened, and I was not able to view it from public viewpoints. To the south of the appeal property can be found the rear areas of businesses on High Street which themselves contain a sporadic array of outbuildings and storage areas.
19. While it is possible that the change in character of the garden would be visible from rear windows serving nearby dwellings, the area does not exhibit an open character, particularly in terms of rear gardens. Overall, I consider that the proposed arrangement would not be unacceptably harmful to the character and appearance of the area.
20. I have had regard to the findings of another Inspector² in January 2021 in relation to the subdivision of gardens at another site within this London Borough. However, I note that in that case the appeal site was in another street of different character, was not wholly surrounded by other development, and in any case the harm from the subdivision of the rear garden was considered by the Inspector in the context of other harms arising

² APP/M5450/W/20/3256527

from other proposed alterations to the appeal property. Therefore, this case is not wholly comparable with that which is before me.

21. My attention has also been drawn to an approval by the Council in March 2023³ for the subdivision of another property in Spencer Road to four flats, with the subdivision of the rear garden to provide outdoor amenity space. While there are some differences in the precise layout of the subdivision of the garden, there are similarities between the proposals.
22. Taken together, these decisions do not indicate that I would be acting inconsistently with other decision makers in finding that the proposal before me would not be harmful in this respect.
23. Although not forming a reason for refusal, within the Officer Report the Council raised concern with regard to the proposed windows within the front elevation side extension. Although the smaller windows and proportion of solid to void would differ from the host building, as would the lower cill height of the first floor windows, the difference would not be significant. I saw that there are other examples of side extensions to dwellings in the street demonstrating a variety of designs and configurations in relation to fenestration. In this context, I find that the proposal would not appear unduly harmful.
24. I conclude that the proposal would not harm the character and appearance of the area. It would accord with LP Policies D3 and D6, and HDMP Policies DM1, DM26 and DM27, which together and amongst other factors state that development should respond to existing character and pattern of development and provide clearly defined private environments with a balance of openness and protection. It would also accord with the broad advice within Chapter 12 of the Framework in relation to achieving well-designed places.
25. The Council has also cited conflict with the HRDG and the LHSPG, however I have not been directed to any specific wording within these documents relating to this main issue. Therefore, these documents have not been determinative in my considerations.

Conditions

26. The appellant has objected to all of the conditions suggested by the Council, other than that relating to the time limit for occupation on the basis that they comprise the introduction of new evidence.
27. The provision by the Council of a list of suggested conditions forms part of the appeal questionnaire and it is common practice that such lists are provided alongside the Council's Statement of Case. In this instance, the Council is solely relying on the Officer Report, however this does not preclude the provision of such a list, providing it is received in accordance with the appeal timetable.
28. The list of conditions was provided in a timely manner and the appellant was afforded opportunity to comment upon them. The fact that the suggested condition relating to the approved documents contained incorrect drawing references is unfortunate, but does not prejudice the appellant, or in itself,

³ P/4266/22

undermine the remaining suggested conditions. I have therefore considered the suggested conditions on their merits.

29. I have attached a condition relating to the time limit for implementation in the interests of clarity. I have amended the condition setting out the approved plans and documents to reflect the documents which are before me, and have attached this condition also in the interests of clarity and in the interests of the character and appearance of the area.
30. A condition requiring any external materials to match the existing building is also required in the interests of the character and appearance of the area, and to ensure that any alterations to the existing side extension are appropriately assimilated.
31. I have also attached a condition preventing the use of roof areas as external terraces in the interests of the living conditions of future occupiers given the number of flats proposed and the subdivision of the garden areas, and the potential for overlooking from flat roof areas.
32. A condition to secure measures to minimize the risk of crime is necessary in the interests of the living conditions of future occupiers and public safety. Conditions relating to the disposal of foul water and surface drainage are required in the interests of public health and the prevention of flooding.
33. Additionally, I have attached a further condition relating to the appropriate storage of bins in the interests of the character and appearance of the area and pedestrian safety.
34. In relation to cycle storage, the Council has suggested a condition requiring details of storage for two bicycles for each flat. The proposed plans indicate storage arrangements for a single bicycle for each flat.
35. Policy T5 of the London Plan sets out the requirements for cycle storage dependent on the proposed levels of occupation of each flat. In this case, the policy would expect Flats 2 and 4 to provide a single storage space each, Flat 1 to provide 1.5 spaces, and Flat 3 to provide 2 spaces. Therefore, the level of provision required by the Council's suggested wording would exceed that required by the policy.
36. Accordingly, I have amended the suggested condition to reflect this and to bring the required provision in line with the development plan. As details of a single storage space for Flats 2 and 4 are indicated on the provided plans, it is not necessary to require resubmission of these details. This condition is required in the interests of promoting sustainable travel and to prevent crime.
37. I have not attached the Council's suggested condition relating to obscure glazed windows in the side elevation, as the proposed drawings indicate that such windows would overlook associated garden space, or would serve hallways or bathrooms, and it has not otherwise been shown that unacceptable harm to living conditions of future occupiers would result from this arrangement. The condition is therefore unreasonable and unnecessary to make the development acceptable in planning terms.

Conclusion

38. The proposal would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be taken other than in accordance with the development plan.
39. For the reasons given above, I conclude that the appeal should be allowed and planning permission granted.

C Harding

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out, completed and retained in accordance with the following approved plans and documents: Existing Location Plan 1508-0003-PL; Proposed Ground and First Floor Plan 1508-0006-PL; Proposed Loft and Roof Plan 1508-0007-PL; Proposed Elevations and Sections 1508-008-PL; Proposed Site Plan, Cycles and Refuse 1508-0009-PL.
3. The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
4. The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.
5. Prior to occupation of the development hereby permitted, measures to minimize the risk of crime in a visually acceptable manner and meet the specific security needs of the development shall be installed in accordance with details to be submitted to and approved in writing by the local planning authority. Any such measures shall include the following requirements:
 1. all main entrance doorsets to individual dwellings and communal entrance doorsets shall be made secure to standards, independently certified, set out in PAS 24:2012 or WCL 1 'Security standard for domestic doorsets';
 2. all windowsets on the ground floor of the development and those adjacent to flat roofs or large rainwater pipes (downpipes) shall be made secure to standards, independently certified, set out in PAS 24:2012 or WCL 4 'Security standard for domestic windowsets'. Following implementation the works shall thereafter be retained.

6. Before the hard surfacing hereby permitted is brought into use the surfacing shall EITHER be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, OR provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site.
7. The refuse bins shall be stored at all times, other than on collection days, in the designated refuse storage area, as shown on the approved drawing.
8. The development hereby permitted shall not be occupied until works for the disposal of sewage have been provided on site in accordance with details to be submitted to, and approved in writing by, the local planning authority. The works shall thereafter be retained.
9. Prior to occupation of development, details (elevations and external finish) of secure and enclosed cycle storage capable of storing a minimum of 2 cycles to serve Flat 3 and a minimum of 1.5 cycles to serve Flat 1 shall be submitted to and approved in writing by the local planning authority. Thereafter, cycle storage for all flats in accordance with the approved details for Flats 1 and 3, and in accordance with that shown on approved plan 1508-00006-PL for Flats 2 and 4, shall be made available prior to occupation of the development and shall be retained thereafter.

END OF CONDITIONS