



Appeal Decision

Site visit made on 28 October 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2024

Appeal Ref: APP/M5450/W/24/3345589

57 Station Road, North Harrow, Harrow HA2 7SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr M Sharmielan against the Council of the London Borough of Harrow.
 - The application Ref is PL/0272/24.
 - The development proposed is removal of old storage room at rear of restaurant, including existing metal staircase leading to upper parts. Construction of new ground floor storage room with access to rear of restaurant. Construction of studio flat at first floor level, including new staircase to terrace, with new steel balustrading.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The appeal is submitted against the failure of the Council to determine the planning application within the statutory timescale. The Council have advised that had it been able to do so, it would have refused permission for four reasons set out in its statement and have drawn my attention to a number of planning policies and its Supplementary Planning Document: Residential Design Guide. I have had regard to these in the determination of this appeal.
3. The council indicates that it has no objection to the proposed single-storey rear extension and, based on the evidence, I have no reason to take a different view.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - whether the development would provide adequate living conditions for future occupiers, with particular regard to a) internal living space, b) noise, disturbance and odour and c) outlook; and
 - whether the development would provide adequate living conditions for existing occupiers of Studio 1, with particular regard to outlook; and 55A Station Road, with particular regard to outlook & a sense of enclosure.

Reasons

Character and appearance

5. The appeal property (No 57) is a three-storey building which forms part of a terrace fronting Station Road, a secondary shopping parade with commercial units on the ground floor, and mixed uses above. To the rear are two-storey outriggers beyond which No 57 and the adjoining property have single-storey outriggers. Despite these single-storey elements, the rear retains a largely open aspect, which provides a clear distinction between the commercial scale of Station Road and the domestic scale of Cambridge Road. Beyond the rear lane are the predominantly two-storey residential properties of Cambridge Road.
6. The proposed studio flat would be situated at the first floor, detached from the main rear elevation and above the proposed rebuilt single-storey store room, and would be built directly upwards from the rear lane.
7. The addition of another floor above the storeroom would create a two-storey element directly on the rear lane. The extension of two storeys beyond the predominant two-storey line would erode a large portion of the openness which currently exists. This would reduce the visual separation between the two distinct streets of Station Road and Cambridge Road. The loss of this openness would result in the proposed rear extension dominating the rear of the terrace.
8. The appellant has drawn my attention to 5-6 Shaftsbury Avenue, which they contend has a rear extension at first floor approximately twice the size of their proposed development. Whilst this may be the case, it does not form part of the immediate street scene. Furthermore, I have not been provided with the circumstances relating to its presence. As such it does not provide justification for harmful development.
9. For the reasons above, I conclude that the proposed development would be harmful to the character and appearance of the surrounding area, contrary to Policy D3 of the London Plan 2021, Policy CS1.B of the Harrow Core Strategy 2012 (Core Strategy) and Policy DM1 of the Development Management Policies 2013 (DMP). These collectively seek, amongst other matters, to ensure that development responds positively to the local context in terms of design, siting, density and spacing. There would also be conflict with the Supplementary Planning Document: Residential Design Guide (SPG) 2010 which provides advice to ensure that the scale of development harmonises with the character of the area. Furthermore, there would also be conflict with the National Planning Policy Framework (the Framework) which seeks, amongst other matters, for development to be sympathetic to local character.

Living conditions - Future Occupiers

- a) Internal living space
10. Policy D6 of the London Plan prescribes, amongst other matters, minimum gross internal floor areas (GIA); this is reflective of the Nationally Described Space Standards (NDSS) and states that the minimum internal space for a one-person unit with shower room must be no less than 37 sqm. Standards set out in Policy D6 are intended to provide a good standard of living for intended future occupiers.

11. From the evidence before me, the proposed dwelling would have a GIA of approximately 35 sqm which would fall below the 37 sqm set out in both Policy D6 and the NDSS. Despite submitted plans showing that the studio could accommodate furniture, it is unclear whether there would be any built-in storage. Policy D6 is clear that built-in storage should form part of the internal area and therefore the failure to identify a provision would result in a conflict. Given that the proposed dwelling would be below the minimum GIA without built-in storage, it would likely result in a cramped living arrangement for future occupiers.

b) Noise, disturbance and odour

12. The external staircase provides shared access to the existing residential accommodation on the first and second floors and a restroom for staff of the ground floor restaurant.
13. The presence of the existing residential accommodation and restroom would likely result in a number of people using the staircase at various times during the day and evening. Whilst noise associated with the use of the restroom would be expected to end once the restaurant was closed, this would not be the case in relation to the existing residential accommodation. Given the open-plan layout of the proposed accommodation and its proximity to the shared access, future occupiers of the studio would be subjected to noise and disturbance immediately outside their habitable accommodation, which they would be unable to mitigate, for example, by moving to a different room.
14. Further to this, an extraction flue and air conditioning unit are positioned on the flank elevation of the existing two-storey outrigger. Given the location of the proposed studio unit, these would be within close proximity. At the time of my site visit, I had access to the flat roof and the sound emanating from this equipment was clearly audible, and was a constant noise source. No noise assessment has been provided nor are any mitigation measures proposed. It has not therefore been shown that noise levels would result in acceptable living conditions for future occupants.
15. With regard to odour, the existing flue terminates at ridge level. Whilst I could not detect any odour at the time of my visit, it is unclear whether the extraction was in use. No odour assessment has been provided and nor are any mitigation measures proposed. I am therefore not satisfied that levels of odour would result in acceptable living conditions for future occupants.
16. I have considered whether these details could be conditioned as part of any approval. However, taking into consideration my observations on-site and the sensitivity of the end use, I am not satisfied that the use of conditions to mitigate noise or odour would be reasonable in this case.

c) Outlook

17. The proposed residential unit would provide two windows, one within the flank elevation and the other within the end elevation. The window to the flank elevation would overlook the shared access to the accommodation at the first and second floors. Despite this outlook from this window would be largely unobstructed. The proposed window to the end, given its elevated position, would predominantly overlook the rear gardens of properties on Cambridge Road. This would also provide future occupants with an unobstructed outlook.

18. Even though the proposed residential unit would be located within a predominantly rear lane setting, it would be dual aspect. From the evidence before me, the outlook for future occupiers would be acceptable and would not be as harmful as the Council contends.
19. I conclude that whilst I found that the outlook from the proposed studio unit would be acceptable, this would not be the case regarding the size of the accommodation, or the level of noise, disturbance or odour future occupants would likely be subjected to. The proposed studio unit would therefore fail to provide adequate living conditions for the intended future occupiers. Consequently, it would conflict with Policies D3 and D6 of the London Plan, Policy CS1 of the Core Strategy, Policies DM1 and DM27 of DMP and the SPD. These collectively seek to ensure that development, provides at least the minimum GIA with built-in storage area, achieves a high standard of amenity, and has no significant adverse impact on the amenity of occupiers and neighbours, with particular regard to noise, fumes and odour. There would also be conflict with the Framework which seeks, amongst other matters, for development to create places with a high standard of amenity for future users.

Living conditions – Existing occupants

20. Studio 1 is located at the first floor. From the evidence before me the living accommodation is open-plan and dual-aspect. The front overlooks the commerciality of Station Road, while the rear looks over extract ducting and air conditioning units, beyond which are views over the gardens associated with Cambridge Road. From observations on site, No 55 adjoins the appeal site and has a number of windows to its rear elevation including a slim window immediately adjacent to the door associated with No 57A - Flat 1 and Flat 2. All other windows to No 55 which directly overlook the rear are set within its main rear wall.
21. The proposed studio unit would be constructed in direct line of the rear window to Studio 1. Even if this unit is dual aspect, given that the outlook from the rear which is restricted by the extraction flue and constrained by the outrigger to the neighbouring property, an increase in height of the rear outrigger to create the proposed studio unit would significantly restrict the outlook for occupants of this existing accommodation.
22. With regards to No 55A, the Council contend that the proposed development would fail the 45-degree code (45-degree line), as set out within its SPD despite not knowing the use of the room to the rear. The purpose of the 45-degree line is, amongst other matters, to ensure that the size and siting of buildings avoid having an overbearing visual impact on the living conditions of occupants when viewed from within neighbouring buildings or amenity spaces.
23. Even though the Council has demonstrated a conflict with the 45-degree line, it has failed to demonstrate that this room is habitable. From my observations on site given the size, and location of the window in relation to the remainder of the building, and taking into consideration the position of other accommodation, it is highly likely that this window serves a non-habitable room. As such, the outlook or sense of enclosure would not be as harmful as the Council contends.
24. I conclude that whilst I find no harm with regards to the living conditions of occupants of No 55A, this would not be the case for occupants of the existing

Studio flat. As such, conflict arises with Policy D3 D(7) of the London Plan, Policy DM 1 of the DMP and the SPD. These collectively seek to ensure that development achieves a high standard of amenity.

Other Matters

25. Whilst I am sympathetic towards the appellant for the way the Council has dealt with the planning application, this does not alter my assessment of the planning merits of the scheme.

Planning Balance and Conclusion

26. The appeal proposal would create one new house, supporting the Government's objective of significantly boosting the supply of homes. It would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. However, even if there would be no harm with respect to the outlook for future occupiers, I have found that the proposed development would cause harm to the character and appearance of the surrounding area, and harm to the living conditions of the current occupier of the Studio flat and would fail to provide adequate living conditions for future occupiers. On balance, I find that the proposal conflicts with the development plan taken as a whole, and material considerations do not indicate that a decision should be made other than in accordance with the development plan.
27. For the reasons given above, the appeal is dismissed.

L Clark

INSPECTOR