



Appeal Decision

Site visit made on 19 November 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2024

Appeal Ref: APP/T5150/W/24/3347711

31 Chapman Crescent, Brent, Harrow HA3 0TG

- 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 Hiten Shah against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/0330.
 - The development proposed is conversion of the existing semi-detached property into two self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Officer Report incorrectly states that the proposal would not provide a 3 bedroom dwelling. The submitted plans show that one of the flats would be a 3 bedroom dwelling. This is confirmed by the appellant in their appeal statement. Furthermore, the reasons for refusal do not refer to the loss of a family sized home. On this basis, the main issues are:
 - whether the location of the site is suitable for the proposed development; and
 - whether the proposed development would provide adequate living conditions for its future occupiers with regard to internal floorspace, floor to ceiling heights and external amenity space.

Reasons

Location

3. The appeal relates to a two-storey semi-detached house in a predominantly residential area of Harrow. The proposal seeks to convert the appeal dwelling into two self-contained flats comprising a 3 bedroom flat on the ground floor (Flat A) and 2 bedroom flat on the first floor (Flat B). It also proposes an enclosed external amenity space of 26 sq. m at the front of the dwelling comprising soft landscaping, hedge and timber fencing, for use by the occupants of Flat B. There is a large existing outbuilding in the rear garden which is proposed as a garden room associated with Flat A.
4. Policy BH11 of the Brent Local Plan 2019-2041 (February 2022) (the BLP) requires conversion of a family sized home into two or more dwellings to meet the listed policy criteria. The criteria are a) where the existing home is 130 sq. m or more or could be acceptably extended to that size, b) it results in at least

- a 3 bedroom dwelling, preferably with direct access to a garden/ amenity space, and c) it is within an area of PTAL (Public Transport Accessibility Level) 3 or above.
5. The appeal site is within a PTAL 2 area thus failing to comply with criterion c) which requires the appeal proposal to be within an area of PTAL 3 or above.
 6. The appellant argues that the appeal site is very close to a PTAL 3 area. However, the PTAL grid map in the appellant's appeal statement indicates it is closer to a PTAL 1b area. The appellant suggests that the PTAL travel time map indicates a vast array of amenities less than 15 minutes' walk away. However, the map does not specify what type of amenities are available. Therefore, I am uncertain as to whether they would be capable of serving the day-to-day needs of the occupiers of the proposal.
 7. The appellant argues that the small-scale nature of the development, including one flat, would offer accommodation to households that are less likely to be reliant on a car. However, no substantive evidence has been advanced to support this assertion. Furthermore, the appeal site is in a PTAL 2 area which indicates low public transport accessibility. As a result, the occupants of the proposed dwellings would be more likely to rely on private car transport.
 8. The appellant has drawn my attention to an appeal decision for a similar scheme to the proposal at 63 Kendal Road where the Inspector found that despite the lower PTAL, the site had good access to public transport links. However, in that appeal, public transport links and local services and facilities were located very near to the scheme with Dollis Hill underground station only about a 7-minute walk away, and with a wide range of local services and facilities within walking distance. Therefore, the location of that scheme is not directly comparable to the location of the appeal site.
 9. While there are two bus stops on Kenton Road within 300 metres, I have no information before me regarding service frequency and coverage to ascertain the level of accessibility afforded by them. The appeal site is around 600 metres from the edge of Kingsbury Town Centre and therefore not in very close proximity to a wide range of local services and facilities.
 10. Furthermore, I am mindful that Policy BH11 does not provide for exceptions to the policy and sets a principle against the conversion of family sized dwellings in areas with a PTAL rating below 3.
 11. For the reasons given, I conclude that the location of the site is not suitable for the proposed development. Hence, it would conflict with Policy BH11 of the BLP insofar as it requires the conversion of a family sized dwelling to be within an area of PTAL 3 or above.
 12. The Council has referred to conflict with Policy BH4 of the BLP in the Decision Notice. However, the Officer Report states that the proposal is not contrary to Policy BH4. I have therefore considered it not determinative in this appeal.
 13. The Council has also referred to conflict with Policy D6 of the London Plan (March 2021) (the LP) and Policy BH13 of the BLP. However, these policies relate to housing quality standards and residential amenity space so is not determinative on this main issue. The Council has also identified conflict with Policy DMP1 of the BLP, however it is unclear how the proposal conflicts with

the policy. In any event, given my finding on this issue, this policy is not determinative.

Living Conditions

14. Flat A would provide 101 sq. m of gross internal floorspace, exceeding the minimum space standards set out in Policy D6 of the LP for a 3 bedroom 5 person flat at 86 sq. m
15. Flat B would be over two floors and have a gross internal floorspace of 86 sq. m exceeding the minimum requirement of 79 sq. m for a 2 bedroom 2 person flat as set out in Policy D6. The Officer Report states that the "overall floorspace for the proposed unit fails to meet policy." However, based on the evidence before me, the proposed floor area of Flat B at 86 sq. m would meet the minimum internal space standard of 79 sq. m for a 2 bedroom 2 person flat.
16. Policy D6 of the LP specifies a minimum floor to ceiling height of 2.5 metres for at least 75% of the gross internal area of each dwelling. The floor to ceiling height of the ground floor and first floor would be 2.41 metres thus failing to comply with Policy D6. However, the Council considers that the shortfall is marginal, and given that it is an existing arrangement, the lower ceiling height would be acceptable. I have no reason to disagree.
17. The second floor would have a maximum floor to ceiling height of 2.22 metres. This would also fail to accord with Policy D6. The appellant contends that since the proposal is for the conversion of an existing dwellinghouse to a flat, flexibility should be allowed particularly as the loft is currently used as a bedroom and would remain so if the appeal was not allowed. Given that the Council considers the shortfall in ceiling height on the ground and first floor is acceptable due to it being an existing arrangement, this would equally apply to the second floor.
18. Furthermore, paragraph 3.6.3 of the LP confirms that the purpose of introducing minimum floor to ceiling heights is to ensure "daylight penetration, ventilation, cooling, and a sense of space". Despite the lower ceiling height, high levels of daylight penetration and ventilation afforded by the windows create a sense of space, as observed during my site visit.
19. Policy BH13 of the BLP requires "all new dwellings to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. This is normally expected to be 50sqm per home for family housing (3 bedrooms or more) situated at ground floor level and 20 sqm for all other housing."
20. The proposal would provide 73.76 sq. m of external amenity space for Flat A utilising the existing rear amenity space, and with use of the existing outbuilding as a garden room/ gym/ cycle store. Therefore, the proposal would satisfy Policy BH13 by providing direct access to an external amenity space of sufficient size.
21. The proposal seeks to provide a new external amenity space at the front of the property measuring 28.26 sq. m for Flat B. The Council refers to paragraph 6.2.98 of the supporting text to Policy BH13 which states that "New developments should provide private amenity space to all dwellings, accessible from a main living room without level changes and planned to take maximum

advantage of daylight and sunlight.” The Council also refers to the Residential Amenity Space and Place Quality Supplementary Planning Document (June 2023) which restates the supporting text to Policy BH13. It is established by the courts that while supporting text can aid in understanding the context and intention behind policy, it does not carry the same weight as policy itself. The SPD does not have the same status as the development plan. While it would be desirable to have level access to outdoor amenity spaces, there is no development plan policy before me that specifically requires this. Given the close proximity of the external amenity space in relation to Flat B, I consider that the overall aim of Policy BH13 with regard to access would be achieved.

22. For the reasons given, I conclude that the proposed development would provide adequate living conditions for its future occupiers with regard to internal floorspace, floor to ceiling heights and external amenity space. Consequently, it would comply with Policy D6 of the LP and Policies DMP1, BH11 and BH13 of the BLP insofar as they require development to: provide adequately sized rooms; high levels of internal and external amenity; for 3 bed dwellings, preferably direct access to a garden/ amenity space; and external private amenity space of a sufficient size and type to satisfy its proposed residents’ needs.
23. The Council has referred to conflict with Policy BH4 of the BLP in the Decision Notice. However, the Officer Report states that the proposal is not contrary to Policy BH4. I have therefore considered it not determinative in this appeal.

Other Matters

24. The appellant refers to UK Government proposals to create new permitted development rights to enable a house to be converted into two flats. However, such proposals have not been forthcoming and do not constitute Government policy and guidance and therefore carries limited weight.

Planning Balance

25. Compliance with the development plan in relation to design and appearance, the living conditions of the occupiers of neighbouring properties, landscaping, parking and fire safety weigh neither for or against the proposal and is considered neutral.
26. The appellant refers to the benefit of the proposal in providing more affordable open market housing. However, while I have been presented with average earnings data for full-time employees in Brent, there is no substantive evidence before me in relation to housing costs, so the affordability issues in the area are unclear.
27. The proposal would deliver one additional dwelling. While small in scale, it would nonetheless make a useful contribution to the housing supply and make efficient use of a small site. The proposal would also broaden the housing mix of the area through the provision of smaller residential dwellings. However, given the small scale of the development, these benefits would be modest and carry moderate weight in favour of the proposal.
28. The location of the site is not suitable for the proposed development, which weighs heavily against the scheme. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are

matters of significant weight against the grant of planning permission that outweigh the benefits identified.

Conclusion

29. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR