



Appeal Decision

Site visit made on 6 November 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 DECEMBER 2024

Appeal Ref: APP/B5480/W/24/3345186

18 Grassmere Road, Hornchurch, Havering RM11 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Anila Mansoor against the decision of the Council of the London Borough of Havering.
 - The application Ref P1267.23 was approved on 28 November 2023 and planning permission was granted subject to conditions.
 - The development permitted is subdivision of dwelling to create 1 x two storey, 1-bed dwelling and 1 x two storey, 3-bed dwelling.
 - The conditions in dispute are Nos 5, 7 and 9 which state:
 - 5. All off street residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 1 space per property should have active charging facilities, with passive provision for all remaining spaces.*
 - 7. The building(s) shall be so constructed as to provide sound insulation of 43 DNT,w + Ctr dB (minimum values) against airborne noise and 64 L 'nT,w dB (maximum values) against impact noise to the satisfaction of the Local Planning Authority.*
 - 9. No building shall be occupied until cycle storage is provided to the satisfaction of the Council. The cycle storage shall be permanently retained thereafter.*
 - The reasons given for the conditions are:
 - 5. To minimise the impact of transport emissions on local air quality.*
 - 7. To prevent noise nuisance to adjoining neighbours.*
 - 9. In the interests of providing a wide range of facilities for non-motor car residents and sustainability.*
-

Decision

1. The appeal is allowed and the planning permission Ref P1267.23 for subdivision of dwelling to create 1 x two storey, 1-bed dwelling and 1 x two storey, 3-bed dwelling at 18 Grassmere Road, Hornchurch, Havering RM11 3DP granted on 28 November 2023 by the Council of the London Borough of Havering, is varied by deleting conditions 5, 7 and 9 and substituting for them the following conditions:
 - 5) Prior to first occupation of the dwellings hereby approved, details of a scheme showing provision for infrastructure for the charging of electric or Ultra-Low Emission vehicles shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall include provision for at least 1 space per property to have active charging facilities and passive provision for all remaining spaces. The development shall be carried out in accordance with the approved scheme which shall be operational prior to the first occupation of each dwelling and thereafter retained.
 - 7) Prior to the first occupation of the dwellings hereby approved, details of a scheme for the sound insulation of the dwellings shall be submitted to

and approved in writing by the local planning authority. The submitted scheme shall demonstrate that it would provide sound insulation of 43 DNT,w + Ctr dB (minimum values) against airborne noise and 64 L 'nT,w dB (maximum values) against impact noise. The development shall be carried out in accordance with the approved scheme which shall be installed prior to the first occupation of each dwelling and thereafter retained.

- 9) Prior to the first occupation of the dwellings hereby approved, details of a scheme of cycle parking for each dwelling shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and thereafter retained.

Preliminary Matters

2. The appellant has confirmed that she has changed her name in the time since the application was made and the appeal submitted. I am therefore satisfied the appellant is the person who made the application and I have used the appellant's name on this decision.
3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I have not sought further submissions.

Background and Main Issues

4. Planning permission was granted to convert a dwelling into two. This was subject to a number of conditions. The appellant has appealed against the imposition of three of those.
5. The main issues are whether the conditions are reasonable, necessary and enforceable with respect to:
 - minimising the impact of transport emissions on air quality in respect of condition 5;
 - the living conditions of occupiers in respect of condition 7 with particular regard to noise; and
 - providing facilities to support sustainable modes of transport in respect of condition 9.

Reasons

Air Quality

6. London Plan (2021) Policies T6 and T6.1 require new residential development to make provision for electric or low emission vehicle charging. Havering Local Plan 2016-2031 (November 2021) (LP) Policy 33 confirms that the Council is committed to improving air quality within Havering. The supporting text indicates that the whole of the borough is within an air quality management area. The provision of electric and low emission vehicle charging facilities would support this policy commitment.

7. It is not the purpose of these policies to make the dwelling habitable. The personal choice of occupiers would not be of sufficient weight to justify departing from the policies of the adopted development plan which seek to improve air quality for the benefit of all residents. The provision or otherwise of charging points to dwellings constructed prior to the adoption of the development plan and the ability to provide charging points in the future also would not justify departing from policy. The form of charging points is controlled by other legislation.
8. However, I am not satisfied the condition as worded would provide sufficient certainty to allow the Council to enforce against the condition. The submitted site layout plans do not indicate all the off-street parking spaces. I therefore consider that it would be necessary for a scheme detailing the provision of infrastructure and charging points would be necessary to ensure the condition would be enforceable.
9. I therefore conclude that condition 5 is reasonable and necessary in the interests of minimising the impact of transport emissions on air quality as required by London Plan Policies T6 and T6.1 and LP Policy 33 which seek to ensure the provision of electric and ultra-low emission vehicle charging infrastructure. An amended condition is required to ensure it would be reasonable and enforceable.

Living Conditions

10. The proposal would see the existing dwelling sub-divided into two. It is therefore necessary to ensure that there would be acceptable living conditions for the occupiers of both properties. I cannot be certain that the levels of sound insulation that would exist within a property in use as a single dwelling would be sufficient when that property is in use as two dwellings. Conditions of this nature are not unusual or uncommon in conversions and there is no evidence before me that the provision of such a scheme would not be physically possible or require demolition of the internal walls.
11. However, the condition as worded is not sufficiently precise for it to be enforceable as the proposal does not involve construction. Nor is it reasonable to require works to be to the satisfaction of the local planning authority. I therefore consider it would be necessary for a scheme of sound insulation to be approved to provide certainty to the appellant as to the works required and for the condition to be enforceable.
12. I therefore conclude condition 7 is reasonable and necessary in the interests of the living conditions of occupiers of the property as required by LP Policy 7 which requires residential development to not result in unacceptable levels of noise and disturbance. An amended condition is required to ensure it would be reasonable and enforceable.

Sustainable Transport

13. London Plan Policy T5 requires development to provide fit-for purpose, secure and well-located cycle parking. It is not the purpose of this policy to make a dwelling habitable. The personal choice of occupiers and the ability to add cycle parking at a future date would not be of sufficient weight to depart from the policies of the adopted development plan. There is reference to an existing shed and easy access to the rear garden. However, this appears to be the case

for only one of the proposed dwellings so I cannot be certain that appropriate cycle parking would be provided for both dwellings.

14. However, the condition is not worded in such a way as to provide sufficient certainty to the appellant as to what provision would be appropriate as to the satisfaction of the local planning authority is ambiguous. I therefore consider it would be reasonable to require a scheme to be submitted and approved in writing so the appellant can be certain their proposal would meet the requirements of the development plan.
15. I therefore conclude condition 9 is reasonable and necessary to ensure that facilities to support sustainable modes of transport are provided. An amended condition is required to ensure that it would be reasonable and enforceable.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed, but that the existing conditions should be substituted to ensure that they are reasonable and enforceable.

Jennifer Wallace

INSPECTOR