



Appeal Decision

Site visit made on 3 December 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2025

Appeal Ref: APP/M5450/W/24/3343517

62 Spencer Road, Harrow HA3 7AR

- 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 D Kerai against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/1422/23.
 - The development proposed is conversion of dwelling into four flats (1 X studio, 2 X 1 bed and 1 X 2 bed); single and two storey side extension; single storey rear extension; rear dormer; external alterations; separate amenity space; bin and cycle stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form, it is stated that a change to the description of the development was agreed between the appeal parties. Accordingly, the description in the banner heading above is derived from the revised description.
3. On 12 December 2024, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given the opportunity to comment on the revised Framework. Despite it being published after the Council made its decision, and after the submission of the appeal, the Framework makes it clear at paragraph 231 that it is a material consideration which should be taken into account from the day of its publication. Therefore, in making my decision, I have had regard to it insofar as it is relevant to the appeal.
4. Upon inspecting the appeal property it became clear to me that there was some disparity between some aspects of it and that depicted on the submitted plans. This included that the layout of the property internally did not entirely match that shown on the plans as some room usage differed. For the avoidance of doubt, I have determined the appeal on the basis of the plans submitted.

Main Issues

5. The main issues are:
 - Whether appropriate living conditions would be provided for the future occupiers of proposed Flat 4 with particular reference to the matters of internal space, outlook, light and ventilation; and

- The effects of the proposed development upon the character and appearance of the area, with specific regard to the subdivision of the garden.

Reasons

Living conditions

6. Amongst other matters, Policy D6 of the London Plan (LP) sets out private internal space standards which housing developments are required to meet. Although the internal space standards set out within Policy D6 are generally reflective of those within the Technical Housing Standards – Nationally Described Space Standard (NDSS), there is some inconsistency between the minimum floor to ceiling height requirements. As the most recently adopted part of the development plan relevant to this issue, I give the greater weight to the standards set out within Policy D6 rather than the NDSS. The internal space standards within Policy D6 of the LP are a minimum requirement and exceedance of them is encouraged.
7. To comply with Policy D6's space standards, the minimum floor to ceiling height of a dwelling must be 2.5 metres (m) for at least 75 per cent of its gross internal area. Submitted in evidence to me is a letter addressed to the Council and which accompanied the planning application¹. This sets out that the ceiling height of the second floor, and which would contain Flat 4, would be 2.3m – 2.4m. The single section drawing submitted, which is drawn through what would be the kitchen and living room of Flat 4, shows that much of the ceiling height would be lower than this owing to the host property's roof slope. Furthermore, the proposed extension which would house Flat 4's bedroom and bathroom would have a ridge height lower than the roof of the main part of the host property.
8. I have compared the proposal to the plans relating to the existing planning permission (reference P/1425/23) which entailed the conversion of the host property into 3 flats with associated extensions and works. However, the section plans show that the finished floor level within the loft space of the two schemes would be slightly different. Therefore, even though the flat within the loft in the case of P/1425/23 may reach 2.5m, I cannot conclude that would be the case for the proposed Flat 4. Given all that is before me, I have no firm grounds on which to conclude Flat 4's ceiling height would be 2.5m for at least 75 per cent of its gross internal area.
9. As a 1 bedroomed single storey dwelling, Flat 4 is required to incorporate 1m² of built-in storage. The plans which accompanied the planning application depicted no such storage. As part of the appeal the appellant has now indicated where storage would be located. As well as a cupboard, there is a reliance upon an under eaves storage area. However, the plans show that there would be a wall between it and the kitchen. Given the location and extent of this wall, it has not been shown to me this storage area would be accessible or available to use. Without this area being available, there would be a shortfall in built-in storage.
10. The appellant refers to a planning permission granted at 52 Spencer Road (reference P/4266/22) and sets out that the approved plans for that development did not identify built-in storage within the flat within its loft. However, the full details of the case are not before me including the content of any delegated or committee

¹ Letter entitled "Full Planning Application for 62 Spencer Road, Harrow, HA3 7AR – 4 Flats"

report outlining the Council's reasons for granting planning permission in that case. Therefore, I cannot be certain that there were not specific circumstances applicable to the 52 Spencer Road case, or specific reasons why the Council accepted the scheme, which sets it apart from the proposal before me. Appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case. For these reasons, the 52 Spencer Road case is not a strong influence upon my decision.

11. LP Policy D6 sets out that the minimum gross internal floor area for a 1 bedroomed studio flat like Flat 4 is 37m². The Council has set out that Flat 4 would not meet this required floorspace. I have been provided with no compelling evidence which counters the Council's submissions, which demonstrates to me that their interpretation of the plans is inaccurate or, in turn, that 37m² of floorspace would be provided.
12. For the above reasons I find that required internal space standards in respect of overall floorspace, built-in storage and ceiling height would not be met within Flat 4.
13. I am mindful that guidance within the Harrow Council Residential Design Guide Supplementary Planning Document (SPD) sets out that self-contained flats that are solely accommodated within the roof space rarely provide sufficient light and outlook for its occupiers' reasonable requirements. I further note that the Mayor of London Housing Supplementary Planning Guidance (SPG) advises that the occurrence of single aspect dwellings should be minimised and that designs which rely upon bay windows do not achieve dual aspect dwellings.
14. However, Flat 4's shared living and kitchen space would be served by 3 large roof windows and a dormer containing 2 windows. This would provide a total of 5 windows serving this main living accommodation space alone. The bathroom would be served by its own dormer window, and the single bedroom by 2 large roof windows. I have no reason to conclude that these windows would not be openable and, given they would be on opposite sides of the property, natural cross ventilation would occur.
15. Each of the windows proposed to Flat 4 would face either east or west. Therefore, sunlight would enter the windows during either the morning or the afternoon. As Flat 4 would be small, its rooms would not be very deep. Therefore, light would be likely to reach much of the accommodation. Unlike can be the case with some roof windows, those proposed in this case would not be set high up and above head height. Consequently, considerable amounts of outlook from them, more than only upward views of the sky, would be likely provided by them.
16. For these particular reasons, although the proposal may be contrary to some of the prescriptive guidance of the SPD and SPG, I nevertheless find the future occupiers of Flat 4 would be provided with adequate outlook, light and ventilation.
17. However, despite this, I have also identified that certain required internal space standards would not be met within Flat 4. In failing to meet these minimum standards, I find that all of the proposal's homes would not be high quality and that, overall, appropriate living conditions would not be provided for the future occupiers of Flat 4.

18. Consequently, the proposal conflicts with LP Policy D6. It also conflicts with Policies D3 of the LP and DM1 and DM26 of the Harrow Council Development Management Policies document (DMP). Altogether, these policies require proposals to deliver appropriate amenity and adequate internal layouts, meeting the applicable internal space standards and achieving configurations that are practical and fit for purpose.

Character and appearance

19. The host property's rear and side garden includes a patio beside the house and a lengthier, roughly rectangular shaped, garden area to the rear of the house. There is an outbuilding beside one boundary, but the lengthy rear garden is predominantly grass covered, contains a tree, together with some areas of hedgerow and other plantings. This means that this main garden space serving the host property is spacious, largely open in character and quite verdant.
20. Amongst other matters, Policies DM26 and DM27 of the DMP, set out that house conversion proposals should provide appropriate outside space for the needs of the future occupiers. As applicable, this should include making sure that existing gardens are available for all future occupiers of the proposed development, preferably through its subdivision. Furthermore, Policies D3 and D6 of the LP include provisions to ensure the delivery of appropriate amenity and minimum levels of private outside space. I accept, therefore, that this development plan policy context establishes a requirement upon residential developments to provide external space as a part of delivering appropriate living conditions overall and that the subdivision of the existing garden is proposed in the light of this.
21. However, the development plan also requires, in relation to the character and appearance of an area, a high standard of design. This is clearly set out by relevant Policies DM1, DM26 and DM27 of the DMP which, altogether, require developments to contribute positively to their surroundings, informed by the character and pattern of existing development in the area, and to result in no external alterations which would detract from the appearance of the property or the street scene.
22. Upon completion of the proposed development, the existing garden would be subdivided to form a patchwork of private and communal garden spaces. They would vary in size and shape, and they would be delineated by fencing. This patchwork of divided spaces would be complex, and it would create a strong sense of enclosure. This would harmfully contrast with those prevailing verdant and open characteristics which the garden exhibits at present.
23. Therefore, even though the provision of dedicated gardens for flatted accommodation can provide an essential component of the living conditions of their occupants, the effects of this specific proposal would be unsympathetic to the existing character and appearance of the host property and it would detract from, rather than positively contribute to, its surroundings. As the garden subdivision would take place at the rear and side of the property, these effects would not be prominent in views from nearby roads and pavements. This would mitigate the harm to an extent, but not wholly, given the repurposed garden would be experienced in views from properties in the area. For these reasons, the proposal conflicts with Policies DM1, DM26 and DM27 of the DMP.

24. Planning permission P/1425/23 for the 3 flats is extant, and on the basis of the evidence before me, I consider there to be a very real prospect that the development the subject of that planning permission could be implemented as an alternative to that the subject of this appeal. Although the development the subject of the existing planning permission would incorporate one less private garden, it would, nevertheless also involve a complex subdivision of the host property's garden with substantial sections of fencing erected. The visual effects would be very comparable with that proposed in the scheme before me.
25. The existence of planning permission P/1425/23 means that an alternative development could take place at the site which would result in very similar effects upon the character and appearance of the area ensuing. This represents a fallback position to which I attribute a significant amount of weight. Given this, and given the degree of harm which would arise from the proposal would be quite modest, I find that the fallback position provides a material consideration of sufficient weight to override the conflict with the development plan policies I have identified. Therefore, the effects of the proposed development upon the character and appearance of the area, with specific regard to the subdivision of the garden, are, overall, acceptable.
26. In coming to these views, I have had regard to the appeal decision (reference APP/M5450/W/20/3256527) relating to 42 Marlborough Hill, where, amongst other matters, an Inspector also determined that the visual effects of a garden subdivision would be harmful. However, in that case, I have no reason to conclude that there was a realistic fallback position. Furthermore, there were other factors which led the Inspector to conclude that the development in that case would harm the character and appearance of the area aside from the garden subdivision. These factors distinguish the 42 Marlborough Hill case from the proposal before me. Consequently, it is of limited weight and is not a decisive factor in my determination.

Other Matters

27. The proposal would make a contribution to housing supply, and it would increase the choice of housing in the area. The housing would be provided within an accessible location and, as a small development, it is likely that it could be delivered quickly too. I am also mindful that the homes would be provided on previously developed land, and the Framework outlines that substantial weight should be given to the value of using suitable brownfield land for new homes. Some modest economic benefits would be derived from the construction and operational phases of the development as well.
28. However, good design is a key aspect of sustainable development. It is fundamental to the planning process and high-quality development creates better places and better functioning communities in the long term. As I have identified that the proposal would fail to provide adequate living conditions for some of its prospective occupiers the proposal is not well designed. The benefits of the proposal are insufficient to outweigh its design deficiencies.
29. Level and ramped access is proposed to the property. This could serve the elderly or the disabled. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (the Act), sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and

people who do not share it. The Act sets out the relevant protected characteristics which includes disability and age. In dismissing this appeal, the proposed access arrangement would not be delivered. However, it does not follow from the PSED that the appeal should succeed. In my view any adverse effects of dismissing the scheme on potential prospective users of the development with protected characteristics would be proportionate having regard to the harm identified in my first main issue.

30. It may be, in respect of a range of other planning considerations, that the development would be appropriate and not result in harmful effects. This may include the effects of the proposed extensions and front plot landscaping upon the character and appearance of the area and the proposal's effects upon highway safety. Even so, an absence of harm in respect of such matters is a neutral factor in my decision and it does not outweigh the harm that I have identified in my first main issue.
31. There is some evidence before me which indicates to me that the Council may oppose the scheme on the basis of the number of occupiers which would reside within the proposed development, upon the adequacy of bin storage arrangements and the adequacy of the built-in storage provision within Flat 3. However, having regard to all the evidence before me, including the specific wording of the Council's reasons for refusal, unlike the subjects of my main issues, the gravity of the Council's concerns in relation to these matters is not clear to me. Given this, and given that I consider the appeal should be dismissed because of my findings on my first main issue, these other potential concerns of the Council are not determinative in this case and, in such circumstances, there is no need for me to address them in detail.
32. The appellant draws issue with the manner in which the Council has handled the case, including considered delays with its determination. However, this does not have a bearing upon the merits of the case. The appellant also submits that the Council's delegated report contained some inconsistencies. Nevertheless, all of the evidence before me is sufficient to have enabled me to define my main issues and make my decision.

Conclusion

33. In both of my main issues I have identified conflict with development plan policies. In relation to my main issue concerning the effects of the proposed subdivision of the garden upon the character and appearance of the area, I have identified a material consideration: the fallback position provided by a planning permission, of sufficient weight to overcome the policy conflict. However, in my remaining main issue, I have identified further development plan policy conflict as appropriate living conditions would not be provided for the future occupiers of Flat 4 and no material consideration overrides this. Therefore, the proposed development conflicts with the development plan taken as a whole and, overall, there are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR