



Appeal Decisions

Site visit made on 11 February 2025

by **Simon Hand MA**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal A Ref: APP/T5150/C/23/3328051

Flats 1 & 2, 6 Station Approach, Wembley, HA0 2LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Ms K MCCLOSKEY against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice was issued on 20 July 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of the premises to flats.
 - ("the unauthorised change of use").
 - The requirements of the notice are: STEP 1 Cease the use of the premises as flats. STEP 2 Remove all internal partitions, items, materials and debris associated with the unauthorised change of use, including the removal of all kitchens, except ONE, to be located on the ground floor, and all bathrooms/shower rooms, except TWO, so that the internal layout of the premises is returned back to a single family dwellinghouse as existed prior to the unauthorised use took place.
 - The periods for compliance with the requirements is: 6 months.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 (as amended).
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Appeal B Ref: APP/T5150/W/23/3328047

6 Station Approach, Wembley, Brent, HA0 2LA

- 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 MS K MCCLOSKEY against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/1677.
 - The development proposed is Conversion of dwelling into 2no. apartments (1no. one bedroom and 1no. three bedroom) with associated works (retrospective).
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Decisions

Appeal A – 3328051

1. The appeal is dismissed and the enforcement notice is quashed.

Appeal B - 3328047

2. The appeal is allowed and planning permission is granted for the conversion of dwelling into 2no. apartments (1no. one bedroom and 1no. three bedroom) with associated works (retrospective) at 6 Station Approach, Wembley, HA0 2LA in accordance with the terms of the application, Ref 23/1677, subject to the following conditions:
 - 1) Unless within 6 months of the date of this decision the ground floor flat shall be created as shown on plan 6Stat-Plan-002 Rev C, dated August 2023 (ie with only 1 bedroom) and the parking, cycle and bin storage shall be provided on the forecourt as shown on the same plan the use of No6 as two

flats shall cease and the internal layout of the dwelling shall return to that of a single dwelling as existed prior to the conversion took place.

Upon implementation of the approved layout of the ground floor flat and the forecourt as shown on plan 6Stat-Plan-002 Rev C, dated August 2023 as specified in this condition, that layout shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) The garden building shown on plan 6Stat-Plan-002 Rev C, dated August 2023 labelled 'incidental outbuilding' shall be used only for storage for the ground floor flat and for no other purpose.

Preliminary Matters

3. There are two appeals in this case. An application was made to regularise the conversion of No6 into two flats in May 2023. The Council issued a refusal on 21st July 2023, but also, on the day before, issued an enforcement notice. The s78 appeal (3328047) is to regularise the conversion but in case that appeal is refused the enforcement appeal (3328051) is to allow for further time for the tenants to find alternative accommodation and the internal works to be carried out.
4. I shall deal with the planning appeal first.

Main Issues

5. Whether the bedrooms are too small; whether a family size dwelling will be lost; whether the outbuilding is incidental and whether the use of the forecourt for parking is acceptable.

Reasons

6. The issue of bedroom size and the loss of a family dwelling are interconnected. Policy BH11 resists the loss of family sized dwellings except where 3 criteria are met. Two of these – the size of the dwelling and the PTAL rating of the locale are acceptable, but the third is in dispute. This is that the resulting conversion should retain a 3 bed dwelling and one “*preferably with direct access to a garden/amenity space*”. I shall discuss the garden issue below, but Flat 2 is a 3 bedroom dwelling as long as the bedrooms are of an acceptable standard.
7. The problem with the bedrooms is that rooms 1 and 3 fall short of the minimum space requirements set out in the London Plan. Single bedrooms should have a minimum floor area of 7.5sqm and be at least 2.15m wide. The Council state that bedroom has a floor area of 5.6sqm and a width of 2.05m; whilst bedroom 3 is less than 2.15m wide.
8. I was able to see all the rooms in the flats on my site visit and the conversion seems to have been carried out to a good quality specification. I agree that bedroom 1 is too small. It currently has a double bed in it which fills the room. The door does not open fully and I could only just about get down the side to look out of the window. Bedroom 3 however, was set out as a study and did seem quite spacious. If it is a little too narrow it is also quite long and it would not be difficult to arrange it to make a comfortable single bedroom.

9. Although bedroom 1 is small, I accept the appellant's argument that it was a bedroom in the original 3 bed house – a typical third bedroom in a 30s style suburban terrace. Given this, if the house was returned to its original configuration, then it would still comprise the third bedroom. It seems counter intuitive therefore to declare it a non-bedroom for policy purposes. In my view therefore the 3 bedrooms are acceptable in size and so for the purpose of BH11 a 3 bed flat has been retained.
10. As to whether it has direct access to a garden or amenity space there is no dispute it does not. However, as pointed out the policy uses the qualifying word “preferably” which suggests there is an element of compromise possible. The site is very close to a large park and as this is the only element that is potentially contrary to policy, I consider that on balance it is acceptable and BH11 is not contravened.
11. There is a modest but well-built outbuilding at the bottom of the garden that could house a single room such as a bedroom, it seemed to be insulated and has electricity running to it, but that does not mean it definitely will. It is currently used for storage and I can see no problem with that use continuing, or its use as a cycle store for flat 1 and that can be secured by condition.
12. The Council's argument concerning the forecourt is somewhat contradictory. The highways arm of the Council say that given the high PTAL score ideally there should be no off-street parking whereas the statement argued there is insufficient off-street parking. In fact 1 space is all that is required and that is provided. As I saw there is a drop kerb giving access to the space under the bay window which is very similar to many of the houses on that side of the road. In fact here there is space for a bin and cycle store as well as some landscaping, as shown in revised plans provided by the appellant. The use of the forecourt as described is therefore policy compliant.

Conditions

13. I shall attach conditions to ensure the ground floor flat is turned into a 1 bedroom flat as suggested, to secure the use of the garden room for storage and the forecourt for parking and storage in accordance with the latest plan. Because the development has already been carried out I shall use the standard for retrospective conditions.

Conclusion

14. Subject to those conditions I consider the conversion of the house into 2 flats is acceptable and shall grant planning permission accordingly. I do not need to deal with the ground (g) on appeal A, but will dismiss that appeal and quash the notice.

Simon Hand

INSPECTOR