



Appeal Decision

Site visit made on 24 February 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2025

Appeal Ref: APP/M5450/W/24/3355287

11 Station Road, Harrow HA1 2UF

- 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 Naan Staap against the decision of the Council of the London Borough of Harrow.
 - The application Ref is PL/1290/24.
 - The development proposed is installation of extractor fan and flue to rear elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as the parts most relevant to the main issue in this appeal have not substantially changed, I have not gone back to the parties to seek further submissions. I consider no party has been prejudiced by this approach.
3. The Council has an emerging New Local Plan 2021 – 2041 and has published its Regulation 19 version which has been subject to consultation. However, I have not been made aware of the outcome of the consultation and whether there any objections, nor have I been directed to any emerging policies. As such, I afford the emerging local plan limited weight.
4. The description in the banner heading above has been taken from the decision notice as this more accurately describes the proposal. I note that this has also been used in the appeal form and appeal statement.

Main Issue

5. The effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to odour.

Reasons

6. The appeal site is a mid-terraced property, part of a parade of shops fronting Station Road that has a commercial use on the ground floor. The first and second floor of the terrace is predominantly in residential use, accessed via a first floor platform at the rear of the terrace.
7. The proposed extractor fan and flue would run externally on top of a flat roof single storey rear extension at the appeal property, with the flue terminating

approximately 2 metres above the roof of the extension. It would be set away approximately 4.5 metres from the rear elevation of the first floor property, with a first floor terraced area used to access the residential property even closer.

8. The submitted odour risk assessment demonstrates that there is a high risk from odour, and as such, a high-level odour control system is required. The appellant has put forward that such a system will be installed. However, the report also demonstrates that the appeal site is on the threshold of a very high risk from odour. This is due to the very close proximity to residential receptors and the very poor odour dispersion resulting from the low height of the flue stack. Consequently, because of these factors, any increase in the intensification of the kitchen or the type of food being cooked would likely push the impact risk to very high, requiring a very high-level odour control system.
9. I have not been made aware of any planning conditions currently in place restricting either the intensity of the restaurant use or types of food being cooked under Class E. Moreover, I do not consider that the imposition of such conditions would meet the tests set out in the Planning Practice Guidance, particularly that of enforceability. As such, the intensity of cooking within the unit could increase, either by the current occupiers or any future occupants, as well as the types of foods being cooked, which could create significantly more odours. I cannot be sure that food with a higher grease loading will not be cooked.
10. For the reasons above, and because the extraction flue is in such close proximity to residents, including their outdoor terraced area, I am not satisfied that odour levels would be sufficiently contained to such an extent that they would not cause unacceptable harm to the living conditions of the neighbouring occupiers. It is not certain that imposing a condition to secure the installation of the proposed mitigation would be sufficient to ensure that odours are satisfactorily controlled. In reaching this view, I have also been mindful of the comments of the Environmental Health officer.
11. Accordingly, the proposal would conflict with Policy DM1 of the Development Management Policies Local Plan Document (2013). This seeks, amongst other matters, that proposals achieve a high standard of amenity. It would also conflict with Policy D3 of the London Plan (2021) (LP). This seeks proposals to deliver appropriate levels of amenity and for living environments that are comfortable and inviting for people to use. It would also not be in accordance with Policy D13 of the LP which requires development proposals to manage potential nuisances by ensuring good design of mitigation measures.

Other Matters

12. An acoustic report was submitted with the original application. Given the presence of numerous air conditioning units at the rear of the terrace, the Council consider the proposed noise mitigation measures would be successful in keeping the noise either at or below current levels. From what I have read and observed, I have no reason to come to an alternate view.
13. I recognise the Framework requires significant weight to be placed on the need to support economic growth and that decisions should support town centres to grow and diversify. However, the Framework also seeks a high standard of amenity for existing and future users, and given my reasonings above, I am not persuaded that this would be achieved in this case.

14. Any issues in relation to communication with the Council through the planning application procedure is a separate matter between the parties involved and has no bearing on the planning merits of the appeal.
15. The appellant has directed my attention to examples of other flues in the vicinity of the appeal site. With the exception of a low level flue at the rear of the appeal terrace, the other examples appear to be significantly taller than the proposed flue and are therefore not comparable to the scheme before me. I have very limited information on the shorter flue and cannot be sure of the circumstances which led to its approval. These examples do not therefore alter my conclusion on the main issue.

Conclusion

16. 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. The appeal is therefore dismissed.

T Bennett

INSPECTOR