



Appeal Decision

Site visit made on 2 May 2025

by **Richard S Jones BA (Hons), BTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th June 2025

Appeal Ref: APP/T5150/W/24/3357109

959-963 Harrow Road, Wembley, Brent HA0 2SF

- 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 Minesh against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/2733.
 - The development proposed is conversion of part of shop to self contained studio flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site includes the ground floor convenience shop at Nos 959-963 Harrow Road, and the strip of land between the back of the shop and the footway to The Boltons (the service yard). That strip of land is presently occupied by two steel shipping containers. The parties will be aware that I have also been appointed to determine appeals against the Council's decisions to refuse them planning permission and to issue an enforcement notice requiring their removal¹. Those appeals are subject to separate decision documents.

Main Issues

3. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupants, with particular regard to privacy, outlook, ventilation, daylight, safe access, external living space, noise and disturbance; and
 - the effects on highway and fire safety and the viability of the existing shop.

Reasons

Living conditions

4. London Plan Policy D6 states that housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. The policy explanation states that single aspect dwellings are more difficult to ventilate naturally and are more likely to overheat. It further states that the design must demonstrate that all habitable rooms and kitchens are

¹ Appeal References: APP/T5150/C/24/3346439 and APP/T5150/W/24/3347893

provided with adequate passive ventilation, privacy and daylight, and that the orientation enhances amenity, including views.

5. The proposed studio flat would involve the conversion (change of use) of part of the existing shop display area, which backs onto its rear service yard and The Boltons. The studio flat would be single aspect and have an open plan sitting, dining and sleeping area, positioned off a kitchen with shower room.
6. The appellant argues that the casement windows would enable cross ventilation, but, as they are relatively close to each other and in the same plane, that is very unlikely. Nevertheless, because there would be only two main habitable spaces in an open plan arrangement, and each main space would be served by a casement window with several openings, it is likely that sufficient passive ventilation would be achieved for most parts of the unit. However, it is unlikely that fresh air would pervade to replace stale, warm interior air in the bedroom area, at the back of the unit.
7. The Council raise concern that the outlook from the kitchen and main living space windows would be onto the area used for servicing and bin storage. However, the existing rear service access to the shop would be lost, so unless a new rear access is created, which is not shown on the proposed plans, then servicing would need to take place through the front of the shop. Taken in isolation, that arrangement would ensure future occupants of the flat would not be subjected to noise and general disturbance arising from servicing activities. Nevertheless, commercial bin storage would remain a matter to be resolved.
8. Even though the scheme did not initially propose boundary or landscaping treatments, the appellant suggests that those aspects could be conditioned to allow for the erection of a low boundary wall or fence and/or soft landscaping and the creation of a modest external amenity space in and around the area of the existing service yard.
9. I agree that a condition could be imposed requiring space in front of the residential unit to be apportioned to it, as external living space. An acceptable outlook, comparable with neighbouring properties, would then be in the control of occupants.
10. Moreover, although the sole habitable windows would face onto The Boltons, there is sufficient distance between the face of the building and the back edge of the footway to provide adequate defensible space and protection from loss of privacy, comparable with that which exists in Priory Avenue. Again, that would be subject to a condition requiring the provision of a boundary treatment to prevent incursion into the defined space. In turn, that would also ensure safe access to the flat, insofar as it would preclude potential conflict arising from the use of the space in front of it for parking and servicing in association with the shop.
11. The appellant estimates that the unit would receive sufficient levels of light, although no daylighting assessment has been provided. I note that the frontage would benefit from a south western orientation and it is likely that the kitchen window, coupled with a part glazed entrance door, would provide adequate light to the kitchen space. The window to the main living space would also likely provide adequate light to the dining and lounge areas. However, the main living space is materially deeper than the kitchen and it is unlikely that levels of light penetration

would be sufficient to avoid a noticeably gloomier environment towards the rear bedroom area.

12. London Plan Policy D6 states that where there are no higher local standards in borough Development Plan Documents, a minimum of 5m² of private outdoor space should be provided for 1-2 person dwellings with a minimum depth and width of 1.5m. That is clearly capable of being met in the area in front of the proposed flat. However, the space would be highly compromised, being subject to very significant levels of overlooking from the adjacent footway. It would not therefore meet the policy requirements for private outdoor space. Whilst in principle privacy could be provided by a boundary screen, it is not shown how that could be achieved without unacceptably affecting the quality of the space and the outlook for future occupants.
13. There is also a higher local standard in that BLP Policy BH13 states that all new dwellings will be required to have external private amenity space of sufficient size and type to satisfy residents' needs. In the case of the appeal proposal, that would normally be expected to be 20m². Again, whilst that higher standard would likely be achieved (the appellant says that there is 56m² of available space), it is not shown how the private requirements of the policy would be met.
14. The supporting justification to Policy BH13 explains that in some locations, such as town centres, in high density developments, the Council understands that meeting the overall minimum might be challenging and as such flexibility could be allowed where it can be shown that all reasonable options for provision have been considered. Where not meeting the standards, developments will need to demonstrate how the level of amenity space provided is acceptable taking into account factors such as, accessibility of dwellings to their own amenity space and its quality, proximity to other areas of open space and internal amenity spaces.
15. Even if that flexibility were applicable to the appeal proposal, the issue here is one of quality, rather than quantity, primarily because of the lack of privacy which would be afforded to occupants. Butler's Green would not address that deficiency. Moreover, the plans also show the land in front of the unit being used for car parking, which would further compromise the quality of the outdoor living space.
16. In terms of noise and disturbance, the potential harm arises from the relationship of the studio flat to the shop, rather than the surrounding area which is conforming residential in nature. Although there is clear potential for noise to travel from the shop to the residential unit, I see no reason why adequate sound attenuation could not be secured by way of condition, to ensure that occupants would not be exposed to unacceptable noise disturbance.
17. As the proposal effectively involves the loss of rear servicing, the potential harm arising from the adjacency of associated noise and general disturbance would be avoided. However, if a smaller rear servicing area is retained and a replacement access is provided at the rear of No 959 (as discussed below), it is very likely that unacceptable noise and disturbance would be experienced by occupants, at potentially unsociable hours of the day, including that from vehicle engines, reverse warning sounds, van radios, movement of goods, the sound of voices, and opening and closing of vehicle doors.
18. Moreover, it is not explained how utilisation of the space at the rear of the shop for external living space would impact on the shop's refuse and recycling

arrangements. If that were to remain in close proximity to the front of the residential unit, that would likely result in harm through noise and general disturbance, as well as being unsightly.

19. Having regard to the above, I therefore find that the development would fall short of providing acceptable living conditions for future occupants, contrary to BLP Policy DMP1 and London Plan Policy D6. Those state, amongst other things and in addition to the above, that development will be acceptable if it is of a location, use, layout, type and design that provides high levels of internal and external amenity.

Highway safety

20. The appellant states that the proposal would repurpose the hardstanding to the rear of the shop. As noted, that space is largely occupied by two shipping type containers positioned adjacent to its rear service door. The remainder of the space is used to store refuse associated with the shop.
21. BLP Policy BT3 states that the provision of servicing facilities is required in all developments covered by the Plan's standards. For retail units less than 500m², that equates to one transit sized bay.
22. The appellant contends that service vehicles have rarely parked within the site's curtilage due to its spatial constraints. It is argued that being 3m deep leads to vehicles overhanging the footpath, unless they park perpendicular to the building, a method which he says is unsatisfactory, particularly for larger servicing vehicles.
23. However, no evidence is provided to show that to be so, nor are details provided of the type of vehicles typically used to service the shop. The plans show that the width of a car can be comfortably accommodated within the space without affecting the adjacent footway. Whilst a transit type van is clearly wider, it is very likely that, in the absence of the containers, the Policy BT3 standard would be met in a perpendicular arrangement, without impacting on the footway. Moreover, there are vehicular crossovers to the service area on both The Boltons and Priory Avenue, providing greater scope for vans to safely manoeuvre into and out of that space.
24. The repurposing of the land is therefore contrary to BLP Policy BT3, which states, amongst other things and in addition to the above, that the loss of existing servicing will be resisted where it is still required to meet operational needs.
25. The appellant explains that delivery and service vehicles typically park on The Boltons or on Priory Avenue. The Boltons, which serves the residential properties in that cul-de-sac, has a relatively narrow carriageway. On-street parking would therefore prevent a two-way traffic flow, thereby affecting the safe and free flow of traffic by forcing vehicles onto the wrong side of the road and into potential conflict with oncoming vehicles.
26. In that situation, the loss of the rear service yard is much more likely to result in parking on the footway to The Boltons. As that is the only option for pedestrians walking to the residential properties in that street from Priory Avenue, they would be forced onto the road and potentially into conflict with vehicular traffic. That arrangement is detrimental to the safety and comfort of footway users, particularly

those in wheelchairs, the elderly, infirm, partially sighted and parents with small children and pushchairs.

27. Moreover, whilst parking in the area is largely unrestricted, there is evidently significant demand for on-street parking along Priory Avenue, such that at the time of my site visit, parking on both sides restricted movements to a single carriageway width. Neighbouring objectors also refer to a shortage of parking spaces. Therefore, in the absence of evidence to the contrary, on-street parking in close proximity to the rear of the shop is likely to be difficult. That in turn increases the likelihood of indiscriminate, unsafe parking, affecting the safe and free flow of pedestrian and vehicular movements.
28. I therefore find that repurposing the rear hardstanding area (the service yard) would be harmful to highway safety, contrary to BLP Policy BT3.
29. The Council state that its corresponding reason for refusal could be addressed with a minor amendment to the scheme, which retains off-street servicing at the rear of the site. It refers to inserting a replacement door to the rear of the shop and repositioning the proposed bin and bicycle stores further west, in order to retain a 6m long space for a van at the eastern end of the service yard.
30. However, I am unconvinced that there is sufficient space to satisfactorily achieve that, as a transit type van would likely block and prevent access to any new service door to the shop. That arrangement would also require vehicles to reverse back over the footway and onto the road, on the corner of The Boltons and Priory Avenue, in potential conflict with pedestrians and other vehicles. In the absence of the containers, the existing configuration of the hardstanding area is clearly preferable in highway safety terms. Moreover, as explained above, an amended scheme as described would also result in unacceptable harm to the living conditions of occupants.

Fire safety

31. London Plan Policy D12 states that all development proposals must achieve the highest standards of fire safety and ensure that specific measures are met. However, the policy does not require all minor development proposals to submit a fire statement, as argued by the Council. That applies only to major development, which is not relevant in this case. Nevertheless, the appeal proposal should properly be considered against the criteria of Policy D12A.
32. The information provided responds in broad terms to the criteria of that policy but is lacking in terms of specific information and detail. It is not therefore shown that the development would achieve the highest standards of fire safety and as such is contrary to Policy D12A. As the arrangements for repurposing the service area is not sufficiently resolved, I am unconvinced that is a matter which could be left to a condition.

Viability of the existing shop

33. The Council state that due to a lack of information, the scheme has failed to demonstrate that it would not have a negative impact upon the viability and vitality of the retail use and thus does not accord with BLP Policy BE6.
34. However, having regard to the policy requirements, the proposal does not result in the loss of the retail unit; that would be retained, albeit at a reduced size. There is

therefore no need to consider alternative provision within 400m, even though the appellant is able to refer to another shop within that distance. The development is also restricted to the rear of the building so would not affect the continuity of the retail frontage.

35. As explained above, I am satisfied that a scheme which would acceptably mitigate noise travelling between the retail unit and the residential unit, is capable of being secured by way of condition, so that the introduction of the latter does not impinge on the operation of the former. Nevertheless, the development would reduce the available floor area of the existing shop by the size of the studio flat, although the appellant says that will reduce overheads.
36. The development would also likely result in the loss of at least part, if not all of the rear servicing area and refuse/recycling storage. It is therefore reasonable to conclude that the proposal would have a negative impact on the operation of the shop, but there is little before me to suggest that would in turn affect its medium to long-term viability.
37. In any case, for the reasons explained, I do not find direct conflict with BLP Policy BE6.

Other Matters

38. I note that the objection over the obstruction of a right of way to No 965, but that is a civil matter between the parties.
39. I do not agree that the development would make effective use of land; the space between the rear of the building and the footway along The Boltons would, in the absence of the containers, perform a rear servicing function to the retail unit, so does not amount to under-utilised land. Moreover, internally the space that would be given over to the residential unit, is currently utilised as part of the shop.
40. Nevertheless, the development would increase housing supply in an established residential area. However, that benefit does not outweigh the harms set out above.

Conclusion

41. For the reasons explained, and having considered all other matters raised, I conclude that the conversion of part of the shop to a self-contained studio flat would be contrary to the development plan as a whole and material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan. The appeal should be dismissed.

Richard S Jones

INSPECTOR