
Appeal Decision

Site Visit made on 11 October 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2021

Appeal Ref: APP/R5510/W/21/3271012

1-2 Marlborough Parade, Uxbridge Road, Uxbridge UB10 0LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Erindale Ltd on behalf of SHA Ltd against London Borough of Hillingdon.
 - The application Ref 19108/APP/2020/3815, is dated 18 November 2020.
 - The development proposed is Three storey side extension and two storey rear extension to create a retail unit, 4no. new 2-bed units and with associated amenity, cycle and refuse store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal, a revised National Planning Policy Framework was published. The parties were consulted in relation to this matter and any responses received have been factored into my assessment of the appeal.

Main Issues

3. The appeal is the result of the Council failing to determine the original application within the prescribed period of time. However, based on the evidence before me, I consider the main issues to be:
 - i) whether the proposal would provide suitable living conditions for future occupants, having regard to outlook and the provision of private amenity space; and
 - ii) whether the proposal would provide accessible housing.

Reasons

Living Conditions for Future Occupants

4. The appeal proposal would create four new residential units, three of which would have their principal outlook onto an access drive to the rear of the appeal site. The driveway is also bounded by the flank elevation of No. 2 Marlborough Road and due to its set back from the road, this elevation would be opposite units 2 and 3 of the proposal.

5. Based on the evidence before me, I note that the proposal has been amended following a previously dismissed appeal¹. In this regard, the proposal has been set further back from the site boundary, thereby increasing the separation distance between the windows of the proposed dwellings and the side elevation of No 2. The ground floor plans show recessed facing windows for the living accommodation which are supplemented by side facing windows. In addition, the first-floor plan demonstrates that the windows serving Bedroom 1 for both units would be recessed in the same manner as the ground floor. The windows serving proposed Bedroom 2 would be situated further forward, with side facing windows also proposed, albeit glazed with obscure glass.
6. As a consequence of these revisions to the proposal, the appellant confirms that the separation distance between facing windows and the side elevation of No 2 would be 5.15m as a minimum and 7m as a maximum. This would provide a greater separation distance to that previously proposed. However, within the previously dismissed appeal, concern was raised regarding the *'very poor levels of outlook...which would create a harmful and oppressive sense of enclosure to future occupiers.'*
7. Despite the revisions, the side elevation of No 2 would remain as a tall and deep structure, located in close proximity to the proposed dwellings. Although the proposal would increase the separation, this would only be in a modest manner. Accordingly, the level of separation would remain limited and as a consequence, the side elevation would continue to represent a dominant and imposing structure that would substantially impact upon outlook. As identified above, the previous decision identified that levels of outlook would be 'very poor', and despite the alterations to the proposal, I am also of the view that outlook would be demonstrably poor and unacceptably dominated by the adjacent building. Accordingly, due to the location of the proposed facing windows, the flank elevation of No 2 would still provide a harmful and oppressive sense of enclosure to future occupants.
8. As with the previous decision, I note that a Daylight and Sunlight Assessment demonstrates that the proposed rooms would meet the necessary standards. However, these matters do not compensate for outlook and therefore this does not alter my findings set out above.
9. Private amenity space would be provided for each of the proposed units. Unit 1 would have a small courtyard to the front of the property, a feature replicated for Units 2 and 3. However, Units 2 and 3 would also have separate amenity space to the rear at first floor level. Unit 4 would have amenity space provided at first and second floor level. In terms of area, only Unit 2 would meet the requirements of local policy, this being 25sqm for two-bedroom flats. Unit 1 would be provided with 9.5sqm which would be located to the front of the property, close to the main road. Accordingly, due to the size and location of this space, I find that it would not enable private enjoyment as required by local policy. This would directly affect its usability and the space would also incorporate access into the flat. Accordingly, in my judgement, the small courtyard would not provide well-located or well-designed private outdoor amenity space.
10. Unit 3 would have the same courtyard arrangement to the front. However, this would be located further from the main road and accordingly, it would be

¹ APP/R5510/W/19/3237924

afforded a greater level of privacy. In addition, a balcony would be provided to the rear of the property. Cumulatively, the flat would be provided with 18sqm of amenity space. However, due to the variety provided within the proposed layout, I find that the arrangement would be usable for the private enjoyment of the occupier.

11. Unit 4 would also be provided with two separate areas of amenity space. However, the space at first floor level would wrap around the internal staircase providing an awkward 'L' shaped space. Due to the limited size of this area, I find that it would not be well-located or well-designed. A small balcony would also be provided at second floor level but due to its limited size, again, in my judgement this would not be a particularly usable space and would not compensate for the awkward layout of the first floor area. Accordingly, I find that the amenity space for Units 1, 3, and 4 would cause demonstrable harm to the living environment that would be provided for future residents.
12. I note that the appeal site is located within a built-up environment and that surrounding development is generally quite intense. However, such constraints do not mean that living conditions should be compromised. I also note that there are green spaces within walking distance of the appeal site. Nevertheless, these do not compensate for the substantial shortcomings of the amenity spaces provided. Moreover, although the amenity spaces provided may meet the requirements of The London Plan 2021 (LP), the relevant policy defers to higher local standards where these exist. I am therefore satisfied that it is against the Council's amenity space standards that the proposal should be assessed. Finally, although I note the reference to a development at 2 Pole Hill Road, I do not have the full details of this case before me. Therefore, without any specific evidence on this matter, it does not affect my findings set out above.
13. Accordingly, having regard to outlook and the provision of private amenity space, I conclude that the proposal would fail to provide suitable living conditions for future occupants. It would therefore fail to comply with Policies DMHB11 and DMHB18 of the Local Plan Part 2: Development Management Policies (2020) (DMP) and Policy D6 of the LP. Taken together, these seek amongst other things, housing development of high quality design, which provides functional layouts and good quality, useable private outdoor amenity space.

Accessible Housing

14. Policy D7 of the LP relates to accessible housing and requires dwellings to meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'. A specific requirement therefore relates to step-free access into dwellings. Based on the evidence before me, Units 1-3 would provide this, but Unit 4, which provides living accommodation at upper floor levels would not meet this requirement. Although step-free access would be provided to a hallway at ground floor level, the actual accommodation provided within the flat could only be accessed via a private stairway.
15. I note the suggestion that units could be retro-fitted to improve accessibility, but the layout of Unit 4 would be such that step-free access to the living accommodation would not be provided. On this basis, I conclude that the proposal would fail to provide accessible housing. It would therefore fail to comply with Policy D7 of the LP, the requirements of which are set out above.

Other Matters

16. The proposal would provide housing in a sustainable location, close to a number of shops and services, as well as public transport. However, the locational benefits of the proposal do not alter or outweigh my findings in relation to the main issues. These are matters of fundamental concern which weigh heavily against the appeal proposal.

Conclusion

17. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR