



Appeal Decision

Site visit made on 11 March 2025

by **B J Sims BSc (Hons) CEng MICE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Appeal Ref: APP/R5510/W/24/3354571

88 East Avenue, Hayes, Hillingdon, UB3 2HR.

- 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 Rowda Muhyadin against the decision of Hillingdon London Borough Council.
 - The application Ref is 2668/APP/2024/2004.
 - The proposed development is described as the erection of a first floor to create a three-bedroom flat above a restaurant.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description above is taken from the refusal notice. However, neither the application form nor the refusal notice properly describes the full extent of the appeal development. The works are proposed to include, in addition to the first floor flat, modifications to the ground floor shop front and the construction of a basement.
3. The Agent to the Appellant expresses serious dissatisfaction with the conduct of the Council in handling the application but that is not in itself a matter for this appeal.
4. However, the appeal provides for an entirely fresh and independent assessment of every factor both for and against the proposed development, including the alterations to the ground floor shop front and the proposed basement, as detailed on the submitted plans and in the written representations.

Planning Issues

5. There is no objection in principle to any aspect of the proposed development within the commercial street frontage of East Avenue.
6. From my consideration of the submitted detailed plans and all of the written representations, I consider the main issues in this appeal to be:
 - i. the living conditions that would be available to occupiers of the proposed flat, with regard to internal accommodation standards and private amenity space;

- ii. the effect of the development, including the modifications to the ground floor, on the appearance and character of the appeal property frontage and the wider street scene of East Avenue;
- iii. the potential impacts of the creation of the proposed basement in the absence of a basement impact assessment, and
- iv. the effects the addition of the first-floor extension would have on the living conditions at the neighbouring property with regard to outlook and natural lighting.

Reasons

Living Conditions of Occupiers

- 7. Bedrooms 1 and 2 would fall short of the internal space requirements, as set by Policies DMHB16 of the adopted Hillingdon Local Plan (HLP) and D6 of the adopted London Plan. Moreover, Bedroom 3 would have no window, which is also contrary to adopted standards. Furthermore, the overall internal floor area of 86sqm is below the adopted standard of 95sqm for a six-person dwelling.
- 8. The proposal makes no specific provision for external private amenity space, as compared with the minimum standard of 30sqm set for a 3-bedroom flat by Policy DMHB18 of the HLP.
- 9. The degree of non-compliance on room sizes is relatively marginal and there might be potential to provide a roof terrace, but this is not detailed on the submitted plans. The site is close to public open spaces and the suitability of the accommodation would be for intending occupiers to judge.
- 10. However, the degree of non-compliance with set standards in the present case, in my view, warrants substantive planning objection.

Frontage and Street Scene

- 11. The brick-faced first-floor construction would fill a gap in the upper level of the street frontage. The street is varied in appearance and character and, in this context, I see no objection to the design of the first-floor addition.
- 12. Neither, for similar reasons, do I find any objection to the proposed modification to the ground floor shop front, involving the addition of a door serving a stairway to the first-floor accommodation. The restaurant sign would continue to extend over the residential door but, whilst this is illogical, I do not consider it to be significant in the street context.
- 13. In these respects, I consider that the proposed development would meet the design requirements of Policy DMHB11 of the HLP.

Basement

- 14. Basement construction beneath existing buildings is commonplace, but carries a range of potential planning impacts with respect to ground stability and water levels. Even though these are also matters for building control, I consider that the Council is justified in seeking a basement impact assessment to address these considerations, as set down in Policy DMHD3 of the HLP.

15. No such assessment is provided in this case and, given the densely urban setting, I regard the basement proposal as unacceptably contrary to Policy DMHD3 on grounds of a lack of necessary information.

Living Conditions of Neighbours

16. The Council states that the first-floor construction would extend some 2.95m beyond the rear wall of No 90 East Avenue, infringing the 45-degree rule with respect to a side window and reducing natural light reaching the neighbouring property, noting the absence of a daylight assessment.
17. A technical daylight assessment is not necessarily essential to a judgement in such matters, and the 45-degree rule is only a guide. However, this site visit was set down as unaccompanied and I was unable to reach or view the rear of the appeal property, in order to make my own determination of this issue.
18. Usual practice would be to rearrange the site inspection with access. However, in view of my overriding negative conclusions above regarding space standards and the proposed basement, I saw no merit in taking this action, and I reach no conclusion on the issue of living conditions of neighbours, as protected by Policies DMHB11 of the HLP and D3 of the London Plan, consistent with national policy.

Other Matters

19. The Council raise no objection on grounds of noise or disturbance to neighbours, or with respect to parking or road safety, or a loss of retail space. Given the urban character of the locality and the minor reduction in retail space, I agree.

Conclusion

20. However, for the reasons explained above, with respect to the issues of space standards and the proposed basement, I regard the appeal proposal as contrary to the development plan as a whole.
21. I therefore conclude that this appeal should be dismissed.

B J Sims

INSPECTOR