The Planning Inspectorate

Appeal Decision

Site visit made on 12 July 2011

by John Wilde C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2011

Appeal Ref: APP/T5150/A/11/2151247
14B Heber Road, London, NW2 6AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Camross Investment Management against the decision of the Council of the London Borough of Brent.
- The application Ref 09/1616, dated 7 March 2009, was refused by notice dated 14 October 2010.
- The development proposed is the erection of single storey detached outbuilding in garden of ground floor flat (14B Heber Road) (as amended by plans received 16/11/2009 and 20/08/2010).

Decision

1. I allow the appeal, and grant planning permission for the erection of single storey detached outbuilding in garden of ground floor flat (14B Heber Road) (as amended by plans received 16/11/2009 and 20/08/2010) at 14B Heber Road, London, NW2 6AA in accordance with the terms of the application, Ref 09/1616, dated 7 March 2009, subject to the following conditions:

    1) The development hereby permitted shall begin not later than three years from the date of this decision.

    2) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the ground floor flat known as 14B Heber Road.

    3) The development hereby permitted shall be carried out in accordance with the following approved plans: 2810/1D (received by the Council on 16 November 2009), site plan marked revised and dated 20 August 2010.

Procedural matters

2. The description of the proposed development given in the Council's decision notice is more precise than that given on the planning application form and I have therefore used it in my decision.

3. The Draft National Planning Policy Framework document was issued for consultation on 25 July 2011. However, as this document is still in draft form and subject to change, I have accorded its policies little weight in my decision.

Main Issue

4. The main issue is whether or not the proposed outbuilding would be incidental to the enjoyment of the ground floor flat.

Reasons

5. The appeal relates to the erection of a single storey detached outbuilding in the rear garden of 14 Heber Road. The appellants have indicated that the outbuilding would be incidental to the enjoyment of the ground floor flat, which is designated as No 14B.

6. The Council consider that the appellants have failed to provide information regarding the layout of the ground floor flat and its relationship with the first floor flat. However, I have been given little evidence to show how either of these matters are germane to the issue of whether or not the proposed outbuilding would be incidental to the enjoyment of the ground floor flat.

7. The planning application form clearly states that the proposed outbuilding relates to 14B Heber Road. The Council have also suggested that if I were to allow the appeal then a condition could be imposed that would prevent the outbuilding being used for purposes other than being incidental to the enjoyment of the ground floor flat. The appellants have accepted such a condition.

8. It seems to me therefore, that allowing the appeal and imposing a condition as suggested, would ensure that the proposed outbuilding would be incidental to the enjoyment of the ground floor flat and, if enforced, would prevent it being used for other purposes. I conclude, therefore, that with the imposition of the suggested condition the proposed development would be incidental to the enjoyment of the ground floor flat.

9. In their decision notice the Council refer to two development plan policies. These are policies BE2 and BE9 of the Brent Unitary Development Plan (UDP). Policy BE2 relates to design and character and appearance, and does not therefore bear any relation to the reason for refusal, and I conclude that the proposed development would accord with this policy.

10. Policy BE9 is entitled *Architectural Quality* and the Council point to section (e) as being relevant to the reason for refusal. When taken within the context of new buildings this section of the policy makes clear that development should *be laid out to ensure that buildings and spaces are of a scale, design and relationship to each other, which promotes the amenity of users, providing a satisfactory level of sunlighting, daylighting, privacy and outlook for existing and proposed residents*.

11. Given the title of the policy and the reference to residents it is somewhat unclear as to exactly what extent this policy relates to the proposed development. It is also unclear whether the residents referred to in the policy are those of the proposed development or those residing in adjoining dwellings. Given my conclusion on the main issue above, there would be no residents in the proposed outbuilding. Furthermore, it would be of a size and height that would not cause a loss of amenity to neighbouring properties and gardens. It would not therefore conflict with policy BE9.

Other matters

12. Given that the proposed outbuilding would not be used as residential accommodation, the matters of loss of parking and noise and disturbance are not ones that can be considered to be significant.

13. I have been made aware that the site has a considerable planning history. It is incumbent upon me however to arrive at a conclusion on the proposal before me, which in this instance differs from previous applications pertaining to the site.

Conditions

14. As discussed above I have imposed a condition to ensure that the outbuilding will only be used for purposes ancillary to the enjoyment of the ground floor flat. I have not however imposed a condition as requested by the Council requiring a landscaping scheme to be submitted. Given the nature and relatively small size of the proposed development I consider that such a requirement would be out of proportion.

15. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.

Conclusion

16. In light of my above reasoning, and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

Inspector

The Planning Inspectorate

Appeal Decision

Site visit made on 15 August 2011

by E C Grace DipTP FRTPI FBEng PPIAAS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 August 2011

Appeal Ref: APP/T5150/A/11/2151829
68 Cranleigh Gardens, Harrow HA3 0UW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr M Gorasia against the decision of the Council of the London Borough of Brent.
- The application Ref 10/2440, dated 15/9/10, was refused by notice dated 21/12/10.
- The development proposed is demolition of existing 2 storey side extension and erection of a new separate 2 storey 2 bedroom dwelling.

Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing 2 storey side extension and erection of a new separate 2 storey 2 bedroom dwelling at 68 Cranleigh Gardens, Harrow in accordance with the terms of the application, Ref 10/2440, dated 15/9/10, subject to the conditions set out in the schedule at the end of this decision.

Ancillary Matters

2. The Council's refusal notice includes a reason related to flood risk potential arising from the Wealdstone Brook, a main river that runs along the rear boundary of the site. The appellant has since prepared and submitted a Flood Risk Assessment and the Environment Agency now indicate they are content with its contents and that any outstanding concerns they have regarding floor levels and permeable fencing could be adequately dealt with by the imposition of conditions.

3. A further refusal reason related to the absence of any legal agreement to address requirements under various UDP and SPD policies to mitigate the impact of the development in respect of local infrastructure provision. A Section 106 Agreement has now been sealed between the Council and the appellant and I have been supplied with a certified copy thereof. The Council confirmed that its requirements meet the statutory tests of the Community Infrastructure Levy Regulations and that its refusal on this count has been suitably addressed. I am therefore satisfied that I can take it into account in my consideration of this appeal.

Main Issues

4. Accordingly, I consider the main issues for me to determine are the effect of the proposal on a) the character and appearance of the host dwelling and the street scene and b) the living conditions of the occupants of the neighbouring dwelling (67 Falcon Way).

Reasons

5. The proposal has been submitted in an attempt to overcome shortcomings which had resulted in a previous similar scheme (Ref: 09/1347) being refused planning permission in 2009. The Council identify those differences as merely being the introduction of a chamfered bay in place of a squared bay and setting the structure back 100mm behind the façade of the host dwelling. They also point out that the extension would narrow in width from 4.8m at the front to 4.2m at the rear to fit the tapering site and that it would project to a distance of just 0.25m from the side boundary. It would also extend 1.5m further back than the rear elevation of the original dwelling on both floors.

6. The Council raise an objection in principle to the proposal due to the cramped nature of the plot, which is dictated by the limited available width between the flank of the original house and the side boundary. Hence, the frontage width of the proposed dwelling would be 4.8m compared with 6m for the original dwelling and it would approach closer to the boundary than the 1.5m – 2.0m distance more usually found with the terraces in this locality, although they concede there is not a terrace to the south. Furthermore, they consider the balance of the terrace of four would be broken by the addition of a further dwelling to one end.

7. I saw the adjacent structure to the south is a pair of semi-detached houses and note that a building to building separation distance of 3.2m would be achieved. I consider this gap would respect the interval that is generally found between buildings in the vicinity. Although I would accept that the addition of a further dwelling to the end of the terrace would interrupt the rhythm of the building, I consider this has already been compromised by the existing 2 storey flat roofed side extension, which is proposed to be demolished. Also, I saw that the house at the other end of the terrace has had a gable constructed in place of the hipped end and a large flat roofed dormer extension incorporated. I find the hipped roof design of the appeal proposal to be an improvement upon what currently exists notwithstanding that it is partly canted, and I therefore regard it as being in conformity with UDP Policy BE2 which requires development proposals to respect or improve the quality of the existing townscape.

8. The extension would be marginally set back from the front façade of the host dwelling and in addition, the ridge line of the roof over the proposed structure would be set at a lower level than that of the main terrace. I find this would distinguish it as a subservient addition whilst still respecting its overall style, fenestration design and use of complementary external finishes. I thus conclude it would be in conformity with UDP Policy BE9 and not result in unacceptable harm to the character and appearance of the host dwelling or the street scene. That also applies to the rear elevation of the extension when viewed from the public vantage point of the footpath that runs along the Wealdstone Brook, which I consider to be more in harmony with the balance of the terrace than the extension which has occurred at No 62.

9. Turning to the second issue, the Council consider the living conditions of the occupants of the neighbouring dwelling (67 Falcon Way) would conflict with advice in the Council's adopted Supplementary Guidance (SPG). In particular, SPG5 *Altering and extending Your Home* recommends that the depth of a rear extension is not greater than half the distance from the side of the extension to the mid-point of the nearest neighbouring habitable room window, which is referred to as the 2:1 rule.

10. The appellant has indicated that the extension would be well outside the 45 degree line from the first floor window of 67 Falcon Way. This is the guideline used in the Building Research Establishment Report *Site Layout for Daylight and Sunlight: A Good Practice Guide*. This demonstrates that the daylight and sunlight reaching that window will remain within an acceptable range and that the outlook from that property would not be unacceptably harmed. Having regard to the fact that the appeal property is to the north of its neighbour, I am satisfied the extension will not result in any unacceptable shadowing or loss of daylight. Moreover, views from that window towards the extension would be at an acute angle and across a large outbuilding that occupies the intervening space. I do not therefore accept the extension would appear overbearing. It is also evident that the owner/occupier of that property raised no objection to the proposal. Indeed, I am unaware of any third party objections to the proposal. I thus conclude there would be no material harm to the living conditions of the occupants of the neighbouring dwelling (67 Falcon Way).

11. Being minded therefore to allow the appeal, I have had regard to the conditions that have been advanced by the Council. In addition to the standard time limit, I agree to a requirement for compliance with the approved drawings in the interest of certainty. I also accept it is reasonable to require submission of materials for approval and also landscaping and refuse storage details in the interests of visual and residential amenity. I agree with the need to remove permitted development rights for any further extensions and outbuildings in the interest of visual and residential amenities. In addition, I shall attach the 2 conditions recommended by the Environment Agency in the interest of reducing risks associated with flooding.

12. For the reasons given above I conclude that the appeal should be allowed and permission granted subject to the conditions in the schedule below.

Edward Grace

Inspector

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the Design and Access Statement, the Flood Risk Assessment and the following approved plans: 000/PL/001; 000/PL/002; 000/PL/003; 000/PL/004; 000/PL/005; 000/PL/006; 000/PL/007; 000/PL/008; 000/PL/009; 000/PL/010 .

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels; means of enclosure; pedestrian access; hard surfacing materials; minor artefacts and structures (eg. refuse or other storage units); proposed and existing functional services above and below ground (eg. drainage, power, communications cables, pipelines etc. indicating lines, manholes, etc.).

5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be erected other than those expressly authorised by this permission.

7) Finished floor levels of the development shall be set no lower than 37.58m above Ordnance Datum (AOD) as set out in the approved Flood Risk Assessment by AAH Planning Consultants (Ref ENV/0303/11FRA) dated March 2011.

8) Prior to commencement of the development, details of any new or replacement fencing located in the 1 in 100 year plus climate change flood extent shall be submitted to and approved in writing by the Local Planning Authority. The details should demonstrate that the fencing is permeable to flood flows.

The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2011

by Paul Crysell BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 August 2011

Appeal Ref: APP/T5150/A/11/2150747
Adjacent to Woodcock Park Bowling Club, Shaftesbury Avenue, Harrow HA5 0RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval for the siting and appearance of development permitted by part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- The appeal is made by Vodafone against the decision of The London Borough of Brent.
- The application Ref 10/3175, dated 10 December 2010, was refused by notice dated 31 January 2011.
- The development proposed is the installation of a 12.5 metre telegraph pole (telecommunications installation) with 1 No. equipment cabinet and I No. meter cabinet and ancillary development.

Decision

1. I allow the appeal and give approval for the siting and appearance of the development proposed in application Ref: 10/3175, dated 10 December 2010 in accordance with the submitted plans (Drawing Nos: 100B, 201B, 301B and 400B). The approval is for the installation of a 12.5 metre telegraph pole (telecommunications installation) with 1 No. equipment cabinet and I No. meter cabinet and ancillary development adjacent to Woodcock Park Bowling Club, Shaftesbury Avenue, Harrow HA5 0RF under the provisions of part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) subject to the following conditions:

    1) The telecommunications mast shall be painted dark brown and the cabinets shall be painted dark green.

    2) No development shall take place until details of root protection measures have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with these proposals.

Main issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area including the Mount Stewart Conservation Area.

Reasons

3. The proposed mast and cabinets would be sited at the back edge of the footpath between a bowling green and Shaftesbury Avenue at the southern end of Woodcock Park. The purpose of the installation is to improve 3G and mobile

broadband services in this part of Harrow where the present coverage is, according to the appellant, limited with interrupted services and dropped calls a common occurrence. The Council does not dispute the need for a mast and having regard to the appellant's coverage plots, I have no reason to disagree.

4. The area is predominantly residential with housing facing the appeal site on the opposite side of the road. There are two schools close to the proposed site which is also within 100 metres of the Mount Stewart Conservation Area (CA). Apart from the dense vegetation surrounding the bowling club this part of Shaftesbury Avenue is open and spacious, characteristics which are reinforced by the generous width of the road, the verge and the footpath. A number of trees flank the road and those next to the bowling club would provide a backdrop for the mast and help to moderate its impact.

5. The mast is designed to look like a telegraph pole but it would be noticeably higher than either the existing poles or the streetlights in Shaftesbury Avenue. The appellant explains that this is necessary to overcome obstacles that would otherwise affect coverage. Consequently, it would be possible to see it in longer distance views from both directions along Shaftesbury Avenue including from parts of the CA. Most of the mast would be seen against the trees next to the site although I accept that the effect would be reduced in winter because many of the trees are deciduous. Even so, the trunks would continue to provide a vertical emphasis and a foil to the man-made form of the camouflaged mast. The equipment and meter cabinets would, in some respects, have more impact because they are bulkier objects but I do not consider they would result in the visual clutter feared by the Council because there is no other street furniture nearby.

6. The appellant has provided information on alternative sites which have been investigated but rejected for various reasons. I appreciate that it would be preferable to locate the mast away from a residential neighbourhood but the site has the advantage of being on relatively high land and adjacent to a major area of open space. The installation would also have the potential to be used for shared services. In the context of the surrounding area, I do not consider the location would be result in the conspicuous form of development the Council fears.

7. A number of residents and a local councillor have raised concerns, some of which I have covered above. It is suggested that the installation could be a target for vandals although there is no information to show why it should lead to anti-social behaviour. Health and safety concerns have also been identified. This is not normally a matter for the planning system although I accept it can be a material consideration. In this instance the installation would meet the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Having regard to the advice in PPG8[1], I consider there are no grounds to dismiss the appeal because of the risk to health.

8. My overall conclusion is that the need for improved coverage justifies the siting of the development in the proposed location. I am satisfied that the impact on the street scene would not be so severe to adversely affect the character and appearance of the area including the nearby CA. Consequently I find that the proposal would not conflict with policy CP17 of the Brent Core Strategy intended to protect the suburban character of Brent or policies BE2 and BE7 of

[1] Planning Policy Guidance Note 8 *Telecommunications* (PPG8)

the Brent Unitary Development Plan (UDP) covering townscape and streetscape respectively. I also consider the proposal would comply with the objectives of policy BE19 of the UDP. This is the most relevant plan policy in relation to telecommunications development and sets out the criteria to be taken into account where telecommunication apparatus is proposed.

9. The Council has suggested two conditions if the appeal was allowed. The first covers the colour of the mast and the cabinets while the second requires details to be provided of root protection measures. I consider both are necessary to minimise the impact of the development and to avoid damage to nearby trees.

10. For the reasons given above and having regard to all other matters raised, I allow the appeal.

P R Crysell

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 16 August 2011

by Brian Cook BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 August 2011

Appeal Ref: APP/T5150/C/11/2150561
1094A and B Harrow Road, London NW10 5NL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by M Aoraha against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/10/0589.
- The notice was issued on 28 February 2011.
- The breach of planning control as alleged in the notice is the change of use of the first floor of the premises from one flat to two self-contained flats ("the unauthorised change of use").
- The requirements of the notice are cease the use of the first floor of the premises as two self-contained flats and its occupation by more than ONE household, remove all items, materials and debris associated with the unauthorised change of use, including all kitchens, except ONE, and all bathrooms, except TWO, from the premises.
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at 1094A and B Harrow Road, London NW10 5NL, as shown on the plan attached to the notice, for the change of use of the first floor of the premises from one flat to two self-contained flats.

Procedural matter

2. Following an exchange of correspondence with the Planning Inspectorate it was agreed that in the light of the evidence advanced, the appeal would proceed on ground (d) rather than ground (c). The other grounds of appeal remain as set out in the summary details above and the deemed application falls to be considered.

The appeal on ground (d)

3. In an appeal on this ground the onus is on the appellant to produce the evidence to establish the case. In this instance it must be shown on the balance of probabilities that at the date when the notice was issued the use alleged had continued substantially uninterrupted for a period of four years beginning with the date of the breach of planning control. The material date in this case is therefore 28 February 2007.

4. The appellant's final evidence is that he purchased the lease to the residential accommodation on the first floor in March 2003. At that time it was vacant. It was arranged as a bed-sitting room with shower and kitchen to the rear (now Flat B) with the other three rooms apparently let as single rooms which had a shower room and WC. These were refurbished and converted to a single flat (now Flat A) prior to letting.

5. The appellant's description of the pattern of occupation of the two flats is set out below in the first two columns of the table with the documentary evidence provided to support this shown in the third column. This is in the form of Assured Shorthold Tenancy Agreements (ASTA) in respect of each flat.

Tenant	*Period Stated*	*Details from ASTAs*	*Period for which no ASTA*
Flat A			
Mr K Pawel	9/7/2003 – 31/3/2005	Fixed term 6 (neither 'months' nor 'years' is deleted) from 9/7/2003	9/1/2004 – 31/3/2005
Mr W Ferreira de Carvalho	1/4/2005 – 26/3/2010	Fixed term 1 year from 1/4/2005	1/4/2006 – 26/3/2010
Miss M Wludarska	27/3/2010 - date	Fixed term 1 year from 27/3/2010	From 27/3/2011
Flat B			
M T Durys	14/6/2003 – 3/11/2004	Fixed term 6 months from 14/6/2003	14/12/2003 – 3/11/2004
Mr P George	4/11/2004 – 20/7/2007	Fixed term 1 year ASTA dated 4/11/2004	4/11/2005 – 20/7/2007
Mr L da Conceiao	21/7/2007 – 7/11/2007	Fixed term 1 year from 21/7/2007	8/11/2007 – 7/11/2010
Mr S Omar	8/11/2010 – 5/5/2011	Fixed term 1 year from 8/11/2010	
Ms V Cos Santos Maeyo	6/5/2011 - date	Fixed term 1 year from 6/5/2011	

6. Each of the ASTAs has clause 1 which states "The Landlord lets the Property to the Tenant for the Term at the Rent payable as set out above". Clause 2 confirms that when the Term expires, the Landlord can recover possession as set out in section 21 of the Housing Act 1988 unless the Tenant is given notice stating that the tenancy is no longer an assured shorthold tenancy. In the case of the ASTA for Ms V Cos Santos Maeyo the Notice Requiring Possession under section 21 (1)(b) of the Housing Act 1988 has also been provided in evidence and confirms that possession will be required on 5/5/2012.

7. The first date of occupation given for each flat in column 2 of the table above is consistent with the appellant's evidence regarding the purchase date of the lease and the subsequent period of refurbishment. Dates in column 2 suggest continuous occupation of Flat A thereafter although there is an apparent gap of

three years between 7 November 2007 and 8 November 2010 for Flat B. Although at first sight this could be a typing error in the appeal statement, no explanation is given as to why Mr L da Conceiao completed less than four months of his year-long tenancy (see columns 2 and 3). Furthermore, the only ASTA provided in respect of Mr Omar's tenancy is that dated 8 November 2010.

8. Column 3 provides the detail from the documentary evidence provided by the appellant to support the assertion of continuous occupation. For each tenant it is only what appears to be the initial ASTA that has been provided. Any subsequent renewal agreements have not been provided, nor is there any evidence that the basis of any tenancy has been changed in accordance with the terms of clause 2 of the ASTA.

9. Column 4 in the table sets out what, from the evidence, appear to be the periods in the occupation of each flat for which there is no documentary evidence to support the tenancy claimed. For both flats there are significant such periods since the material date. This finding is consistent with the Council's assertion that council tax records show the registration date of the property as two flats to be 27 July 2010.

10. On the totality of the documentary evidence provided by the appellant I conclude that, on the balance of probabilities, the property has not been occupied as the two self-contained flats alleged for a continuous period since the material date. The appeal on ground (d) therefore fails.

The appeal on ground (a) and the deemed planning application

11. The building is two-storey within a row of mainly three-storey properties on one side of Harrow Road, a main road in this part of London. In common with most other buildings in the vicinity, the ground floor is in commercial use. The first floor is reached via a narrow staircase from a dedicated door at road level.

12. The main issue in this case is the effect on the living conditions of the residents of the two flats with regard to, first, the size of the accommodation provided and, second, to noise and disturbance arising from the layout of the internal space.

The size of the accommodation provided,

13. The accommodation is arranged in two self-contained flats each with its own lockable front door. The flat at the front (Flat A) has a small shower room/toilet and three other rooms. Of the two at the front of the building overlooking Harrow Road the larger was arranged, at the time of my site inspection, as a living room with a small kitchen area in one corner. The smaller was in use as a bedroom. The third room, which is to the rear of this unit, was also in use as a bedroom. Each of these main rooms has a window allowing natural light into the space. Flat B is at the rear of the building and comprises a small kitchen and a bed sitting room separated by a shower/toilet room. Both the kitchen and the main room have windows letting in natural light.

14. Having regard to policy H18 of the Brent Unitary Development Plan (UDP) adopted on 14 January 2004 and the Council's *Design Guide for New Development Supplementary Planning Guidance* (SPG17) adopted in October 2001, I consider the size of the units themselves and the circulation and

storage space available to be the main factors in my consideration of this issue and I deal with them in turn.

15. The parties do not agree on the floorspace calculated as being available within each unit although it is common ground that neither party's figure meets the relevant minimum unit size set out in SPG17. This makes clear under the heading '3.5 Residential Internal Areas' that the factors listed should be taken as a guide and that a minimum *room size standard* is not specified (*my emphasis*). Instead, it is the minimum dwelling floor area standard that should normally be met and minimum unit sizes are given for flats, maisonettes and houses of various bedroom and person numbers. It seems to me that this approach is not followed through into UDP policy H18 which deals with the quality of flat conversions and was adopted at a considerably later date. Criterion (b) of this policy says that 'all rooms should have regard to *room size standards* (SPG17)' (*my emphasis*). There appears therefore to be an inconsistency between the UDP and SPG17 on this point.

16. SPG17 gives guidance about both storage space and circulation areas but, for storage space at least, does not distinguish between different types of residential units. In both flats storage is available in the limited range of furniture and units provided in the rooms and the kitchen areas respectively. No other storage space was apparent and there is no evidence that the guideline figures of cubic metres per person given in SPG17 can be achieved. However, the stated purpose of this guideline figure is to ensure the long term adaptability of new residential units. In my view this is not applicable to the development that is the subject of this appeal. The very nature of the tenure is short term occupancy only with the tenants likely to move on as their space requirements change.

17. Guidance about circulation space is not explicit in SPG17. There, it says that at least 90% of the available floorspace should be in rooms other than communal and individual flat corridors and access ways. The implication therefore is that circulation space should be no more than 10% of the total floorspace. The Council has not made an assessment of the quantum of this space but the appellant estimates it to be around the 10% level for each flat.

18. While both units are clearly small I do not consider there to be any clear conflict with what I regard as somewhat ambiguous policy and guidance on this point. I also believe that the storage and circulation space is adequate for the purpose for which the accommodation is provided. Therefore, having regard to the Council's overall policy objective which is to encourage conversion activity as an important means of increasing the housing stock available subject to the creation of satisfactory dwellings and the provision of a range of unit sizes, I do not consider there to be any conflict with UDP policy H18 (b) and (d) on this aspect of the main issue.

Noise and disturbance

19. The internal layout of the two flats results in the kitchen of Flat B being next to the rear-most room of Flat A. While I accept that there is potential for noise to migrate from one to the other the limited size of the kitchen area is such that I consider it unlikely that this room would be used for any length of time. The appellant's evidence is that this dividing wall is solid brick and noise insulation measures are also, as I understand it, subject of other legislation.

20. I also accept that there would be some noise from people using the staircase but, in view of the limited size of the units, I consider the additional comings and goings involving visitors are likely to be few in number.

21. In concluding on this issue I have also had regard to the fact that both flats are above a commercial premises and that Flat A faces onto a busy road which itself is likely to generate noise and disturbance as people and traffic pass by. Having regard to these matters and the conditions that I saw during my site inspection it is my judgement that there is no conflict with UDP policy H18 (a) on this aspect of the main issue.

Other matters

22. No off-street parking is available. The Council refers to but does not quantify the limited on-street parking in the nearby residential streets within Brent. Nor does it provide evidence of any residents' parking schemes that might exist or any comparison of the pre- and post-development parking standards. Therefore, while it contends that the development conflicts with UDP policy H19, which addresses access and parking for flat conversions, no evidence has been produced to support this view.

23. As stated above, the front and only access is straight onto Harrow Road and leads directly to the narrow staircase. No provision is possible for people with impaired mobility. Neither flat has any access to any amenity space at the rear of the building and there is no space for provision of either bin stores or cycle storage. UDP policy H18 (c) and (g) require provision of disabled access and cycle storage respectively, where practical. In my view, it is impractical for either to be provided in this case. There is no evidence that bin storage either internal or external to the premises can be provided. This gives rise to a conflict with what I understand to be the objective, if not the actual wording, of UDP policy H18 (f) which I consider to be unclear; it seems only to limit the size of the bin and stores rather than to require their provision. However, this is a concern to which I give limited weight in the overall balance.

Conclusions on the appeal on ground (a) and the deemed planning application

24. For the reasons set out I do not believe there to be any conflict with the development plan on either aspect of the main issue that I have identified. Although I do consider there to be a conflict with the objective of the Council regarding bin storage this does not outweigh my conclusion on the main issue. As the development has been carried out and is now occupied I do not believe any conditions are appropriate and none have been suggested by either party. The appeal on ground (a) and the application deemed to be made therefore succeed.

Overall conclusion

25. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Brian Cook

Inspector