



Appeal Decision

Site visit made on 15 August 2019

by Jamie Reed DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/T5150/W/19/3228037

1A Sheldon Lodge, Sheldon Road London NW2 3AL

- 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 Messers Valentino, Giulio & Paolo Grimaldi against the decision of the Council of the London Borough of Brent.
 - The application Ref 18/2615, dated 4 July 2018, was refused by notice dated 6 November 2018.
 - The development proposed is described as 'demolition of existing outbuildings and erection of three (x 3 bed) two storey dwellinghouses with car and cycle parking, provision for bin stores and associated hard and soft landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I note that in November 2018 the Council's Supplementary Planning Guidance Document 17 was superseded by the Brent Design Guide SPD 1. It is clear from the information before me that the appellants' have had an opportunity to consider SPD 1 and so have not been prejudiced.

Main Issues

3. The main issues are the effect of the proposal on:
 - parking and highway safety at the appeal property; and
 - the living conditions of the adjacent occupiers by way of outlook.

Reasons

Parking and highway safety

4. The appeal site is triangular in shape and bounded on all 3 sides by terraced housing. It is accessed from the north via a long driveway around 40 m in length that runs along the side and rear of No 1 Sheldon Road. At the end of this driveway is an existing dwelling, Sheldon Lodge, which is to be retained, with a large triangular garden area to its east. The proposal seeks to construct a row of 3 mews houses, which would be part 2 storey / single storey positioned around 4 m to the east of Sheldon Lodge. The driveway would be extended, so that it runs inbetween the existing and proposed properties to access a parking/turning area that would be formed in the southernmost

- corner. Overall, the proposal seeks to include 5 car parking spaces, 1 to each of the integral garages to the 3 mews houses and a further 2 to the southernly parking/turning area.
5. A number of supporting documents have been prepared to address highways matters such as site access, visibility and impacts upon the highway network, amongst other things. Whilst it is proposed that the width of the existing long driveway is increased, this would still not result in sufficient width for vehicles to pass one another. Such an arrangement would also leave little room for cars to be able to pass pedestrians and cyclists.
 6. The supporting documents do not take into account that whilst there may technically be enough width for cars to be able to pass pedestrians and cyclists, there would be little margin for error, as in a best case scenario, a vehicle of around 2 m – 2.4 m in width would only have around 600mm-800mm clearance either side. In the context of the long length of the driveway, which has trees, brick walls and fencing confining its entire length on either side, such an arrangement would be unsuitable, particularly when considering the additional units of accommodation to be provided and the associated increase vehicular movements that arise from occupiers, visitors and deliveries.
 7. Drivers of vehicles would inevitably have to wait on occasion to allow others access and may also have to perform reversing manoeuvres in some instances, if they have already travelled partway down the drive. As a result of these factors the proposal would fail to meet the requirements of paragraph 108 of the National Planning Policy Framework (the Framework) of a safe and suitable access to the site to be achieved for all users.
 8. A further shortcoming of the driveway is that as a result of its narrow width, refuse vehicles cannot access the site. As a result, 2 communal bin storage areas are proposed, one at either end of the long driveway. Each of these would provide storage for 8 wheelie bins. Such an arrangement would result in occupiers having to move their bins an unreasonable distance on collection day, in excess of the recommended 30 m distance that is set out under Part H of the Building Regulations 2000. Whilst it is accepted that the current occupiers of Sheldon Lodge will already have to put their bins out in such manner, an increase of such activities arising from the additional 3 dwellings would provide further opportunity for conflict to arise between vehicles and pedestrians.
 9. In addition to the above, there are further highways elements of the scheme that are unacceptable. In particular, it is apparent from the submitted Swept Path Analysis¹ that there is little space for a car to reasonably manoeuvre in and out of the garage of 'House 1'. This is due to the width of the driveway at this point being constrained as it passes Sheldon Lodge. This would result in vehicles having to perform a convoluted 5 point turn which would involve driving across the front garden area of Sheldon Lodge in close proximity to one of its ground floor bay windows.
 10. Whilst achievable, in practice it is more likely that the occupiers of this house would not park in their garage, due to its constrained nature. As a consequence, parking would be likely to occur elsewhere in the site, which

¹ Drawing No CTP-16-336 SP01 Rev I

would create further opportunities for conflict to arise between vehicles and pedestrians.

11. Accordingly, I conclude on the first main issue that the proposal would be unacceptable with regard to parking and highway safety and, in so doing, would conflict with policies DMP 1 and DMP 12 of the London Borough of Brent Local Plan Development Management Policies DMP (2016). When read together, these policies seek to ensure that proposals effectively manage the impacts of parking and are satisfactory in terms of parking manoeuvring and servicing.

Living conditions

12. A significant number of trees are located on either side of the appeal sites boundaries. These provide a good amount of visual screening and would continue to do so, post development, along with others that would be planted as part of the proposal. A drawing² that forms part of the application sets out distances that the proposed dwellings would be located away from the rear of terraced housing. Whilst this indicates that the proposed dwellings would be a sufficient distance away from the rear of the terraced houses themselves, the proposed 'House 1' and 'House 3' would be positioned very close to some of the rear garden boundary fences, most notably No 7 Sheldon Road and No 32 Anson Road.
13. The 45 degree rule in SPD 1 recommends that where proposals adjoin private garden areas, then the height of new development should normally be set below a line of 45 degrees at the garden edge, measured from a height of two metres. The objective of this rule is to ensure that any proposals maintain a good level of daylight, sunlight and outlook and minimise any impacts upon the surrounding properties and spaces.
14. The appellant has also referred to two appeal decisions³ on other sites where the Inspectors have found that the simple transgression of this rule does not always make a proposal unacceptable. However, every site has its own site-specific circumstances and merits upon which it is considered.
15. A report⁴ accompanies the appeal that contains a number of 3D drawings to allow further detailed consideration of this matter. This demonstrates that only the closest corners of the upper floors of proposed 'House 1' and 'House 3' would breach the 45 degree rule and as a result, there will be little effect on levels of daylight and sunlight.
16. Notwithstanding these results, Figure 7 of the report³ clearly illustrates the overbearing presence that these dwellings would have over the rear gardens of the neighbouring terraces. Due to their proximity to No 7 Sheldon Road and No 32 Anson Road, 'House 1' and 'House 2' in particular would appear unduly prominent when viewed from these rear garden areas. The scale and massing of 'House 1' and 'House 2' would introduce an oppressive feature that would significantly alter and harm the open aspect that these rear gardens currently enjoy.

² Drawing No 17_073 A-300; Proposed Site Section Reference Plan

³ Appeal Ref No's: APP/T5150/A/13/2266958 and APP/T5150/W/18/3194879

⁴ 45 Degree Boundary Rule Appeal Report, dated 3 May 2019

17. Whilst it is acknowledged that SPD 1 is only guidance and that the dwellings do not run parallel to the neighbouring properties, they would still, nonetheless, be overbearing when standing within the rear gardens of those terraced houses that are closest. Accordingly, I conclude that the proposal would be harmful to the living conditions of the occupiers of adjacent properties. Consequently, the proposal would be contrary to DMP policy DMP 1. This requires proposals to only be located where they provide a high level of external amenity.

Other Matters

18. I note the concerns raised by local residents relating to air quality amongst other matters and the appellants' arguments of the various benefits that the proposals would bring, including meeting the demand for additional housing. Such matters do not add weight to the argument for withholding permission however, nor are they sufficient to outweigh the harm that I have identified in respect of the main issues above.

Conclusion

19. For the reasons given above, I conclude that the appeal is dismissed.

Jamie Reed

INSPECTOR