



Appeal Decision

Site visit made on 29 July 2019

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2019

Appeal Ref: APP/T5150/W/19/3228656

Site off end of Linden Lawns, Wembley, London HA9 8DQ

- 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 Magdi Mohammed against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/0830, dated 5 March 2019, was refused by notice dated 30 April 2019.
 - The development proposed is to demolish existing outbuilding and construct two semi-detached houses and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's Appeal Statement clarifies that the word 'harm' should have been inserted in the reason for refusal. It should read '...and would therefore harm the amenity of nearby residential dwellings...' It is clear that the omission of the word was a typographical error and I am satisfied that the meaning of the decision notice was clear to the appellant. I have considered the appeal on that basis.
3. The appellant queried the introduction of the appeal development's proximity to the site boundary and its mass and siting, in the reason for refusal. As it is part of the refusal reason, it is a consideration under this appeal regardless of when it was first mentioned.

Main Issues

4. The main issues are the effect of the development on:
 - The living conditions of residents of Nos 62/62a and 64/64a Linden Avenue with reference to privacy; and
 - Whether the development would make adequate provision for the collection of household refuse.

Reasons

5. The appeal site is accessed off Linden Lawns via an access road and garage forecourt. It borders the rear gardens of properties along Dagmar Avenue and Linden Avenue. The surrounding area is predominantly residential, containing a mixture of houses and flats with quite spacious gardens. The site is

overgrown and contains an outbuilding and is enclosed by a brick wall and gate. The site slopes down towards Dagmar Avenue.

The living conditions of residents of Nos 62/62a and 64/64a Linden Avenue with reference to privacy

6. Paragraph 117 of the National Planning Policy Framework (the Framework) refers to planning decisions safeguarding and improving the environment and ensuring safe and healthy living conditions.
7. The appeal development comprises of two semi-detached, three bedroom houses.
8. Brent Design Guide SPD1 Supplementary Planning Document (SPD) states that 'a distance of 9m should be kept between gardens and habitable rooms or balconies'. The purpose of this is to ensure privacy to neighbouring residents. In my opinion, the requirement for a 9 metre gap is not excessive, particularly having regard to the context of the area where spacious gardens predominate. In this case, the depth of the rear gardens is well under the 9 metres guideline and the rear upper floor windows would look down into the adjacent rear gardens of the dwellings at Nos 62/62a and 64/64a Linden Avenue, which are located directly behind the appeal site. This would result in an unreasonable level of overlooking, particularly given the context of the surrounding area where rear gardens generally enjoy a greater level of privacy.
9. Planting is proposed along the rear boundary of the appeal site, which would offer some potential to screen views into the neighbouring gardens of 62/62a and 64/64a Linden Avenue. However, it would take some years before the trees were a sufficient size to provide adequate screening. The trees would be located around 5 metres due south of the proposed houses. If the trees were dense enough to prevent overlooking, they would result in a loss of daylight and outlook to the proposed houses. Therefore, there is doubt in my mind as to whether the trees proposed along the boundary would be a satisfactory way of mitigating the impact on neighbours. The surrounding area is characterised by relatively spacious rear gardens. The appeal development would create a level of overlooking which is not normally experienced in the immediate area.
10. Consequently, I find the appeal development harms the living conditions of 62/62a and 64/64a Linden Avenue, with reference to privacy. It is contrary to Paragraph 117 of the National Planning Policy Framework, Policy DMP1 of the Brent Development Management Policies Document 2016 and Brent Design Guide SPD1 2018. These seek, amongst other things, that new development is of a location and siting that complements the locality and that new development should provide adequate privacy.

Whether the development would make adequate provision for the collection of household refuse

11. From the information provided, it is clear the Council's refuse vehicles are unable to reach the site. The proposed drag distance would significantly exceed 20 metres, which is the maximum specified in the Council's 'Waste and Recycling Storage and Collection Guidance for Residential Properties' document. It would also be unrealistic to expect future occupiers of the appeal development to drag bins to Linden Lawns for collection, due to the distance involved.

12. The appellant has offered to use a private contractor to collect refuse and recycling waste and has provided a quote for this service. I understand the appellant was not asked for additional information about how the private bin collection service would operate. A refuse planning condition has also been suggested by the appellant. According to the appellant's Final Comments, future residents would be formally made aware and tied to funding the refuse collections when purchasing the properties. This may be the case, but it is unclear how this would work and be enforceable through planning. In the absence of any specific proposal or details of any precedents for dealing with it in this way, I consider it unlikely that a condition could be devised that would be effective and enforceable throughout the life of the development.
13. I also have concerns with refuse vehicles turning and reversing in a restricted space and this is likely to be particularly dangerous to those who use the adjacent garages including pedestrians, cyclists and other vehicle users.
14. Without an acceptable refuse collection arrangement, bins could be left uncollected which would create odour and harm the living conditions of nearby residents at Nos 60, 62/62a, 64/64a and 66/66a Linden Avenue. There is inadequate information to ensure the satisfactory collection of refuse and recycling waste from the appeal development.
15. I find that the appeal development would harm the living conditions of nearby residents and highway safety as a result of the refuse and recycling collection arrangement, thus being contrary to Paragraph 117 of the National Planning Policy Framework and Policy DMP1 of the Brent Development Management Policies Document 2016. These seek, amongst other things, that new development is satisfactory in terms of manoeuvring, servicing and does not have an adverse impact on the movement network. It also seeks safeguarding and improving the environment and ensuring safe and healthy living conditions.

Other matters

16. In the appellant's Final Comments he offered to make improvements to the garage area adjacent to the appeal site. However, this area is not within the red outline of the site boundary or in the ownership of the appellant. Therefore, improvements to this area would not be enforceable through a planning condition. Regardless of that point, the suggested changes would not address my concerns on the main issues as identified above.
17. I note the appellant's comments regarding the processing of the planning application. However, this matter is not relevant to this appeal.

Conclusion

18. For the above reasons, having regard to all matters raised, the appeal is dismissed.

L Gilbert

INSPECTOR