



Appeal Decision

Site visit made on 17 December 2019

by Rajeevan Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2020

Appeal Ref: APP/T5150/C/19/3232856

25 Brookfield Crescent, Harrow HA3 0UT

- 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 Ms Sue Stewart against an enforcement notice issued by the Council of the London Borough of Brent.
 - The enforcement notice was issued on 3 June 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of three dwellinghouses.
 - The requirements of the notice are:
Step 1: Demolish the unauthorised development.
Step 2: Remove any debris, building materials, vehicles, equipment and other items associated with the unauthorised development from the site.
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The Council within the reasons for issuing the notice refer to lack of compliance with the plans and conditions that were subject to a planning permission (Council ref: 15/1569) for the erection of 3 dwellinghouses¹. However, it is clear from the wording of the allegation and reference on the notice to S171A(1)(a) of the Act, that the breach of planning control as alleged is the carrying out development without the required planning permission. I will deal with the appeal on the basis of it relating to 3 unauthorised dwellings. I am not therefore considering the non-compliance with conditions imposed on that previous planning permission and this is not an appeal against the refusal of details submitted due to conditions attached to that decision.
3. The Council have raised concerns regarding the accuracy of the plans submitted at the appeal stage and consider that these do not correctly reflect what has been built on site in terms of the size and position of the dwellings,

¹ Approved on 23 October 2015.

and the current landscaping of the development. From my observations during my site visit, I also agree that the plans submitted at the appeal stage do not accurately show the development as built in terms of the size, position and design of the dwellings. Additionally, existing trees shown on the submitted plans have also been removed along the front and rear boundaries of the site.

4. With regards to the position of the rear boundary fence, the appellant states that this was erected for security reasons and is not on the correct line. However, no explanation has been provided why the fence was not erected in the correct position and no drawings have been submitted to illustrate the position of the fence as built, against the correct rear boundary line. The appellant's representative also clarified during the site visit that it was not their intention to reposition the rear boundary fence. Therefore, I have determined the appeal on the basis of what has been currently erected on-site.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

5. The main issues are:

- the effect of the development upon the character and appearance of the area;
- the effect of the development upon the living conditions for the adjoining occupiers of Cranleigh Gardens with particular regard outlook and privacy;
- whether the development makes satisfactory provision for foul water drainage to ensure the development does not result in any adverse environmental impact upon the community; and
- the effect of the development upon the living conditions for future occupiers of plots 1 and 2 with particular regard to the provision of amenity space.

Character and appearance

6. Prior to the current unauthorised development, the appeal site comprised a single detached chalet bungalow set within in a generous front, side and rear garden. The site lies at the head of the cul-de-sac on Brookfield Crescent, near to the turning area of Brookfield Crescent. To the rear there are terraced properties, with relatively long rear gardens in Cranleigh Gardens (Nos 46-58). Brookfield Crescent comprises predominantly interwar semi-detached properties, set back from the road behind generous front gardens, together with relatively long rear gardens which gives a well-proportioned spacious character to the street.
7. Both main parties have submitted their views on siting and location of the dwellings as built. From my examination of the detailed material submitted, plots 1 and 2 have been built closer to firstly, the side boundary with adjacent property at No 26 Brookfield Crescent, and secondly to the rear boundary with properties on Cranleigh Gardens than previously approved. In addition, Plot 3 has been built closer to the front boundary of the site that previously permitted.

8. With regards to plots 1 and 2, the closer proximity of these dwellings to their side and rear boundaries, accentuates the relative shallowness of the plots, with the buildings appearing 'squeezed' in to the site, rather than sitting comfortably amongst its surroundings. Furthermore, the forward position of Plot 3 appears abrupt in the street and has resulted in this property having a small front garden with minimal space for soft landscaping to the front of the dwelling. This is in significant contrast with the other properties on Brookfield Crescent, which are predominantly set back away from the road behind generous front garden areas. As a result, the development as a whole appears cramped in relation to its wider setting, leading to a poor visual relationship. This has been accentuated by the removal of existing landscaping and trees from both the front and rear boundaries of the site.
9. Whilst some of the alterations to the design of the dwellings, which include the addition of a porches to Plot 3, and the omission of porches to plots 1 and 2, are not detrimental to the character and appearance of the area, the black framed windows and grey/ black slates/tiles contrast unfavourably with neighbouring properties where white painted window frames and red/brown tiles are the most predominant materials found in the locality. In this respect the development fails to make a successful visual transition between the new development and the remainder of Brookfield Crescent.
10. The appellant's landscaping plan shows some additional soft landscaping along the front and rear boundaries. I also note that the external elevations are not yet completed with the rendered section of the development still to be carried out. However, these would not overcome the harm identified above as the positions of the dwellings are particularly discordant. Therefore, the development, as built has resulted in unacceptable harm both to the spacious and well-proportioned character currently found along Brookfield Crescent, and its broader appearance.
11. I therefore find on the first main issue that the development has an adverse effect on the character and appearance of the area, contrary to policy DMP1 of the London Borough of Brent Local Plan Development Management Policies, 2016 (LP), the London Borough of Brent Supplementary Planning Document 2, and Policy CP17 of the adopted Brent's Core Strategy, 2010. Amongst other things these seeks to protect and enhance the suburban character of Brent and state that development should provide high levels of external and internal amenity and complement the locality of an area. The proposal would also be in conflict with the design policies of the National Planning Policy Framework, (2019) which requires development to be sympathetic to local character and history.

Living conditions for existing occupiers of Cranleigh Gardens with particular regard to outlook and privacy

12. Both main parties have submitted their views on the effects of the development on outlook to neighbouring occupiers at Nos 46 to 52 Cranleigh Gardens. I note that plots 1 and 2 have been built closer to the rear boundary with these adjacent properties than previously approved. I have also gleaned from the evidence submitted (including aerial photographs and plans submitted during the original planning application stage and appeal stage) that a number of trees along the rear boundary with these neighbouring properties have been removed. Whilst I appreciate the concerns raised by the Council regarding loss

of outlook to these adjoining occupiers, these adjoining properties have relatively long rear gardens. This together with the set back of plots 1 and 2 away from the shared rear boundary, and the hipped roof design ensure that the development has not resulted in an increased sense of enclosure or loss of outlook from the rear gardens or rear windows of these neighbouring properties on Cranleigh Gardens (Nos 46 to 52). I also noticed that the set back of Plots 3, away from the shared rear boundary of the site also achieves a satisfactory relationship with adjoining occupiers on Cranleigh Gardens with regards to outlook.

13. Although not specifically contained within the Council's Enforcement Notice, both the Council and the appellant has referred to loss of privacy to neighbouring occupiers within their appeal submissions. Plots 1 and 2 would have each of their first floor rear bedroom windows in relatively close proximity to the rear gardens at 46 to 52 Cranleigh Gardens. The removal of trees along the rear boundary, combined with the elevated position of these windows and the closer proximity of plots 1 and 2 to the rear boundary with Nos 46 to 52 Cranleigh Gardens results in additional and intrusive overlooking to the rear parts of these neighbouring gardens. Furthermore, a condition to obscure glaze these rear bedrooms windows prior to the occupation of the development, would not be acceptable as this would result poor outlook for future occupiers of the new dwellings of plots 1 and 2.
14. With regards to Plot 3, I note that the existing windows on the rear of the property have not been installed with obscure glazing as per the approved scheme. However, this could be secured by condition prior to occupation of the development, and consequently I am satisfied that, subject to this condition, Plot 3 would not result in any harmful loss of privacy to neighbouring occupiers on Cranleigh Gardens. However, lack of harm with regards to Plot 3 does not overcome the loss of privacy resulting from the position of plots 1 and 2.
15. I therefore conclude that the proposal does not harm the living conditions for existing occupiers of Nos 46 and 52 Cranleigh Gardens with regard to outlook. However, Plots 1 and 2 results in harm to the living conditions for existing occupiers of Nos 46 to 52 Cranleigh Gardens with regard to privacy. In this respect the development conflicts with Policy DMP 1 of the LP, which requires new development to provide high levels of internal and external amenity.

Foul water drainage

16. It is important that this new residential development incorporates satisfactory provision for foul water drainage, to ensure that the development does not result in any adverse environmental impact upon the community. This was subject to a planning condition with the planning permission previously approved although the details were not accepted by the Council.
17. In my experience it is important for such details to be required prior to commencement of development, as they have the potential to affect the final design of the development. Furthermore, no evidence has been submitted to demonstrate that the sewerage undertaker is satisfied that foul water drainage could be satisfactorily incorporated within the development which is now well advanced.
18. Therefore, in the absence of any such evidence, I cannot be certain that the development makes satisfactory provision for foul water drainage, and that the

development would not result in any adverse environmental impact upon the community. In this respect the development conflicts with Policy DMP 1 of the LP, which amongst other things, states that development will be acceptable provided it is not unacceptably increasing exposure to flood risk, noise, dust, contamination, smells, waste, light, other forms of pollution and general disturbance or detrimentally impacting on air or water quality.

Living conditions for future occupiers of the Plots 1 and 2 with regard to private amenity space

19. LP Policy DMP 1 seeks to ensure that all new developments provide high levels of internal and external amenity. LP Policy DMP 19 further states that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs.... normally expected to be 20sqm per flat and 50sqm for family housing (including ground floor flats).
20. Plots 1 and 2 are both two storey two bedroom four person dwellings. Therefore, all dwellings are capable being occupied by families and need to be assessed accordingly. Whilst plots 1 and 2 have been built closer to the rear boundary of the site than previously approved, they both have access to land to the side of these properties. The plans submitted by the appellant for the submission of conditions 6 and 9 indicates that these areas to the side of the properties (to the rear of the off-street parking areas) would also be incorporated into the rear gardens. When combined with the rear garden, on balance I consider that sufficient garden space would be provided for future occupiers of plots 1 and 2. Therefore, in relation to this final main issue, with regard to the provision of amenity space, the living conditions for future occupiers of the development would be satisfactory, in accordance with Policies DMP1 and DMP19 of the LP, as outlined above.

Other matters

21. The additional housing would support the requirement in the National Planning Policy Framework and in the Council's policies to boost significantly the supply of housing. However, there is no advantage in this respect compared with the planning permission that has not been complied with. Notwithstanding my conclusion on the fourth main issue and other matters, these do not outweigh my conclusion on the first three main issues and the development overall is unacceptable.

Conclusion

22. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Satheesan

INSPECTOR