
Appeal Decision

Site visit made on 27 February 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2020

Appeal Ref: APP/T5150/W/19/3241862

14D Sylvester Road, Wembley, HA0 3AG

- 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 Mick Moss against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/2176, dated 17 June 2019, was refused by notice dated 14 August 2019.
 - The development proposed is demolition of existing double garage and construction of new one bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There is a discrepancy between the proposed block plan and the proposed ground floor plan, regarding the footprint of the building and in particular its proximity to the adjacent road. For the purpose of this decision I have assumed that the ground floor plan is correct.

Main Issues

3. The effect on:
 - The living conditions of future occupants, with particular regard to whether or not a satisfactory standard of external amenity space is provided;
 - The living conditions of existing residents at numbers 12 and 14 Sylvester Road, with particular regard to outlook and overshadowing; and
 - The character and appearance of the area.

Reasons

Living Conditions (future occupants)

4. Two areas of external amenity space would be provided. To the rear of the building there would be a small patio area, just over a metre deep. It is suggested that this would be a similar size to a balcony. However, it would sit between the building and a large fence around 1.8 metres high, so would comprise a dark, enclosed space, similar in appearance to an alleyway.
5. There is also an area of outdoor space to the front of the building, between the parking space and the site boundary. However, this is a small space which also

hosts the waste and cycle storage area. Whilst it would receive good levels of sunlight, it would also be directly exposed to public views from the road, which is immediately adjacent to it.

6. Neither of these areas would be desirable spaces to sit out. Because of their small size, it is difficult to see what practical function they would have, aside from storage or possibly planting. They fall far below reasonable expectations of outdoor space where new housing is proposed. The previous appeal¹ proposal included a large balcony, raised in height. As it was contiguous with habitable living accommodation and set away from the road, this would have been a much more desirable space to sit out.
7. In the proposal before me, the total amount of external space is broadly consistent with the 20 sqm requirement set out in policy DMP19 of the Brent Development Management Policies (2016) ("DMP"). However, it would be of a poor quality. This detracts from the overall standard of development to the point where it cannot be regarded as being well-designed. The existence of parks, which would provide alternative space for recreation, in the surrounding area do not justify the proposal. Whilst future occupants may accept the situation, particularly given the demand for housing within London, this is not a convincing reason to permit poor quality living accommodation.
8. The Council also raise concern about the limited headroom within the proposed building, at first floor level. However, the annotated plans provided with the appeal indicate that over 75% of the total floor area would be over 2.5 metres in height. Whilst the Council question these calculations on the basis that it includes some areas involving rooflights, the possible breach would be minimal. The upper floor bedroom would be a large, functional room with good levels of natural light and outlook; and it would be configured by future occupants to best serve their needs. Overall the internal living environment would be acceptable, with adequate head height being provided.
9. However, the failure to provide satisfactory external amenity space, as discussed above, means that the proposal considered as a whole would fail to provide acceptable living conditions for its future occupants. For this reason, the proposal conflicts with policy 3.5 of the London Plan (2016), along with DMP1, DMP18 and DMP19 of the DMP which require, amongst other things, that new dwellings have external private amenity space of a sufficient size and type to meet its proposed residents' needs.

Living Conditions (existing occupants)

10. The proposed building would replace a garage. This sits very close to the garden of No.14 Sylvester Avenue. However, the existing building is of a limited height and depth. The hipped roof design means that the bulk of the roof diminishes significantly above the eaves.
11. By contrast the proposed replacement building would be noticeably higher, both in terms of the eaves height and its maximum total height. Importantly, there would be a second storey contained within the roof. To accommodate this, the gable form and long central ridge line means that the bulk at roof level would increase significantly, when the new building is viewed from the garden

¹ APP/T5150/2/18/3216127

- of No.14. Whilst the roof would slope away from the garden above the eaves, it would still be clearly visible from this neighbouring garden.
12. As a consequence of its height, the proposed building would be a disproportionately large and dominating feature which unduly encloses the modest sized garden of No.14. It would be overbearing on this neighbouring property and would detract from the living conditions experienced by its residents, particularly when within their garden.
 13. In respect of No.12, the proposed gable end would be slightly bulkier than the existing hipped roof on the garage. However, the building as a whole would be set further back from this neighbouring garden, in comparison to the existing garage. This would limit the impact of the proposal to the point where it would be no more overbearing than the existing structure, in relation to No.12.
 14. Considering daylight, sunlight and overshadowing; the existing garage already overshadows neighbouring gardens, obstructing the path of the sun at certain times of the day. Given the pitched roof design which slopes away from the eaves, the overshadowing which results from the proposed building would not be significantly greater than that which arises from the existing building. As such, whilst the additional bulk of the building would breach the 45 degree rule cited by the Council, there would be no significant harm through overshadowing or loss of light, in the particular circumstances of this case.
 15. To conclude, there would be no unacceptable loss of outlook for No.12 Sylvester Road, and nor would there be any unacceptable loss of light or overshadowing. However, there would be a harmful overbearing effect and consequential loss of outlook for No.14 Sylvester Road, and overall the effect on the living conditions of existing residents would be unacceptable. The proposal conflicts with policy DMP1 of the DMP which seeks to ensure development complements the locality. It also conflicts with the Brent Design Guide SPD1 (2018) ("SPD"), which shares similar objectives to the development plan policy cited above.

Character and Appearance

16. The proposal would face on to Pettsgrove Avenue, a cul-de-sac comprising 20th century suburban housing of various forms. These buildings have a consistent height and largely adopt a hipped roof style.
17. Within this context the proposed building would read as a smaller detached building that sits below the prevailing roof height. However, it would be set back from the road, behind the front elevation of the adjacent building at No.2, screening the blank, flank elevation of this existing property when viewed from the road.
18. The use of brick would be sympathetic to the prevailing building materials found along this road. The staggered gable frontage would appear as a contemporary reinterpretation of architectural features found on existing buildings that face the road. Because of the low height of the building, its blank side elevations would not be prominent features when viewed from the street.
19. The building would span the full width of the site, which was an issue raised in the previous planning appeal decision. However, there would still be a well sized gap between it and the immediate neighbouring buildings. The overall

height of the building has been reduced, which would help integrate the structure into its compact plot.

20. As such, the proposal would read as modern infill development, readily distinguishable from the older buildings along this road. However, because of its low height and set back away from the road, the proposed building would be visually subservient to neighbouring buildings. It would therefore complement its surroundings. The absence of a large rear garden or a hipped roof would not significantly detract from the overall appearance of the development.
21. As such, there would be no unacceptable harm to the character and appearance of the area. There is no conflict with policies CP17 of the Brent Core Strategy (2010), nor DMP1 of the DMP, both of which seek to protect and enhance the suburban character of Brent. Nor does the proposal conflict with the SPD, which shares similar objectives to these development plan policies.

Other Matters

22. I have had regard to the previous appeal decision where relevant in my reasoning above. The design of the proposal has changed significantly, and I have assessed it on its own merits, coming to a different finding in terms of character and appearance. However, I have arrived at the same conclusion as the previous planning Inspector regarding the effect on the living conditions of residents of No.14 Sylvester Road. Whilst the building has been reduced in height from the previous proposal, the changes do not overcome the identified harm, in this respect.
23. The harm identified in the first 2 main issues relates to the principle of the building as it is currently designed. Whilst it is suggested that the appearance of the site would improve upon redevelopment, including through planting, this does not outweigh the harm identified. It is beyond the scope of planning conditions, including those suggested by the appellant, to address the harm identified.
24. The proposal would provide a new residential unit, making a small contribution towards the total amount of housing required in Brent, as required by various development plan policies². Cycle storage would be provided to facilitate sustainable travel movements, and a range of other sustainability measures are proposed in relation to the build. Whilst the site has a low public transport accessibility rating, it is nonetheless reasonably near to existing public transport links, services and facilities. The proposal would help to sustain these facilities, and the location would clearly be appropriate. The proposal would help achieve the objective set out in the National Planning Policy Framework ("the Framework"), of achieving a sufficient supply of homes.
25. The proposal would also make effective use of land, making good use of an underutilised site within an existing settlement, extending into the air space above the existing building. This would also accord with the Framework, which, amongst other things, directs that substantial weight should be given to the value of using such sites for homes. As a small site, it could be developed quickly, and there would be economic benefits through construction work and long-term spending by future residents in the local economy. The potential for

² As cited in detail by the appellant in the appeal statement.

new homes bonus and community infrastructure levy payments are local finance considerations that weigh in favour of the proposal.

26. The objectives set out above, in relation to delivering housing on small, brownfield sites within existing settlements and boosting the supply of housing more widely are also reflected in other policies in both the existing and emerging London Plan. These policies strongly encourage such development, and the proposal would help to achieve the aims of these policies. These prospective benefits should not be set aside lightly.
27. However, the Framework also requires that places should achieve a high standard of amenity for existing and future users. That would not be achieved here. For this reason, the proposal conflicts with the requirement in the Framework to achieve well-designed places and I also attach substantial weight to the harm that would arise, in consequence. Overall, the considerations that weigh in favour of the proposed development do not, even cumulatively, outweigh the identified harm. The proposal conflicts with the development plan, when it is considered as a whole, and the presumption in favour of sustainable development does not apply.
28. There are objections from interested parties, raising other issues to those cited in my reasoning above. However, they do not materially add to the harm identified. Representations were made to the effect that rights under in the Human Rights Act 1998 would be violated if the appeal were to be allowed. However, as I am not minded to grant planning permission there would be no violation.

Conclusion

29. Whilst the proposal would not result in harm to the character and appearance of the area, it would lead to unacceptable harm to the living conditions of existing and future residents. The proposal conflicts with the development plan and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR