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## Appeal Decision

Site visit made on 16 June 2020

**by S D Castle BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> July 2020**

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**Appeal Ref: APP/T5150/W/19/3243529**

**7 Sudbury Hill Close, Wembley HA0 2QR**

- 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 Rakesh Sodha against the decision of the Council of the London Borough of Brent.
  - The application Ref 19/3843, dated 28 October 2019, was refused by notice dated 17 December 2019.
  - The development proposed is demolition of existing dwelling and erection of a new building housing eight dwellings with parking, bins and cycle provision.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect of the proposed development on the character and appearance of the surrounding area;
  - the effect of the proposed development on the living conditions of future occupiers with particular regard to light, outlook and amenity space;
  - whether the proposed development would provide appropriate waste storage and collection arrangements.

### Preliminary Matters

3. The appellant submitted revised plans<sup>1</sup> as part of the initial submission of appeal documents received 18 December 2019. The revised plans include the addition of rooflights serving the first-floor bedrooms that face the side elevations of the proposed building. The appellant also submitted an additional Internal Daylight Assessment (IDA) document<sup>2</sup>, received 09 January 2020. Given the minor nature of the amendments, and the early stage in the appeal process the revised plans and additional information were submitted, no interested persons would be prejudiced by the revised plans and additional IDA being considered in my decision. Consequently, I have assessed this appeal based on the revised plans and the additional IDA.

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<sup>1</sup> Dwg nos.: SCH7-05-1005A; 1006B; 1007A; 1008A; 1009A; 1013A; 1014A; 1020A and 1022

<sup>2</sup> Internal Daylight Assessment for Planning (by T16 Design Ltd), Job No.3268, January 2020, Issue:3

4. Two previous appeals<sup>34</sup> for the residential redevelopment of the site have been recently dismissed. Subsequent to those appeal decisions, planning permission<sup>5</sup> for the demolition of the existing dwellinghouse and erection of a 3-storey residential building comprising 7 self-contained units was granted on 02 September 2019. The extant planning permission includes significant amendments in comparison to the dismissed appeals. The previously dismissed appeals and the extant permission have variously been referred to by the main parties in support of their respective cases.

## **Reasons**

### *Character and appearance*

5. The appeal relates to a backland plot within an established residential area. The site is currently occupied by a hip-roofed bungalow and is accessed via a driveway off the north-western side of Sudbury Hill Close. The site adjoins the rear gardens of the dwellings on Sudbury Court to the north and of Sudbury Hill Close to the south. A flatted development, St Francis Lodge, is located to the west of the site. Whilst St Francis Lodge is accessed from Harrow Road, it is located to the rear of the dwellings on Sudbury Hill Close, on a similar backland alignment to the appeal site. There is variation in the scale and form of properties in the area, including 3-storey flats, 2-storey detached dwellings and bungalows. The surrounding area is characterised by pitched roof forms, including both hip and gable elements. There is significant mature vegetation on the appeal site and in the surrounding large gardens.
6. The Council asserts that the extent and form of development suitable for the site has been established through the extensive planning history of the site. The previous appeals, however, related to proposals of significantly different design, with prominent flat roofs that would result in a more dominant appearance than the current scheme. As such, the effect of the current proposal on the character and appearance of the area would be substantially different. I have, accordingly, assessed the effect of the current proposal on the character and appearance of the area on its own merits.
7. Whilst the proposed building would be higher than the existing bungalow, the visual impact would be reduced by virtue of the ground floor being set down below existing ground level and the third floor being contained within the roof. The height of the building and the proposed pitched roof elements would give the building an appearance in keeping with the character and architectural forms in the surrounding area. Whilst I appreciate the concerns raised regarding the width of the flank elevations, the bulk would be effectively broken up by the low eaves height and the differing ridge lines. Furthermore, the set-off of the building from the site boundaries is sufficient for landscape planting to the side of the building and retention of existing mature trees to the front and rear. Public views of the proposed building would be limited given the length of the surrounding rear gardens, boundary vegetation, and the limited space between existing highway facing dwellings. Given these combined factors, the building would not appear excessively bulky or disproportionate within its context and would be reflective of the existing character of backland development.

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<sup>3</sup> APP/T5150/W/18/3208944 – decision date 4 January 2019

<sup>4</sup> APP/T5150/W/19/3219873 – decision date 25 June 2019

<sup>5</sup> LPA ref:19/2423

8. As such, the development would be of a scale and form that would respect the character and appearance of the area, in accordance with Policy CP17 of the London Borough of Brent Core Strategy (CS) (2010) and Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies (LP)(2016) which, taken together, amongst other things, seeks to protect the suburban character of Brent. The development would also comply with the Council's Design Guide (SPD1) (2018) in so far as it advises development should respond to the local context.

*Living conditions – future occupiers*

9. The side facing bedrooms on the lower ground floor would be single aspect and each would be served by a single window facing onto a lightwell and onto the site's side boundaries. The appellant's submitted IDA advises that acceptable levels of internal daylight would be achieved in these rooms and I see no reason to disagree. I acknowledge that the side facing bedrooms are not within single aspect dwellings in accordance with advice within the Mayor of London's Housing Supplementary Planning Guidance (the SPG) (2016). I also acknowledge that the bedrooms are single occupancy and will most commonly be used during evening and sleeping times. Nevertheless, they are habitable rooms<sup>6</sup> and the outlook from these rooms would be severely restricted by the close proximity of the facing lightwell walls and the side boundary treatments. The restricted outlook would have an adverse enclosing effect and an unacceptable effect on the living conditions of future occupiers.
10. The first-floor side facing bedrooms are also single aspect and would each be served by a single side facing window and a rooflight. The appellant's submitted IDA demonstrates acceptable levels of daylight would also be achieved in these rooms and I see no reason to disagree. To prevent overlooking of neighbouring properties' rear gardens, the side facing first-floor bedroom windows would be obscure glazed and fixed shut below 1.7 m in height above the internal floor level. Whilst the rooflights and top-opening elements of the windows would provide reasonable levels of ventilation, the obscure glazing up to 1.7 m above the internal floor level would result in future occupants having harmfully restricted outlook. I acknowledge that the first-floor side facing bedrooms are also not within single aspect dwellings. Nevertheless, the effect of the obscure glazing on the outlook from the identified rooms would have an unacceptable impact on the living conditions of future occupiers.
11. The appellant refers to the most recent appeal decision on the site (ref: 3219873) as finding the outlook from the windows of lower ground floor dwellings as acceptable. The side facing bedrooms of the earlier referred scheme are noted by the Inspector to have windows to both sides providing views to the front and rear<sup>7</sup>. The separation distance to the facing lightwell walls was also significantly greater on the earlier referred scheme than the current proposals. As such, I do not find the assessments of outlook directly comparable and I have, accordingly, assessed the effect of the current proposal on the outlook of future occupiers on its own merits.
12. The Council's second refusal reason also raises concerns that the layout of the residential units would be convoluted and inefficient, resulting in cramped and

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<sup>6</sup> Paragraph 1.3.19 - Mayor of London's Housing Supplementary Planning Guidance (2016)

<sup>7</sup> Paragraph 17 - APP/T5150/W/19/3219873

inconvenient accommodation. The Council's statement, however, advises that each dwelling would comply with the minimum internal space standards set out in Table 3.3 of The London Plan (2016) as required by LP Policy DMP18. The Council's statement also advises that the rear garden would provide 400 sqm of communal private amenity space and that this would exceed the policy requirement of LP Policy DMP19. As such, in these regards, I am not persuaded by the Council's submissions that the development would result in conflict with either LP Policy DMP18 or DMP19.

13. Overall, however, on this main issue, the restricted outlook from the side facing bedrooms identified above would have a harmful and unacceptable effect on the living conditions of future occupiers. As such, the development would be contrary to LP Policy DMP1 which requires, amongst other things, development to provide high levels of internal amenity. The development would also fail to accord with SPD1 which advises, amongst other things, that development should ensure a good level of outlook.

#### *Waste storage and collection*

14. Turning to waste collection management, the Council's Waste and Recycling Storage and Collection Guidance for Residential Properties 2015 (the Waste Planning Guide) provides a different set of general principles to be applied to accommodations up to 8 dwellings and for accommodations of more than eight dwellings. Whilst it is a requirement for the waste storage area to be less than 30m distant from the front of the property for accommodations of more than 8 dwellings, it is not stated to be so for up to 8 dwellings. As such, whilst the proposed waste area would be in excess of 30 m distant from the front of the property, it would not conflict with the Waste Planning Guide in this specific regard. The waste storage area would only require a short walk along a flat private drive for future residents. It would, therefore, be appropriately accessible for future occupants of the development. Furthermore, the waste storage area would be located approximately 10 m from the highway kerbside. Bins would, therefore, be easily accessible by collection vehicles in accordance with the Waste Planning Guide.
15. The waste and recycling storage capacity requirements are set out at Annex 1 of the Waste Planning Guide. The Council states that the proposal's waste capacity requirement is 1140 litres of residual waste and 1140 litres of dry recycling. This appears to have been calculated on the 'per bedroom' requirements for accommodations over 8 households rather than the 'per household' requirements for accommodations up to 8 households. The 'per household' calculation results in a lower waste and recycling capacity requirement that could be accommodated in the proposed 2 x 1100 litre refuse bins. Whilst no details have been provided with regards to food waste storage, such details could reasonably be secured by condition.
16. The proposal would, therefore, provide appropriate waste storage and collection arrangements for a development of eight households in accordance with LP Policy DMP1 which requires development, amongst other things, to be provided with the necessary infrastructure and servicing. It would also accord with the Waste Planning Guide which requires development to provide storage space for non-recyclable waste and recyclable materials.

## **Other Matters**

17. I have had regard to the concerns of interested parties regarding the effect of the proposal on the privacy and outlook of neighbouring residents; boundary planting; noise; light pollution; traffic; wildlife; fire safety; and on the density of housing. None of these considerations, however, are determinative to my reasoning.

## **Planning balance and overall conclusion**

18. I acknowledge that the proposal would result in some economic and social benefits, including through its construction and as a result of a slight increase in spending and patronage of services in the local area. The proposal would also make a contribution to the Government's objective of significantly boosting the supply of homes in a location with good access to facilities and services. I acknowledge the importance of appropriately designed windfall housing on previously developed land and that housing targets should not be considered as a cap on the delivery of housing. Whilst the draft London Plan is not adopted policy and cannot be given full weight at this stage, I acknowledge that emerging policy H2 encourages the development of small sites. As the proposal is for 7 additional dwellings, I give the social and economic benefits identified moderate weight.
19. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. As such, substantial weight is given to the identified conflict with the adopted development plan with regards to the effect of the proposal on the living conditions of future occupants of the development.
20. Overall, there are no material considerations, either individually or in combination, of sufficient weight to outweigh the identified conflict with the development plan, nor do they indicate that the proposal should be determined other than in accordance with the development plan.
21. For the above reasons, the appeal is dismissed.

*S D Castle*

INSPECTOR