



Appeal Decision

Site visit made on 5 January 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Appeal Ref: APP/T5150/W/20/3256801

43 Salusbury Road, London NW6 6NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Miss Vanessa Siani against the Council of the London Borough of Brent.
 - The application Ref: 20/1342, is dated 30 April 2020.
 - The development proposed is extension of existing ground and lower ground floor to the rear, construction of new dwelling over ground floor over three floors to form 3-bedroom maisonette and rear amenity space, and add a gate on party fence.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Miss Vanessa Siani against London Borough of Brent. This application is the subject of a separate Decision.

Main Issues

3. Although there is no formal decision from the Council, it has considered the proposal and indicated that had it been in a position to determine the application it would have refused permission.
4. Mindful of the Council's putative reasons for refusal, the main issues are the effect of the proposal on the character and appearance of the area; the living conditions of neighbours; the living conditions of future occupiers; and railway safety.

Reasons

Character and appearance

5. The appeal relates to an end-terrace property which is in a prominent location adjacent to a railway bridge. The building is single storey with a basement and rear yard. The adjoining Victorian terrace to the north comprises 3 storey buildings with lower ground and roof accommodation.
6. The extension of the appeal property upwards would complement the adjoining terrace. As extended, the appeal property would be slightly taller than the neighbouring property, 45 Salusbury Road ('No 45'). However, this would reflect the incremental changes in height between the adjoining buildings which

correspond to the rising topography of the land when travelling north to south along Salusbury Road. The proposed frontage, including the pitch of the roof, materials and the arrangement of fenestration would reflect the adjoining buildings.

7. The appeal property would also extend rearwards at lower-ground, ground and first floors. The visible elements of these would not be too dissimilar to the extended outrigger at No 45.
8. Additionally, the proposal includes rear balconies along upper floors and at roof level. Whilst such an arrangement would be different to the wider terrace, the existing rear elevations are of no significant architectural merit and therefore these features would mark the appeal property as a contemporary addition to the existing terrace by referencing newer development nearby. Consistent with this approach, the new flank elevation of the appeal property would incorporate patterned brickwork interspersed with glass blocks in a range of colours. Despite, the increased scale of the appeal property, its massing would be limited by the incorporation of the balconies, which would only be partially enclosed.
9. For the above reasons, the proposed development would not harm the character and appearance of the area and accords with Policy DMP1 of the Brent Development Management Policies Plan (2018) ('DMPP') which amongst other things requires that development is of a design and scale that complements the locality.

Living conditions (neighbours)

10. The proposed rear extension by reason of its siting would be in proximity of No 45. In particular, the south facing, side elevation to the new rear extension, which on the information before me includes those which would serve habitable rooms.
11. Although the proposed flank elevation nearest to No 45 would incorporate obscure glazing, its overall extent including height and depth would have an enclosing and dominating effect on the aforementioned side facing windows. In the absence of any clear evidence to the contrary, this arrangement would reduce the amount of daylight received at these windows and would also compromise the outlook from them. This would significantly harm the quality of the neighbouring accommodation to the detriment of the living conditions of its occupiers. The proposed development is therefore contrary to Policy DMP 1 of the DMPP, which amongst other things supports development which provides high levels of amenity.

Living conditions (future occupiers)

12. The proposed 3-bedroom dwelling would provide sufficient internal space to accommodate a family. However, the proposed amenity space for this dwelling would have a combined area of about 33.6 sqm which falls significantly short of the Council's requirement of 50 sqm for family housing, as set out under Policy DMP 19 of the DMPP. Moreover, this amenity space would be split across the three levels of proposed accommodation, including a second-floor balcony with a modest depth. This, along with the roof level balcony would only be accessible via proposed bedrooms. As such, the layout of the proposed amenity space would also be impractical, which would further undermine its quality.

13. The appellant asserts that the level of proposed amenity space complies with the requirement of the London Plan ('LP'). However, a copy of this does not form part of the evidence before me. In any event, this would not address my overall concerns in relation to the quality of the proposed amenity space.
14. The proposal would also introduce a noise sensitive residential use close to railway land which includes operational railway tracks. Without mitigation this is likely to expose future occupiers of the proposed development to undue noise disturbance. This matter however could be addressed through a Noise Assessment along with any necessary mitigation, which could be secured by a condition, if the appeal were to succeed.
15. Nevertheless, based on my findings in respect of the quality of the proposed amenity space, the proposed development would fail to provide satisfactory living conditions for future occupiers. I therefore find conflict with DMPP Policy DMP 19 and Policy DMP 1, which amongst other things requires that new developments provide high levels of external amenity.
16. The Council's decision notice also refers to Policy 3.5 of the LP however, a copy of this is not in the evidence before me.

Railway safety

17. Due to the proximity of railway land to the south of the appeal site, Network Rail were consulted and raised an objection to the proposal. This objection relates to the lack of clarification in relation to the proximity of the proposed works to Network Rail's infrastructure and ensuring that the necessary asset protection measures are undertaken in respect of such infrastructure, including a requirement for an easement.
18. Although the appellant has actively engaged with Network Rail, before and during the planning application process, there is nothing before me to confirm that Network Rail has formally withdrawn its objection to the proposal. Despite this, on the information available, I am not persuaded that the proposed development itself would directly impact on railway safety. Matters relating to consents for any siting or storage of equipment/materials, including access over third party land are separate from the planning merits of the proposal, which could be dealt with outside the planning process, if the appeal were to succeed. Accordingly, in my view, the outstanding objection from Network Rail is not in itself a reason for refusing the proposal.

Other matters

19. The proposal would make use of a dilapidated building and an untidy site in a location which is well served by public transport, shops and services. However, these factors and the benefits associated with a single building would be limited and do not outweigh the significant harm I have identified.
20. The LPA has approved schemes for extensions to properties at No 45 and 28 Salusbury Road. Nevertheless, both these sites are in mid-terrace locations, unlike the appeal property, which is a prominent end-terrace building. The details of those proposals are also different from the appeal scheme. As such, the approved schemes are not comparable. In any event, I have determined the appeal scheme on its merits.

Conclusion

21. I have found that the proposal would not harm the character and appearance of the area and there are no strong reasons to suggest that it would directly impact on railway safety. On the other hand, the proposal would fail to provide satisfactory living conditions for future occupiers and would harm the living conditions of neighbours. For these reasons and the overall conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR