
Appeal Decision

Site visit made on 19 January 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/T5150/W/20/3257217

Land to the rear of 37 and 39 Oakington Avenue, London HA9 8HX

- 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 Alan Ganesh of Oakington Avenue Developments Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/0347, dated 20 January 2020, was refused by notice dated 2 April 2020.
 - The development proposed is erection of a 2 storey building comprising 4 self-contained flats with associated amenity including cycle parking and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Refusal Reason 2 on the Council's Decision notice relates to the living conditions of the future occupiers of the proposed development and whether the proposal makes appropriate provision for parking and the storage of bicycles. Since the determination of the planning application, amended plans, including an amended site layout plan (ref 1803/PL01/B)¹ have been submitted by the appellant to address these matters and have been made available for the Council and third parties to comments on during the appeal process. Having regard to the 'Wheatcroft' principles, I consider that there would be no prejudice to any party by considering the amended plans. I have determined the appeal on the basis of these revisions which are referred to in the appellant's and Council's appeal submissions.

Main Issues

3. The main issues are the effect of the proposed development on
 - (i) the character and appearance of the area;
 - (ii) the living conditions of the occupants of the neighbouring properties at Nos. 35-41 Oakington Avenue with particular regard to privacy and outlook;
 - (iii) the living conditions of the future occupants of the proposed flats with particular regard to outlook, privacy, noise and disturbance; and

¹ Appellant's Appeal Statement from Avison Young August 2020 - Appendix V

- (iv) whether the proposal makes appropriate provision for parking and the storage of bicycles, in the interest of highway safety.

Reasons

Character and appearance

4. The appeal site comprises an open and overgrown parcel of land at the rear of Nos. 37 and 39 Oakington Avenue (Nos. 37 and 39), a pair of semi-detached two storey dwellings located within a mature well-established residential area.
5. The properties on Oakington Avenue are typically characterised by detached and semi-detached properties set back from the road behind front gardens/driveways and generally larger narrow spacious rear gardens, sloping gently towards Elliott Close running along the rear of the site. This is characterised by more modern two and three storey residential development that provides some variety in the design, density and appearance of the properties and the built form in the area.
6. The proposal would involve the construction of a detached two storey building to create 4 no. self-contained flats with associated amenity space and parking accessed from Elliott Close. The proposed development would be set back from the road and stepped down to utilise the natural sloping topography of the site. The external finish of the building would be predominantly constructed with red/brown stock brickwork with a hipped tiled pitched roof and a flat zinc entrance canopy.
7. The existing character of the site would change significantly as a result of the development of the open undeveloped area on the site. A change in the nature of the site would be an inevitable consequence of this. However, the Council has not raised concerns in relation to the principle of development in this location. Rather, it considers the specifics of the scheme to be inappropriate.
8. It is noted that the rear gardens of other properties on Oakington Avenue have been subdivided to provide residential development with access onto Elliott Close. These include a two storey building with 4no. flats at the rear of No. 23 Oakington Avenue and the two storey residential developments currently under construction to the rear of Nos. 25 and 27 Oakington Avenue. These are likely to have been built on garden land with new access arrangements and as such this type of development would not be unduly harmful to the mixed residential character of this area. An additional example would not necessarily be harmful in principle as a result.
9. Variety does not necessarily lead to harm. Whilst the proposed two storey building would extend in front of the existing development at the rear of Oakington Avenue, the degree of projection would not appear excessive due to the staggered built form along the Elliott Close and would generally be in line with the building line established along the frontage of the flats at the rear of No. 23 and the residential development under construction at the rear of Nos. 25 and 27.
10. Although, visually, the design of the proposed building would not be significantly out of keeping with the varied building styles and design in the area, the scale and two storey form of the proposed development on the site would nevertheless be substantial in this location. As such, although it would

be set back and stepped down, the position of the proposed building in close proximity to the side boundaries, would provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme and would appear as a visually cramped and incongruous addition to the street scene.

11. These shortcomings would be exacerbated by the proposal's position which would be visible from a number of public vantage points along Elliott Close. I therefore consider that the proposed development, by virtue of its scale, siting and layout, would result in an incongruous and out-of-keeping addition that would cause unacceptable harm to the character and appearance of the area.
12. I have considered the appellant's arguments that the site layout and the design of the proposed development has been carefully considered in order to minimise any impacts on the area and would be in keeping with the other properties in the area. Whilst I recognise there is some variation in the building styles in the area and the use of matching materials, fenestrations and the boundary treatment would assist with integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above. As such, I consider the proposal would adversely harm rather than positively contribute to the character and appearance of the area.
13. Consequently, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with the overall design aims of Policy CP17 of the Brent Core Strategy 2010, Policy DMP1 of the Brent Development Management Policies Local Plan 2016 (DMP) and the Brent Design Guide Supplementary Planning Document 1 2018 (SPD). These policies and guidance, amongst other things, seek to ensure that new development demonstrates a high quality design that protects and complements the local character and distinctiveness of the area.

Living conditions of the occupiers of the neighbouring properties

14. The rear elevation of the proposed two storey building would be stepped down and set back a short distance from the common shared boundary with the adjacent properties at Nos. 37 and 39 Oakington Avenue (Nos. 37 and 39). The blank side elevation of the proposed two storey building would be stepped down and located immediately adjoining the rear part of the gardens at Nos. 35 and 41 running along the side boundaries of the appeal site.
15. The rear gardens of Nos. 35, 37, 39 and 41 would be separated from the appeal site by a high close boarded fence and mature vegetation running along the common shared boundaries together with a large outbuilding at the rear of No. 39. The detached two storey dwellings at Nos. 35, 37, 39 and 41 currently have uninterrupted views over the open garden areas at the rear of the neighbouring properties that provide space and light between the properties.
16. Whilst the proposal would be located some distance from the rear elevation of the adjacent properties and the large outbuilding/boundary treatment would limit any significant overlooking of the occupiers at rear of No. 39, the bedroom windows on the rear elevation of the proposed first floor flat (Unit 4) would be situated in close proximity to the common shared boundary with the rear garden of No. 37. The occupiers of this property would use their garden area to carry out gardening and leisure activities where they would be observed at

close quarters by the future occupants of the proposed flats when relaxing and sitting out, particularly during the summer months.

17. Given the siting and design of the proposed building, site levels and the separation distance between the properties, I consider the proposal would result in an unacceptable level of overlooking and loss of privacy to the rear garden of No. 37 and introduce a dominant and overbearing structure in close proximity to the shared common side boundaries that would restrict the outlook from the garden areas at the rear of Nos. 35 and 41.
18. I have considered the appellant's arguments that the design and layout of the development has been carefully considered in order to minimise any impacts on occupiers of the adjacent properties. Whilst the proposed building, set back and stepped down, together with the proposed hipped roof design, boundary treatment and landscaping would reduce the impact of the proposal to some degree, these aspects do not overcome the adverse effects outlined above. As such, I consider that the proposal would result in an unacceptable and significant change in the living conditions for the occupiers of the neighbouring properties.
19. I also note the appellant's willingness to carry out further work to safeguard the amenities of the neighbouring residents and accept conditions requiring the submission and approval of the changes. However, in the absence of any detailed information to inform what this further work and measures might be, I can only judge this case based on the evidence provided and my observations from my site visit.
20. Consequently, I conclude that the proposal would result in unacceptable harm to the living conditions of the occupiers of the neighbouring properties at Nos. 35, 37 and 41 Oakington Avenue with particular regard to privacy and outlook. It would be contrary to the overall aims of Policy DMP1 of the DMP and the Council's SPD, which I consider are relevant to this case. This policy and guidance seek, amongst other things, to ensure that new development achieves a high standard of amenity and provides adequate privacy and amenity for existing residents.

Living conditions of the future occupiers

21. The ground floor windows to the kitchen/lounge on the front elevation of the proposed ground floor flats would overlook the parking forecourt. The ground floor bedroom windows on the rear elevation of the proposed ground floor flats would overlook the landscaped communal garden area, that would be enclosed by a high close boarded fence around the boundaries of the site.
22. A small strip of landscaped planting was originally proposed along the front and rear elevations of the ground floor flats. However, the appeal scheme as shown on the amended plans, including the site layout plan (ref 1803/PL01/B) shows a redesigned scheme, with a revised parking forecourt and increased landscaped buffer to create a larger defensible planted strip at the front and rear of the ground floor flats.
23. Whilst I accept that there would be some impact from the development, given the design and layout of the development and landscaping shown on the amended plans, I consider that the proposed development would not result in significant harm to the privacy, nor result in significant overlooking of the

future occupiers in the rooms at the front and rear of the proposed ground floor flats nor dominate the views to cause an overbearing effect and an unacceptable sense of enclosure at the rear ground floor bedrooms.

24. Given the modest number of flats proposed and the potential limited traffic movements likely to be generated by the proposed development, I do not consider the development would result in significant levels of noises and disturbance associated with the revised parking forecourt to the future occupiers at the front of the proposed ground floor flats.
25. I therefore consider that the proposal would provide a satisfactory standard of accommodation for the future occupants of the proposed flats in this particular case. I consider that the redesigned scheme shown on the amended plans would safeguard the amenities of the future occupiers of the proposed development and could be controlled through appropriate planning conditions, if I had been minded to allow the appeal.
26. Consequently, I conclude that the proposed development would not result in an unacceptable impact on the living conditions of the future occupiers of the proposed flats with particular regard to outlook, privacy, noise and disturbance. It would be consistent with the overall aims of Policy DMP1 of the DMP and the Council's SPD, which I consider are relevant in this case. This policy and guidance seek, amongst other things, to ensure that new development achieves a high standard of amenity and provides adequate amenity for new residents.

Parking

27. The proposed development would accommodate two car parking spaces on the parking forecourt and eight bicycles in a secure bike storage facility at the rear of the appeal site on the amended site layout plan (ref 1803/PL01/B).
28. Policy DMP12 of the DMP sets out maximum parking standards for car parking and requires a maximum provision of three spaces for the proposed development in this location. Policy DMP12 of the DMP seeks to manage the impact of parking and states that additional parking provision should not have negative impacts on existing parking, highways, other forms of movement or the environment. Appendix 1 of the DMP requires bicycle parking in accordance with the London Plan standards, which requires a minimum of two secure bicycle parking spaces per flat. The Council's Transportation Section appeal submission confirms that the car parking and secure bicycle parking provision shown on the amended site layout plan (ref 1803/PL01/B) is acceptable.
29. From the evidence provided and from my observations on site, this section of Elliott Close is sufficiently safe and suitable to cater for the limited traffic movements from the proposed development. The two car parking spaces accessed via a central crossover would leave space for two cars on-street along the site frontage and allow for the enlargement of the soft landscaping scheme at the front of the site. The bicycle storage facility at the rear of the site would accommodate eight bicycles in a secure and sheltered manner in accordance with the standards and promote sustainable transport.
30. For the above reasons, I conclude that the proposal makes appropriate provision for parking and the storage of bicycles. The proposed development

would accord with Policy DMP12 and Appendix 1 of the DMP and would not have a significant adverse effect on highway safety in the area.

Other Matters

31. I have noted the other development in the area drawn to my attention by the appellant. Whilst, I note some parallels with other residential development to the rear of Nos. 23, 25 and 27 Oakington Avenue, each has different development characteristics to the appeal scheme. The various examples of residential development elsewhere, including those at Queens Walk and Empire House have different locational characteristics. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases. I therefore accord them limited weight as precedents in this case.
32. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the additional flats towards the housing supply in the area, the efficient use of land on a small site within an accessible location, the scheme's design and the contributions towards improving local and regional infrastructure, through Community Infrastructure Levy contributions. While I have given them some weight in favour of the appeal, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

33. Notwithstanding my findings on the lack of significant harm to the living conditions of the future occupiers of the proposed flats and highway safety, this is significantly outweighed by the harm found regarding the character and appearance of the area and the living conditions of the occupiers of the neighbouring properties. The proposal would conflict with the development plan taken as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR