



Appeal Decision

Site Visit made on 13 April 2021

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2021

Appeal Ref: APP/T5150/W/20/3262417

228 Church Lane, Kingsbury, London NW9 8SN

- 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 Global Property Solutions against the decision of the London Borough of Brent.
 - The application Ref 20/2412, dated 6 August 2020, was refused by notice dated 15 October 2020.
 - The development proposed is described as: demolition of single storey storage unit located within the rear service yard of 228 Church Lane, erection of a two storey mixed use building with use class B1 Office space at ground floor and use class C4 Residential use at first floor, ancillary vehicle/cycle parking plus refuse storage and alterations to the Church Lane frontage to include the insertion of an additional entrance to access the building proposed at rear.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the description of development provided on the appeal form and the Council's decision notice as this is more accurate than that given on the application form.

Main Issues

3. The main issues are: i) the effect of the proposed development on the living conditions of existing and future occupiers, with particular reference to outlook and privacy; ii) whether the proposed development would provide adequate living conditions for future occupiers in terms of external amenity space; and iii) the effect of the proposed development on highway safety, with particular reference to the arrangements for servicing and the storage and collection of waste and recycling material.

Reasons

Living Conditions

4. The appeal site (No 228 Church Lane (No 228)) comprises a mid-terrace two-storey building with an office at ground floor and a residential flat above. A large single storey, flat roof outbuilding, used for storage purposes, is located at the property's rear and backs onto a rear access lane. The proposal would require the demolition of the existing outbuilding and its replacement with a two-storey flat roof structure.

5. The proposed building's height would be roughly level with the roof eaves of the existing two storey building, while its flat roof profile and angular form would give it a bulky appearance. It would maintain, according to the Council, a separation distance of around 3.4m from the existing building's main back wall and the windows serving bedrooms in the first floor flat. Those windows would directly face the proposed building's kitchen and dining room windows. Given this very close relationship between windows the proposal would result in a significant and unacceptable invasion upon the privacy of the existing residential occupiers at No 228, as well as the future occupiers of the proposed flat. This separation distance would also fall significantly short of the Council's guidelines¹ (the SPD) which require a distance of 18m to be maintained between the respective habitable rooms of buildings.
6. Because of its height, bulk and closeness to the existing flat's bedroom windows, the proposal would be oppressive and overwhelming, such that it would lead to an unacceptable loss of outlook and a sense of enclosure upon the occupiers of those rooms. Similarly, the immediacy of the existing two storey building with its greater mass and height, to the rear first floor windows serving the proposed flat would have an overpowering presence when viewed from within its kitchen and dining rooms, to the detriment of future occupiers.
7. Taking the above into account, the proposed development would have a harmful effect on the living conditions of existing occupiers at No 228 and future occupiers of the proposal, with particular reference to outlook and privacy. It would be contrary to Policy DMP1 of the Local Plan², which requires amongst other things, that developments provide a high level of internal amenity. It would also fail to accord with the guidance contained in the SPD, as outlined above.

Amenity Space

8. Policy DMP19 of the Local Plan states that all new dwellings will be required to have external private amenity space of sufficient size and type to satisfy the needs of proposed residents. This is expected to be 20m² for residential flats.
9. The proposal has not identified any external amenity space for the first floor flat. Consequently, there would be no area for external activities such as outdoor seating or clothes drying.
10. The appellant has indicated that the lack of amenity space could be addressed by the provision of a balcony extending from the kitchen/dining room of the first floor flat. However, I have not received any details of the extent of this space and whether it would meet the needs of the occupiers of a two-bedroom flat. Moreover, given the proximity of the existing flat at No 228, this arrangement would likely have further harmful effects on the living conditions of existing occupiers in terms of their privacy.
11. Whilst parks and recreation grounds nearby could be used for outdoor amenity purposes, I do not consider that these would meet the expectations that future residents would have for an area of private outdoor space, or be a suitable alternative to the absence of external amenity space provision.

¹ Brent Design Guide – SPD 1 (2018) (the SPD)

² London Borough of Brent Local Plan - Development Management Policies, November 2018 (the Local Plan)

12. Consequently, I conclude that the absence of any proposed external space would have a harmful effect on the living conditions of future residents. It would therefore fail to accord with Policy DMP19 of the Local Plan. Although not referred to by the Council, it would also be contrary to Policy DMP1 of the Local Plan, where it requires proposals to provide high levels of external amenity.
13. In the Council's refusal reason relating to this matter, it referred to the SPD. Yet, in my conclusion, I have not referred to this guidance as the extracts submitted do not mention amenity space provision, or any required standard.

Highway Safety

14. Vehicles would obtain access to the appeal proposal along a gated private lane to the rear of No 228. However, given its width, alignment and barriered entry off the public highway, refuse collection vehicles would be unlikely to obtain access for bin collection purposes.
15. The proposed office use and residential flat would inevitably generate waste given the nature of these commercial and domestic uses. But no arrangements for its storage and collection have been provided.
16. Possible locations for this could be either at the private lane's entrance with Wood Lane or adjacent to No 216 Church Lane and would require positioning bins on the pavement at those locations. However, I cannot be sure that there would be an area for the storage of bins for both proposed uses, while also ensuring footways and roads remain clear with no impairment to highway visibility and obstruction to pedestrian access.
17. I have considered the use of planning conditions to obtain waste management details, yet, due to the lack of certainty of the effect of such changes, I do not consider it would be reasonable to require these details by a planning condition.
18. I note that the Council requires further clarity on the arrangement for service and delivery vehicles at the appeal site, notably in the event that the two proposed parking spaces are occupied. It is envisaged that visits from these vehicles would be relatively short lived and arrangements could be made to access the rear service lane safely without significantly disrupting other vehicle movements along the lane. In the event that I allow this appeal, the details of these arrangements could be agreed with the Council through an appropriately worded condition.
19. Accordingly, although I have found that service vehicles could reasonably access the appeal site without significant disruption, I conclude that there is insufficient information before me to provide certainty that the proposed development would not harm highway safety with particular reference to the storage and collection of waste and recycling material. Therefore, the proposed development would not fully satisfy the requirements of Policy DMP1 of the Local Plan, insofar as it relates to developments not having an adverse impact on the movement network.
20. The Council referred to Policy DMP13 of the Local Plan in its refusal reason on this matter. As this refers to servicing rather than bin collection, I have not used it in my conclusion on this main issue.

Other Matters

21. The proposed development would occupy underutilised space within the appeal site. Whilst it may provide a new use and function for that area, it would nevertheless, result in the harmful impacts I have identified. Accordingly, I have given this matter limited weight.

Conclusion

22. For the reasons given the proposal is unacceptable and the appeal should fail.

RE Jones

INSPECTOR