



Appeal Decision

Site visit made on 28 September 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 10th November 2021

Appeal Ref: APP/T5150/W/21/3275354

Land rear of 151 Church Lane, London NW9 8JU

- 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 Mohaned Al-Shakarchi against the decision of Brent Council.
 - The application Ref 20/3744, dated 14 November 2020, was refused by notice dated 1 February 2021.
 - The development proposed is the erection of new dwelling on land rear of 151 Church Lane, NW9 8JU with associated car parking, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. In this respect, I am mindful that neither the appellant nor the Council have made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be unreasonable to the parties.
3. The Council's decision notice refers to the London Plan 2016. These policies have now been superseded by publication of the 2021 London Plan. Appeals must be determined in accordance with the policies in force at the time the decision is made. The main parties were given the opportunity to comment on the change in policy. Where received, these comments have been taken into consideration in this decision.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the surrounding area; the living conditions of neighbouring occupiers at No. 149 Church Lane and Merley Court, with particular regard to privacy and outlook; the living conditions of future occupiers, with particular regard to privacy and outlook; and highway safety.

Reasons

Character and Appearance

5. The appeal site is land to the rear of a three storey end of terrace property. The surrounding area is defined by a range of uses, but the immediate terrace comprises commercial units at street level with residential premises above, accessed via modest rear yards used as service areas and amenity space.
6. The proposal would involve the erection of a dwelling. While comparable to the scale of some properties in the wider locality, with a hipped roof to mirror surrounding dwellings, it would nonetheless appear as an incongruous addition in the immediate context.
7. Paragraph 130 of the Framework highlights that development should be sympathetic to local character, including the surrounding built environment. The proposal's proportions and detached single-storey nature would be at odds with the built form of the terrace, and its rear yard position would not reflect the established development pattern. Although other properties in the row benefit from development to the rear, as a separate residential unit the proposal would be uncharacteristic in this location alongside the other back yards.
8. The proposal would occupy a sizeable area of the site, diminishing the already modest space. All yards in the terrace are small, with varieties of built form reducing the useable spaces. However, the plots for both No. 151 and the proposed dwelling would be significantly more confined than is typical in this terrace. As such, the proposal would read as an excessive level of built form within the context of the site, appearing as a dominant feature squeezed into a particularly small area, at odds with the immediate development pattern.
9. For the reasons given above I find that the development would have a significant adverse effect on the character and appearance of the surrounding area. As such, it would fail to accord with Policy DMP1 of the London Borough of Brent Local Plan Development Management Policies, November 2016 (the DMP) and Policy CP17 of the Brent Core Strategy 2010 (the Core Strategy), which together seek to ensure good design.

Living Conditions – Neighbouring Occupiers

10. The Brent Design Guide SPD1, November 2018 (the SPD) contains guidance relating to residential development, including that 9m distances between habitable room windows and boundary gardens promote privacy. Although not policy, it remains a material consideration.
11. Habitable room windows at the proposal would look towards the rear gardens of No. 149 at a separation distance of 2.9m, failing to comply with the SPD. While fencing and vegetation provide screening, the proposal would sit in an elevated position. As such, clear views into No. 149's gardens would still be possible, particularly from the proposal's patio. This would significantly reduce the privacy of the space at No. 149 such that its occupiers would have the enjoyment of their gardens eroded.
12. The proposal would also impact the outlook experienced from No. 149. Although it would be single storey with some screening, its overall height would still be clearly visible due to the difference in levels. From the No. 149's lower garden the side of the proposal would read as an elevated expanse of unbroken and unscreened built form, appearing as a dominant addition.

13. The proposal would also change the outlook from the communal gardens at Merley Court. It would be directly along the boundary where its overall height would rise above the fencing and be readily visible, despite the presence of some screening. From this location it would read as an overbearing addition of solid built form. Accordingly, the proposal would significantly reduce the ability of residents at No. 149 and Merley Court to enjoy their rear garden space.
14. While the Council has referred to guidance in Residential Extensions and Alterations SPD2, January 2018, this relates to outbuildings rather than residential development. Nonetheless, for the reasons given above I find that the development would have a significant adverse effect on the living conditions of neighbouring occupiers at No. 149 Church Lane and Merley Court, with particular regard to privacy and outlook. As such, it would fail to accord with Policy DMP1 of the SMP and the SPD, which together seek to ensure adequate living conditions.

Living Conditions – Future Occupiers

15. The SPD further highlights the importance of privacy for future occupiers and suggests front gardens of 2-4m assist in providing this. However, a portion of the proposal's front elevation would be located only 1m from the site boundary. This would create a narrow pathway used by neighbouring residents, adjacent to a window serving the living room and kitchen. Occupiers would expect a degree of privacy in this location, but the window would allow clear, unrestricted views from the passing path. This would be obtrusive for residents and would erode their privacy to an unacceptable degree.
16. The primary view from this window would be towards the tall, solid entrance gates, with side views restricted by built form, vegetation, and fencing, creating an oppressive outlook. The other outlook from this room would be onto the boundary fence with No. 149. Combined with the modest nature of the garden, this would create an unacceptable sense of enclosure.
17. Similarly, the outlook from the bedroom would be across the modest rear garden towards vegetation and fencing, flanked by the proposal and the boundary treatments with No. 149. The restricted outlook would create a further sense of enclosure here. Accordingly, the outlook from both the living room and bedroom would be restricted and enclosed, substantially affecting residents' enjoyment of the two main habitable rooms of the proposal.
18. For the reasons given above I find that the development would have a significant adverse effect on the living conditions of future occupiers, with regard to outlook and privacy. As such, it would fail to accord with Policy D6 of the London Plan (2021) and the SPD, which together seek to ensure adequate living conditions.

Highway Safety

19. The Council has acknowledged that the area has a PTAL score of 2. The proposal would have allowance for one parking space, which combined with No. 151 would create a total allowance of six spaces. However, the proposal would cover much of the yard, restricting the area of the site that could accommodate this, and increasing pressure for on street parking.
20. On street parking close to the site is limited. From what I saw of the wider area, there is a very high level of parking on Merley Court, with Church Lane

being classified. The proposed development would further exacerbate that situation, adding to the existing high level of demand for parking, and requiring servicing from the public highway. This would impede the free flow of traffic and pedestrians, which would raise highway safety concerns.

21. In addition, the proposal would lead to an increase in pedestrian movements along the service road leading to the site, which is used by vehicles with no separate footpath. This would further impede free flow of movement, detrimental to highway safety.
22. For the reasons given above I find that the development would have a significant adverse effect on highway safety. As such, it would fail to accord with Policies DMP12 and DMP13 of the DMP which together seek to ensure adequate highway safety.

Other Matters

23. The proposal would provide additional housing in line with the aims of the Framework and the London Plan (2021). However, due to its single dwelling nature, limited weight can be attached to this. In addition, the development would cause significant harm to the character and appearance of the dwelling, and to the living conditions of future and neighbouring occupiers. The support for provision of additional homes does not automatically outweigh other considerations and in this case does not outweigh the harm identified above.
24. The Council's Decision Notice refers to the fact that adequate provisions have not been made for bin collection, in compliance with Brent's Waste and Recycling Storage and Collection Guidance. No further information has been provided in this regard. However, as I am dismissing the appeal on the issues above, I have not sought further information in respect of this point.
25. While the Council's Decision Notice also refers to the proposal as cramped accommodation, its Officer's Report concludes that the dwelling would comply with London Plan requirements for a one bedroom two person dwelling, with an adequately sized bedroom. On this basis, and for the avoidance of doubt, I do not consider that the proposal would be unduly cramped with regards to the provision of internal floorspace such that this is a neutral matter in the overall planning balance.

Conclusion

26. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR