



Appeal Decision

Site Visit made on 18 October 2021

by Mark Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2021

Appeal Ref: APP/T5150/W/21/3268486

33 Chippenham Avenue, Wembley HA9 6NH

- 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 Hussain against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/1472, dated 18 May 2020, was refused by notice dated 10 August 2020.
 - The development proposed is described as 'Proposed new 3 bedroom dwelling house on the site divided from the existing plot'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted during the Council's consideration of the application, which revised the roof form of the proposed dwelling and the driveway layout.
3. On 20 July 2021, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties were given the opportunity to comment on the relevance of this to the appeal. I have had regard to any comments received and the revised Framework in my decision.
4. The reasons for refusal also contain reference to policies within the Brent Draft Local Plan (the DLP). However, as the DLP has not been formally adopted and the policies may be subject to further change, the weight I attach to the relevant policies is limited.
5. The London Plan March 2021 was published subsequent to the submission of the appeal and replaces the London Plan 2016. The main parties have commented on the relevance of this to the appeal. I have had regard to any comments received and the new London Plan in my decision.

Main Issues

6. The main issues are:
 - The effect of the proposal on the living conditions of the neighbouring occupiers of 33 and 35 Chippenham Avenue, with particular regard to privacy, external amenity space and outlook; and

- Whether the proposed new dwelling would provide for satisfactory living conditions for future occupiers, with particular regard to external amenity space.

Reasons

Living conditions of neighbouring occupiers

7. The appeal site relates to a two storey dwelling situated on a wedge shaped plot. It is positioned at the end of a terrace of three properties, which are located close to the junction of Chippenham Avenue and Chalfont Avenue. The surrounding area is predominantly residential comprising mainly two storey terraced and semi-detached dwellings. These are generally set back from the pavement with boundary fences and/or planting, and generous rear gardens, which contributes towards a spacious, suburban character.
8. The site is bounded by 35 Chippenham Avenue to the west with a service road and No 31 to the east. The garden area between the side of the host property and No 31 is relatively large and forms a notable break in the street scene. The side garden is currently afforded some privacy by the high hedge to the front boundary of the site. The rear garden of No 35 is irregularly shaped and extends to the rear of the appeal site.
9. The proposed development would occupy a large proportion of the side garden leaving the host property with the front garden and a smaller garden to the side and rear. A large part of the garden area that would remain to the rear of No 33 would be directly overlooked from the proposed dwelling at unacceptably close range, especially from the first floor bedroom window to the rear elevation. This would result in loss of privacy and a substandard form of external amenity space for the occupiers of No 33.
10. Furthermore, the proposed dwelling would be situated within close proximity of No 35's rear garden. Although this neighbour's garden is already overlooked to some extent from the rear of No 33, the proposed dwelling would more directly overlook this area, particularly from its first floor rear bedroom window, which would be intrusive and harmful to this neighbour's privacy.
11. In addition, taking into account the size and scale of the proposed dwelling, and its proximity and orientation relative to the rear of No 33, the proposal would be overbearing when viewed from the rear garden of No 33 and therefore be harmful to its occupiers' outlook. The proposal would be unduly close to the rear boundary of the site, which would not reflect the more spacious gardens of nearby properties.
12. The appellant refers to the availability of nearby open spaces which they consider would compensate for any perceived impact on amenity space at the appeal site. However, these are not private spaces and therefore I do not consider that these would provide sufficient mitigation for the inadequacy of the proposed external space for the occupiers of No 33.
13. The appellant has referred to an application approved by the Council for the erection of a two storey building comprising two self-contained flats at 1 Georgian Court¹. The details provided indicate that it comprises a new building attached to the end of a row of existing properties on a corner plot and sited on

¹ Council Ref. 19/2922

the footprint of a large garage. The site context and the relationship of that development to neighbouring properties are therefore different to the appeal site. It is therefore not directly comparable to the appeal proposal.

14. There are other properties in the local area situated on similarly sized plots to the proposed development, such as those examples referred to by the appellant. However, I do not have the substantive details of these other properties in terms of their planning history, though, indeed, many appear to be historic features of the built environment rather than recent ones. In any case, I must determine the appeal on its own merits in accordance with the requirements of the current development plan and I have found that the proposal would be harmful to the living conditions of neighbouring occupiers. Therefore, these examples do not require me to disregard my findings.
15. I therefore conclude that the appeal scheme would be harmful to the living conditions of the occupiers of No 33 with regard to its effect on privacy, external amenity space and outlook, and the occupiers of No 35, due to its effect on privacy. The proposal conflicts with Policies DMP1 and DMP19 of the DMP which, amongst other things, require development to provide high levels of internal and external amenity and complement the locality. The proposal would also conflict with Policy CP17 of the Brent Core Strategy (2010), which seeks to protect the distinctive suburban character from inappropriate development, and Policy BD1 of the DLP, which requires the highest architectural and urban design quality.

Living conditions of future occupiers

16. The external amenity space for the proposed dwelling would be located mainly to the front and side of the property with a smaller area to the rear. In view of the size and shape of the garden proposed to the rear, it is unlikely to be a particularly useable space. However, the total amount of external space proposed exceeds the 50 sqm requirement set out in policy DMP19 of the DMP. The garden area to the front and side would be adequately sized for the likely number of occupiers. Notwithstanding its location to the front and side of the property, this area would be afforded a sufficient level of privacy by the proposed boundary treatment comprising a new hedge and fence to a height of 1.8 metres.
17. For the above reasons, I consider that the proposal would provide for a satisfactory standard of accommodation for future occupiers, having regard to the provision of external amenity space. The proposal would therefore not conflict with Policy DMP19 of the DMP or Policy BH13 of the DLP, where these require all new dwellings to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs.

Other Matters

18. The development would offer potential benefits in terms of providing a new dwelling in a relatively sustainable location. It would also have economic benefits through employment opportunities created during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. However, given the modest scale of the development proposed, the weight attributable to these matters is limited.

Conclusion

19. I have found that the development proposed would provide satisfactory living conditions for future occupiers with regard to the provision of external amenity space. However, the lack of harm in respect of this matter would not outweigh the harm that I have identified above and the conflict with the policies I have referred to.
20. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

Mark Ollerenshaw

INSPECTOR