
Appeal Decision

Site visit made on 8 November 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Appeal Ref: APP/T5150/W/21/3276499

Garages next to 2 Prout Grove, London NW10 1PT

- 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 P Wagstaff against the decision of London Borough of Brent.
 - The application Ref 21/0152, dated 15 January 2021, was refused by notice dated 17 May 2021.
 - The development proposed is the demolition of dual garage and creation of 1 x 1-bedroom dwellinghouse with hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of dual garage and creation of 1 x 1-bedroom dwellinghouse with hard and soft landscaping at garages next to 2 Prout Grove, London NQ10 1PT in accordance with the terms of the application Ref 21/0152, dated 15 January 2021, and the attached schedule of conditions.

Applications for costs

2. An application for costs was made by Mr P Wagstaff against the London Borough of Brent. This application is the subject of a separate decision.

Preliminary Matter

3. Consultation on main modifications to the draft Brent Local Plan concluded in August 2021 and the Council is considering its response to the representations received. Because of its progress towards adoption, I have given the draft Plan moderate weight in my decision.

Main Issues

4. The main issues are the effect of the development on:
 - the living conditions of neighbouring occupants, with regard to dominance; and
 - traffic congestion, with regard to parking provision.

Reasons

Living conditions of neighbouring occupants

5. The proposed building would back directly onto the communal garden at 118-128 Neasden Lane. It would replace existing garages which do likewise but would be an additional storey in height and slightly wider. Where proposed development adjoins garden areas, the Brent Design Guide SPD1 Nov 2018

advises that the height of new development should normally be set below a line of 45 degrees extending back from the garden edge, measured from a height of 2 metres¹. The rear elevation of the garage is already higher than 2 metres, but the proposed dwelling would be higher still and would therefore conflict with this advice.

6. However, permission was recently granted for a similar development on the opposite side of the road on land adjoining 1 Prout Grove². The development is nearing completion. Here the new building is (or is intended to be) separated from a similar adjoining communal garden area by an external store which is denoted on the approved plan³ as being rebuilt for use by residents of 130-140 Neasden Lane. The reduced impact of the development on the open garden area because of the separation provided by the store was considered acceptable.
7. The situation would not be dissimilar at the appeal site. Immediately at the rear of the existing garages is a small garden shed and a timber structure covered with polycarbonate sheeting which form part of the communal garden to the flats and appear to be used for storage and outdoor seating. These would separate the proposed building from the adjoining open garden area of the flats.
8. Given the similarities between them I consider the recently approved development opposite the site to be a material consideration in this case. While I have not been provided with a plan to indicate the 45 degree guideline in relation to the garden structures, there would be a similar degree of separation between the rear elevation of the appeal building from the more open parts of the garden as in the development over the road. I acknowledge that the covered area is used by occupants in a different way to a store, but it is nevertheless partly enclosed and therefore its use would be less affected by the proposed building than if the land were open. In addition, because the proposed building would be to the north of the adjoining garden, there would be no material loss of sunlight.
9. Having regard to these factors, I conclude that the proposed building would not appear overbearing to the users of the garden at 118-128 Neasden Lane and would therefore not harm their living conditions. As a consequence, the development would comply with Policy D4 of the London Plan 2021 and Policy DMP1 of the Brent Development Management Plan 2016, which promote good design and protect the amenities of existing residents. Application of the guidance in the Brent Design Guide needs to have regard to the circumstances of the site. For the reasons given above I conclude that although the 45 degree guideline would not be met, the separation between the proposed building and open parts of the adjoining garden is such as to overcome the adverse effect that the guidance seeks to avoid.

Traffic congestion and parking

10. The site lies in an outer London area with a public transport accessibility level (PTAL) rating of 4, which indicates good access to public transport services. Within this area, Policies T6 and T6.1 of the London Plan 2021 set a maximum

¹ Brent Design Guide SPD1 – Amenity and Services, Principle 5.1, privacy and amenity.

² 18/4111

³ 18/4111, plan 5661/D/05

parking standard for 1 bed dwellings of up to 0.5-0.75 spaces per dwelling⁴. Policy BT2 of the draft Brent Local Plan is consistent with that approach.

11. The development proposes 1 off-street parking space. I have not been directed to any guidance on how a fraction of a parking space should be regarded within the parking standards, but it seems logical to me to round up to the nearest whole space for any particular development proposal. On that basis, the proposed development would accord with the (rounded up) maximum standard allowed under Policies T6 and T6.1.
12. The Council is concerned that redevelopment of the site would displace parking on to the street. Although the garages on the site were formerly associated with the flats at Neasden Lane they are now in separate ownership. The appellant says that the site is used for storage in connection with a plumbing business, with the incidental parking of a vehicle taking place on the driveway. That use is apparently unauthorised but the allegation that it has been taking place for some years together with the parking of one vehicle is consistent with the photographic evidence provided by the Council.
13. It is not the role of this appeal to determine the lawful use of the site but what is not disputed is that the ownership of the garages is separate from the flats. Any displacement of parking that may have occurred as a result of that change in ownership took place some years ago⁵ and is no longer relevant to the present situation. Irrespective of the current or future use of the site, it is very unlikely that the garages would return to serving as ancillary parking for occupiers of the Neasden Lane flats.
14. Redevelopment of the site as proposed would not increase pressure for on-street parking because the current storage use would cease, and the parking demand generated by the new dwelling would be accommodated by the parking space to be provided on the site. Although the site is only used for the parking of one vehicle at present, it has the potential to accommodate up to 4. The proposed development would therefore result in a potential reduction in traffic generated by the site. Secure cycle storage could be secured by condition.
15. I conclude that the proposed development would not result in unacceptable pressure for additional on-street parking and would comply with the maximum parking standards that apply to this area. The development would therefore accord with Policies T6 and T6.1 of the London Plan 2021 and Policy BT2 of the draft Brent Local Plan, which seek to control parking provision as part of a strategy to reduce car usage in London.

Conditions

16. I have considered the conditions suggested by the Council in the light of my conclusions and the tests set out in paragraph 56 of the National Planning Policy Framework (the 'Framework'). I have imposed those conditions which meet the tests, subject to rewording in the interests of clarity.
17. In addition to the standard time limit condition, a condition listing the approved plans is necessary in the interests of certainty.

⁴ London Plan 2021, Table 10.3 – maximum residential parking standards

⁵ Appellant's appeal statement, paragraph 8.1, allegedly over 10 years ago.

18. A condition requiring approval of external materials is necessary in the interests of the appearance of the building and the character of the wider area.
19. A condition requiring investigation and remediation of any soil contamination is necessary in the interests of the health of future occupants. I have combined 2 suggested conditions into one for simplicity.
20. A condition requiring approval of secure bicycle storage is necessary to ensure the appropriate type of facility is provided on the site and to encourage cycling as an alternative to driving.
21. Paragraph 54 of the Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I see no clear justification to restrict rights to convert to a house in multiple occupation and the suggested condition has therefore not been imposed. Having regard to my conclusion on parking requirements, conditions preventing future occupants from applying for a resident's parking permit and requiring reinstatement of the footway are unnecessary.

Conclusion

22. I conclude that the proposed development would accord with the development plan and that there are no material considerations that indicate that a decision should be made otherwise than in accordance with the plan. The appeal should therefore be allowed.

Guy Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
037.21-01: existing and proposed site plan
037.21-02: existing plan and elevations
037.21-03: proposed plans and elevations
K4120-T: site survey
- 3) No development above ground level shall commence until details of all external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 4) Following demolition of the existing garages and prior to commencement of ground works a report of the investigation of the site by a competent person in accordance with BS 10175:2011 to determine whether there is any soil contamination and if so a scheme for its remediation shall be submitted to and approved in writing by the Local Planning Authority. Any remediation approved shall be carried out prior to any ground works on the site and a verification report submitted to the Local Planning Authority prior to

occupation of the dwelling confirming that remediation has been carried out in accordance with the approved scheme and that the site is suitable for residential use.

- 5) Prior to occupation of the dwelling hereby permitted details of secure bicycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle storage shall be installed on the site prior to occupation of the dwelling hereby permitted and thereafter retained.

***** End of Conditions*****