



Appeal Decision

Site visit made on 27 October 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal Ref: APP/T5150/W/21/3270891

41 Kendal Road, London NW10 1JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Daniel Bidgood against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/3106, dated 29 September 2020, was approved on 24 November 2020 and planning permission was granted subject to conditions.
 - The development permitted is "conversion of the attached garage into habitable room to include replacement of garage door with window, single storey side infill extension of the side door, alternations to the door and windows on the rear elevation of ground floor flat".
 - The conditions in dispute are Nos 4 and 5 which state that:
 - (4) The proposed development shall not be occupied until a proposed front garden layout plan showing the introduction of soft landscaping (at least 50%) behind a front boundary wall is submitted to and approved by the Local Planning Authority. The landscaping shall be retained at all times thereafter that the development is in use.
 - (5) The proposed development shall not be occupied until a plan detailing two secure bicycle parking spaces has been submitted to and approved by the Local Planning Authority. The spaces thereafter shall be retained at all times the development is in use.
 - The reasons given for the conditions are:
 - (4) To ensure a satisfactory appearance and setting for the development in accordance with Policy DMP12.
 - (5) To be in compliance with the requirements of the London Plan.
-

Decision

1. The appeal is allowed and the planning permission Ref 20/3106 for conversion of the attached garage into habitable room to include replacement of garage door with window, single storey side infill extension of the side door, alternations to the door and windows on the rear elevation of ground floor flat at 41 Kendal Road, London NW10 1JG granted on 24 November 2020 by the Council of the London Borough of Brent, is varied by deleting condition 4.

Procedural Matter

2. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Both main parties were given the opportunity to comment on the revised Framework as part of their appeal representations.

Background and Main Issue

3. 41 Kendal Road is a two-storey semi-detached property, originally a single dwelling but which at some point has been converted to two self-contained flats, one on each floor.
4. The appeal relates only to the ground floor flat, where planning permission has been granted for the conversion of an integral single garage into an additional bedroom, as well as other associated works. The appellant is now seeking permission to carry out that development without complying with conditions 4 and 5. Condition 4 requires the submission and approval of a scheme of soft landscaping for the front garden, while Condition 5 requires the submission and approval of a scheme for secure cycle storage.
5. The main issue is whether the disputed conditions are necessary, relevant, enforceable, precise and reasonable.

Reasons

Soft landscaping

6. Policy DMP12 of the 2016 Brent Local Plan Development Management Policies ("the DMPP") seeks to ensure that, where off-street car parking is developed, adequate soft landscaping is provided in order to "offset adverse visual impacts and increases in surface run-off". It also states that, in the case of front gardens, this should amount to 50% coverage.
7. I saw that the entire front garden space of No 41 is hard surfaced and there is no front wall or other boundary treatment. At the time of my site visit the forecourt was being used as parking space for two vehicles. The additional bedroom permitted would increase the parking standard for the entire site (in other words, both flats) from 2.5 to 3 spaces. However, the Council was satisfied that any extra parking demand arising could be met on-street, including in lightly-used bays in front of Gladstone Park. There is therefore no need for additional off-street parking as a result of the scheme, and the development which has been permitted does not include new parking spaces or, in fact, any other alterations to the front garden.
8. Paragraph 56 of the Framework states that planning conditions should only be imposed where there are necessary, relevant to planning and to the development to be permitted. While I understand and support the Council's desire to seek improvements to the visual quality of the area, in this case the existing situation is not changed by the development proposal. I therefore find that the condition is not justified either by necessity or relevance to the proposed development.
9. The appellant's evidence indicates that the entire front garden is owned by the freeholder, who is also the owner of the upper flat. Although the lease on the lower flat allows the use of the forecourt for parking a single vehicle, it is also argued by the appellant that Condition 4 is unreasonable, in that it would require him to alter the front forecourt when he has no right to do so. While in other circumstances such a condition may be necessary regardless of ownership issues, that consideration does not apply in this case and as such I also find that it would not be reasonable to impose the condition.

10. I note that the Council's officer report indicated that narrow width of the pavement crossover means that the second parking space within the front forecourt is not independently accessible unless cars drive illegally over the footway. However, the disputed condition does not directly relate to the matter of the pavement crossover, and in any case there are likely to be other routes by which this existing issue could be addressed. This consideration also does not support the imposition of the landscaping condition.
11. I therefore conclude that Condition 4 is not necessary, relevant to the development, and reasonable in all other respects.

Cycle storage

12. The conversion of the garage to a bedroom means that the flat will potentially have less space for the safe and secure storage of bicycles. Policy T5 of the 2021 London Plan seeks to ensure that developments have appropriate levels of cycle parking which is secure, well-located and otherwise "fit for purpose".
13. The appellant's title plan (which the red-line boundary for the planning application follows) includes only the ground floor flat at No 41 and does not encompass any of the external land. The appellant again therefore argues that the condition is unreasonable, as it would require the installation of cycle parking on the forecourt belonging to the freeholder.
14. However, the condition does not specify that cycle storage should be located on the front forecourt. The submitted plans show large doors opening into the rear garden, which I saw can be also accessed via a side passage. Notwithstanding the red-line boundary, it therefore appears that the appellant has access to additional external space, and while it is not clear to me from the submitted evidence whether this is available for the appellant's exclusive use or shared with the upper flat, it is not unreasonable to consider that this may be an appropriate location for siting cycle storage. Furthermore, as the form of the cycle storage is not specified, it may also be that alternative internal space could be provided to the Council's satisfaction.
15. There is nothing before me to suggest that the disputed condition is not necessary, relevant, enforceable or precise. On the basis of the evidence before me, the appellant has also not demonstrated that Condition 5 is otherwise unreasonable.

Conclusion

16. I have found that Condition 5 is necessary, relevant, enforceable, precise and reasonable. However, Condition 4 does not meet these tests and should be deleted.
17. I therefore conclude that the appeal should be allowed.

M Cryan

Inspector