



Appeal Decision

Site visit made on 22 February 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/T5150/W/21/3281997

50 Kings Road, London NW10 2BN

- 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 Quest JV Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/0017, dated 4 January 2021, was refused by notice dated 19 March 2021.
 - The development proposed is single storey rear extension and roof extension to facilitate the conversion of the property to three self contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above is taken from the planning application form. At Part E of the appeal form, it is stated that the description of development has not changed, but a different wording has nevertheless been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Since the Council determined the application, the Brent Local Plan 2019-2041 (BLP) was adopted by the Council on 24 February 2022, and documents including the Development Management Policies 2016 cited in the reasons for refusal were revoked. The main parties were given the opportunity to comment on any implications of the change in policy. I am therefore satisfied that no prejudice would be caused by my determination of the appeal giving full weight to the policies of the BLP, and I make no further reference to the now superseded parts of the development plan.
4. Appendix 2 of the appellant's appeal statement includes plans and details of a Certificate of Lawfulness granted for development at the site including a single storey extension and rear dormer¹ (the CL). I am unsure whether it was these plans that led to the Council's comment that plans provided by the appellant alongside their appeal statement included differences from those considered when the application was determined. For the avoidance of doubt however, I can confirm that I have determined the appeal on the basis of the plans that were before the Council at the time of its decision.

¹ Application ref 21/1563

Main Issues

5. The main issues are:

- i) the effect of the proposal on the character and appearance of the host building and area;
- ii) the effect of the proposal on the living conditions of the occupiers of 149, 151 and 153 Harlesden Road with particular regard to outlook, privacy, noise and disturbance; and
- iii) whether or not living conditions for future occupiers of the development would be acceptable with particular regard to privacy and provision for refuse storage.

Reasons

Character and Appearance

6. Kings Road and Harlesden Road which runs to the rear of the appeal site are generally characterised by dwellings of similar architectural designs and proportions resulting in a strong degree of uniformity to the street scenes. There is less consistency to the rear of buildings, including as a result of varied extensions and roof alterations, but there typically remains spacing between dwellings and their rear boundaries, despite the relatively small size of many of the gardens.
7. The appeal site includes a detached dwelling with a single-storey garage that adjoins Kings Hall. The rear boundary of the site is angled, and results in a broadly triangular rear garden which is deepest adjacent to 51 Kings Road. The proposed rear extension would be sited towards the deeper part of the garden, but separation to the rear of the site would still be very limited at the closest point, and it would project beyond the line of the rear site boundary as it adjoins Kings Hall. Whether or not relevant standards for provision of amenity space would be met, the proximity of the extension to the rear boundary would be unusual, and the visual impact of the juxtaposition would be exacerbated by the considerable height and flat roof form of the extension which would give it a fairly bulky appearance.
8. In addition, the proposed dormer would fill much of the rear roofslope with only relatively slight spacing to its sides and to the roof ridge and eaves. In my judgement, the substantial bulk of the dormer would dominate the rear of the building, and would detract from its original character and appearance.
9. Notwithstanding the modest depth of the rear extension, I find that these factors in combination would cause the development to appear disproportionate against the host building and site. I appreciate that the rear extension would not be readily apparent from the street scene. However, there would be some views of the dormer given spacing to surrounding buildings. Views from neighbouring properties also contribute to the character and appearance of an area, and despite some screening by vegetation, both the dormer and rear extension would be visible from surrounding sites.
10. I acknowledge that the dormer would be similar to that permitted under the CL, but the CL plans provided by the appellant show a rear extension of lesser height, and consequently reduced scale and visual impact, than the development that is now before me. Accordingly, the effect of the 2 proposals

when each is taken as a whole would not be directly comparable, and I do not find the CL a compelling reason to allow otherwise unacceptable development.

11. The appellant has also drawn my attention to extensions to other properties in the area, including examples of single-storey extensions and/or rear dormers to 157-167 Harlesden Road nearby. I am not aware of the particular circumstances that led to these developments, but based on my observations at my visit and the evidence before me, it is not in any event clear that any result in development in similarly close proximity to sections of the rear boundary as would be the case on the appeal site. The existence of these extensions is not therefore a justification for the appeal proposal, which must be considered on its own merits.
12. For these reasons, I conclude that the proposal would cause unacceptable harm to the character and appearance of the host building and area, and it would conflict with Policy DMP1 of the BLP which seeks, amongst other things, development that is of a siting, layout, scale, type and design that provides high levels of internal and external amenity and complements the locality.

Living Conditions – Neighbouring Occupiers

13. The proposal would result in 3 flats on the site, but the building would remain in residential use, and there is no substantive evidence before me to show how the development would result in excessive noise or disturbance so as to harm the living conditions of neighbouring occupiers.
14. In my judgement, the bulk and mass of the single-storey extension in such close proximity to the boundary of the appeal site would however result in a dominant and intrusive feature in views from the garden and windows to the rear of 149 and 151 Harlesden Road. As a consequence, I find that the development would be overbearing and it would be detrimental to the outlook currently enjoyed by the occupiers of these dwellings.
15. Turning to consider privacy, the Brent Design Guide Supplementary Planning Document 1 2018 (SPD) includes guidance that directly facing habitable room windows will normally require a minimum separation distance of 18m. In addition, a distance of 9m should be kept between gardens and habitable rooms or balconies. In the absence of explicit provision to indicate otherwise, it seems to me that these guideline distances would apply to all parts of neighbouring gardens and directly facing habitable room windows.
16. The Council's assessment indicates that separation between the dormer and the gardens to No 151 and 153 Harlesden Road would fall significantly short of these guidelines, and that there would also be a shortfall in separation to the garden of No 149. The appellant does not dispute that the development would be within 9m of the closest parts of neighbouring gardens. Separation distances quoted in the appellant's evidence also confirm that separation to windows of Nos 151 and 153 would be some way below the 18m specified by the SPD, and that separation to windows to No 149 would also be below the guideline at the closest point.
17. The appellant comments that the site-specific circumstances do not allow separation distances within the SPD to be provided, but that is not in itself a sound justification to relax guidelines intended to ensure a good level of privacy inside buildings and private outdoor space. The windows to the development

would not directly align with those to neighbours, but there would still be clear views from the first and second-floor level windows to the rear of the development onto neighbouring windows at close quarters, as well as down onto gardens to their rear.

18. I acknowledge that the first-floor windows are existing, and that there would be a similar dormer with windows under the CL development. Under the appeal proposal though, the windows to the dormer would effectively provide the sole source of outlook for Flat 3 such that views for occupiers of this dwelling would only be towards Nos 149, 151 and 153. First-floor windows would also serve the main kitchen/dining/living accommodation for Flat 2. Given the important role that the rooms served by these windows would provide in the overall accommodation of Flats 2 and 3, it seems to me that they would be in use for a greater proportion of time than rooms that were part of a single dwelling on the site. Even if the CL development were to be implemented, I therefore find that the appeal proposal would result in materially increased overlooking to neighbouring dwellings.
19. In addition, the single-storey extension would include windows serving habitable accommodation very close to the boundary with adjacent gardens, well below the 9m guideline set out in the SPD. I have already noted that this is of greater height than the extension indicated in the CL development, and having regard to the height of the windows relative to the existing boundary treatment, I share the Council's concerns that this would cause a further loss of privacy for neighbouring occupiers.
20. I acknowledge that some overlooking may occur in built-up areas. Given though the height of the dormer above the neighbouring properties to the rear and the shortfall against the separation distances specified by the SPD, the resulting overlooking would in my judgement be significant, and the development would cause a harmful loss of privacy for the occupiers of Nos 149, 151 and 153.
21. The appellant comments that Nos 151 and 153 are occupied as flats, and refers to approval given for extensions to No 149. Be that as it may, Nos 151 and 153 do not appear to include rear windows at second-floor level, and none of these neighbours include windows in similarly close proximity to their boundaries as would result on the appeal site. The circumstances and relationships with neighbouring properties are not therefore directly comparable to the development before me, and they do not offer a compelling justification to allow development which I find would cause unacceptable harm to the living conditions of occupiers neighbouring the appeal site.
22. For these reasons, I conclude on this main issue that the proposal would cause unacceptable harm to the living conditions of the occupiers of 149, 151 and 153 Harlesden Road through loss of privacy and outlook. It would therefore conflict with Policy DMP1 of the BLP insofar as it seeks development that is, amongst other things, of a siting, layout, scale, type and design that provides high levels of internal and external amenity and complements the locality.

Living Conditions – Future Occupiers

23. I have already found that separation distances between the development and neighbouring windows would not comply with guidelines specified within the SPD. However, most views towards the development from properties to the

rear of the site would be across at or upwards to windows rather than down onto them, reducing potential for intrusive views into the rooms served. While there are second-floor windows to No 149, these are set significantly back from the boundary in comparison to the windows to the floors below, and I consider the separation would be sufficient to avoid intrusive overlooking to the proposed dwellings. Windows to the ground-floor extension would project above the boundary fence, but views above the boundary from neighbouring sites would be generally upwards rather than directly into the room served. Given these factors, I am satisfied that there would be adequate privacy for future occupiers of the development.

24. The proposal includes storage for 3 bins to the front of the site. The Council indicate that this would not be sufficient, and refer to a requirement for 7 full-size bins and 3 food waste bins. However, details of refuse storage are commonly secured by way of planning conditions. Both main parties refer in this case to potential use of the garage for storage of additional bins. The garage is of significant size internally, and the Council has not provided convincing evidence in support of its suggestions that use of the garage for storage would require significant re-design, planning permission or consultation with interested parties. From the evidence before me, I consider that details of refuse storage could have been secured by condition had the proposal been otherwise acceptable, ensuring suitable storage for refuse to serve occupiers on the site.
25. I therefore conclude on this main issue that living conditions for future occupiers of the proposed development would be acceptable. In this regard I find no conflict with Policy DMP1 of the BLP insofar as it sets out that development will be acceptable provided it is, amongst other things, of a design that provides high levels of internal and external amenity and satisfactory in terms of servicing.

Planning Balance and Conclusion

26. The proposal would make effective use of the site to provide a net gain of 2 dwellings, adding to the supply and mix of housing in a moderately accessible location and contributing to meeting targets for the delivery of housing within the borough. These aspects would accord with the National Planning Policy Framework (the Framework) which seeks to significantly boost the supply of housing to meet needs. However, the contribution would be limited by the modest scale of the development. Moreover, the Framework balances these objectives against requirements that development also delivers well designed places and a high standard of amenity for existing users. In my assessment, the limited benefits of the proposal would not outweigh the harm that would be caused to the character and appearance of the area and the living conditions of neighbouring occupiers.
27. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR