



Appeal Decision

Site visit made on 29 March 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2022

Appeal Ref: APP/T5150/W/21/3283144

7 Sidmouth Road, London NW2 5HH

- 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 Max Kyte against the decision of London Borough of Brent.
 - The application Ref 21/2344, dated 22 June 2021, was refused by notice dated 17 August 2021.
 - The development proposed is the erection of 2 x two storey semi-detached dwelling houses with habitable roof (loft) space, private amenity space and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and address above from the application form. Although different to those on the decision notice, no confirmation that a change was agreed has been provided.
3. During the appeal the Brent Local Plan 2019-2041 (Local Plan) was adopted revoking the Brent Core Strategy 2010 and the London Borough of Brent Local Plan Development Management Policies. London Plan policies have also been referred to. The main parties have had the opportunity to comment on the changes and therefore are not prejudice by this.
4. In their appeal statement, the appellant refers to amended plans being provided with alterations including to bedroom type and the number of rooflights. I cannot be sure that these plans were available to all parties at the outset of the appeal, and they were not part of the proposal when the decision was made.
5. Therefore, I cannot be satisfied that parties, including third parties, would have been aware of these or have had sufficient and fair opportunity to comment on them. To avoid prejudice to other interested parties I have assessed the scheme on the plans that were before the Council at the time of their decision.

Main Issues

6. The main issues of the appeal are:
 - The effect of the proposed development on the character and appearance of the area; and

- Whether appropriate living conditions would be provided for the occupiers of the proposed dwellings, with particular regard to internal space, outlook, daylight and sunlight.

Reasons

Character and Appearance

7. The proposed dwellings would be symmetrical with hipped roofs and bay windows similar to others in the row it would form part of, and their height would not be significantly less than those nearby. Moreover, there is some variety in the appearance and features of the properties in the street, including front gable projections and front elevations.
8. Nonetheless, while not identical, on the side of Milverton Road where the appeal properties would be located, there is greater consistency to the scale and appearance of dwellings. Unlike the opposite side of the road, the existing similar looking sizable blocks of built form give a distinct appearance and steady rhythm to the streetscene. This mostly uniform appearance to the front elevations, including prominent lengthy gable projections, contribute positively to the appearance of the streetscene.
9. Being lower and narrower than those in the same row, the proposed dwellings would appear undersized and unfavourably contrast with the existing consistency in the bulk of the blocks of development. The gables and front elevations of the proposed dwelling would be noticeably smaller in comparison with those on this side of the street.
10. Consequently, rather than appearing as a modern interpretation of the properties adjacent, the proportions, mass and features of the proposed dwellings would be at odds with and erode the current pleasing regularity on this side of the street.
11. Although several trees at the site would be lost, were the appeal to be allowed conditions could be imposed to provide further details of proposed planting.
12. Notwithstanding this, the proposed development would unacceptably harm the character and appearance of the area. The scheme would fail to accord with the design and character protection aims of Policy DMP1 of the Local Plan.

Living Conditions

13. While it is stated that bedroom 2 in each unit would be used as a single bedroom, the plans show them as having double beds. Therefore, it is reasonable to expect them to be used as such. They would fall below the minimum requirement for a double bedroom in the THS¹ and Policy D6 of the London Plan and as a result would not provide appropriate living conditions for future occupiers with regard to internal space.
14. While the Council raises concerns due to the headroom in bedrooms within the roof and the pitch of the sloping roof, the THS state that it is only where the headroom is below 1.5m that it is not counted within the Gross Internal Area. Policy D6 of the London Plan refers to ceiling height being 2.5m for at least of 75% of the GIA of each dwelling, not each room. There is no clear evidence

¹ Technical Housing Standards-Nationally Described Space Standard

before me that these rooms would fail to meet the minimum standards of the THS or Policy D6.

15. There would be windows in the roof level bedrooms to more than one elevation, that although not large, are of a reasonable size. The roof windows would be also set in from the edge of the site, away from other properties and at a level above nearby vegetation and boundary treatments. While some of the windows would be obscure glazed, those on the front elevation would be clear and would provide an eye level outlook to the street. These factors would allow sufficient daylight and sunlight to enter these rooms and provide a satisfactory outlook from them.
16. Nonetheless, the proposed development would not provide appropriate living conditions for the occupiers of the proposed dwellings with regard to internal space. It would be contrary to Policy DMP1 of the Local Plan and Policy D6 of the London Plan where they set minimum requirements for appropriate living standards and internal space.

Other Matters

17. The Local Plan is of some age. However, the National Planning Policy Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. The policies relevant to this proposal are broadly consistent with the Framework and attract full weight.
18. The proposal would align with the local and national policy to increase the supply of housing and small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. The site is in a location accessible to services and facilities and would be a more efficient use of land. However, being for 2 dwellings, the contribution towards housing supply and mix, along with economic and social benefits from the construction and occupation of the properties, even in the current economic climate, would be small.
19. Even if I were to agree that the scheme would not lead to unacceptable harm with regard to neighbouring amenity and highways considerations, this would be a neutral factor that would not weigh in favour of the scheme.
20. While I appreciate the appellant has amended the scheme to seek to overcome concerns raised in the previous application, I have identified unacceptable harm from this scheme. The conduct of the Council and history of the developer are not matters that affect my findings on the main issues.
21. The Council did not refuse the earlier scheme on the appropriateness of the living conditions for future occupiers. As the Inspector found sufficient other harm to warrant dismissing the appeal², this did not form a main issue and they did not need to consider this matter further. In any event, I have assessed the appeal on its own merits.
22. While I do not have full details of the examples of similar developments my attention has been drawn to³, these would not be viewed with the appeal site

² APP/T5150/W/20/3263372

³ 46 Dundonald Road, 103 - 107 Mount Pleasant Road, 101 Mount Pleasant Road, 26a Alverstone Road and 24 Sidmouth Road

and have a different context of nearby built form. As such, they are materially different to the scheme before me.

Conclusion

23. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
24. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR