



Appeal Decisions

Site visit made on 22 March 2022

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal A Ref: APP/T5150/C/21/3277010

Land at Tokyngton Community Centre, St Michaels Avenue, Wembley HA9 6SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Simon Jean-Marie of Destiny House International against an enforcement notice issued by the Council of the London Borough of Brent.
 - The notice, numbered E/20/0629, was issued on 6 May 2021.
 - The breach of planning control as alleged in the notice is: Without planning permission, the erection of a single-storey rear extension to the premises.
 - The requirements of the notice are:
 - STEP 1 Demolish the single-storey rear extension from the premises.
 - STEP 2 Remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - The period for compliance with the requirements is 3 months after the notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/T5150/W/21/3276928

Land at Tokyngton Community Centre, St Michaels Avenue, Wembley, Middlesex, London HA9 6SA

- 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 Simon Jean-Marie of Destiny House International against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/3854, dated 24 November 2020, was refused by notice dated 30 April 2021.
 - The development proposed is described in the application as: an extension to community centre to house community programmes.
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Summary Decisions: Both Appeals are dismissed and the enforcement notice is upheld.

Procedural Matters

1. Since the issue of the enforcement notice and the submission of the appeals, the Brent Local Plan 2019-2041 was adopted February 2022 (BLP). This replaces the London Borough of Brent Local Development Framework – Core Strategy dated July 2010 and the London Borough of Brent Local Plan Development Management Policies document, dated November 2016. I have not, therefore, had regard to the policies of the replaced core strategy and local

plan in reaching my decision. The comments of the parties were sought with regard to the effect of the change to the development plan. I have had regard to these in reaching my decision.

The ground (a) appeal, the deemed application for planning permission and the appeal against the refusal of planning permission

Main Issues

2. At the site visit I noted that the dimensions of the extension subject of Appeal A differed from the development that is the subject of Appeal B. In particular, the depth of the extension on site appeared greater than that shown in the proposed scheme. At the site visit the parties measured the extension and it was agreed that its internal depth is some 4.65 metres, with the external depth being some 4.7 metres. The depth of the extension is, therefore, materially different to the extension proposed in the Appeal B scheme, which is only some 3.75 metres.
3. In view of the above, if I were to allow Appeal B, this would not grant consent for the development subject of the enforcement notice. Notwithstanding this, the development subject of each appeal are similar in some respects. Furthermore, the reasons for refusal of the Appeal B planning application and the reasons for issuing the enforcement notice are broadly similar. I have, therefore, considered these schemes of development together, indicating where there are differences between the two and considering these matters separately.
4. From the substantive reasons for issuing the enforcement notice subject of Appeal A and the reasons for refusal of the application subject of Appeal B, I have identified the main issues as follows:
 - The effect of the development on the character and appearance of the appeals site and the surrounding area; and
 - Whether or not the development is or would be acceptable within an area of open space, having regard to policies for development in such a location.

Reasons

Character and Appearance

- The appeal site and the surrounding area

5. Tokyngton Community Centre is surrounded by the Sherrans Farm area of open space, which has open grassed areas and the character of a well maintained public park. Within the open space is a hard surfaced playing court and a parking area, which is to the front of the appeal site. The open space is at the edge of a predominantly residential area, close to the entrance to the park from St Micheals Road. The site directly adjoins properties at the end of this road.
6. Both the open space and the appeals site are dominated by Wembley Stadium and buildings within its complex, to the north. The Wembley Stadium complex is separated from the open space by adjoining railway tracks.
7. The building at the appeals site is single storey and has a varied roof form which includes centrally ridged elements and a front projecting gable. There is

also a roofed element to the side of the building that has varying roof heights. There is variety in the materials used in the building, with a mix including smooth painted render and red brick on the elevations, and tile or corrugated roof material.

8. The building is enclosed in part by timber fencing to the front and along a section to the rear. The remaining rear and the side elevation of the building are, however, open to the adjoining public open space.

– The development subject of Appeal B

9. The Appeal B scheme proposes a single storey extension to the rear of the building. The extension would continue the side (north facing) elevation and would span across almost half of the existing rear elevation. The plans show that there would be a very slight slope to the roof and that where the extension would adjoin the existing rear elevation, its height would match that of the existing side, flat roof element of the building. There would be a number of window openings in the rear elevation.
10. The plans show an extension to the existing building that would have a simple form and design. The Council acknowledge that the depth and scale of the extension would be modest and I have no reason to disagree with this. Although I note the Council's objections to the roof form, I have already noted above that the building demonstrates a variety in its roof coverings, such that the proposed roof form would not be out of keeping with the existing. Indeed, the plans show that the extension would appear to continue the existing side flat roof element of the building across part of the rear elevation.
11. The simple appearance of the extension would not be out of accord with the character of the existing building, particularly in view of its proposed location on the rear elevation. Whilst the extension would be highly visible from the adjoining open space, it would not cause detriment to the wider character of the area.
12. As for materials, the application form states that these comprise brick and timber frame on the elevations, and rubber for the roofing. In my judgement the materials specified would not ensure that the finish of the proposed extension is in keeping with the host building. Although the side elevation of the existing building has a brick finish, the materials list does not specify the brick colour. The use of rubber on the roof may also be out of keeping with the finish of the flat roofs elsewhere on the building. In addition, a timber frame is not likely to be appropriate as a finished material of an external elevation. In this regard, the materials list does not appear to be a complete list of materials needed to construct the proposed extension.
13. My concerns above are not, however, fatal in this case as a condition could be imposed to require the submission of a complete list of materials to be agreed by the Council. This would ensure that appropriate materials are used to reflect those used in the existing building, and that the materials are appropriately located on the extension.
14. All things considered, the proposed development subject of Appeal B would have an acceptable effect on the character and appearance of the appeals site and the surrounding area. Accordingly, I do not find conflict with Policy DMP1 (Development management General Policy) of BLP which informs, amongst

other matters, that development will be acceptable provided it is of a layout, scale, materials and design that provides high levels of external amenity and complements the locality. Furthermore, I do not find conflict with BLP Policy BD1 (Leading the Way in Good Urban Design), and its requirement for all new development to be of the highest architectural and urban design quality.

15. Whilst the Council has also referred to Policy D4 (Delivering Good Design) of the London Plan 2021 (LP) in its decision notice, this policy relates more to the process for delivering good design, rather than specifying the elements of a development that contribute to good design, as BLP Policies DMP1 and BD1 do. The Council has not pointed to any particular part of Policy D4 that the development would conflict with. Whilst I have little evidence of the process the appellant has followed in designing the development proposed, I am unable to identify any part of the policy that might be relevant to the matter of whether or not the scheme before me would have an acceptable effect on the character and appearance of the appeals site and the surrounding area. I cannot, therefore, find any conflict with LP policy D4.

– The development subject of Appeal A

16. I acknowledge that the location of the extension subject of the enforcement notice compares to that proposed in Appeal B. The extension is marginally deeper than the Appeal B scheme, but has a comparable width across the rear elevation. It is not, therefore, disproportionate as an addition to the host building in terms of its size and scale.
17. The extension does, however, have a particularly poor design in terms of the materials used, the standard of construction and its finish. The rear elevation has a partly finished appearance. A timber frame has been poorly fitted with a form of felting material that undulates across this elevation. The ill fitted roof felt overhangs the side (south facing) and rear elevation, whilst the partly open south facing elevation, which adjoins a partly constructed concrete block wall, adds to the poor appearance of the extension.
18. I acknowledge that the north facing elevation of the extension continues the red brick finish of the existing building along this elevation. The roof timbers are, however, visible above this elevation and are detrimental to the appearance of the extension when viewed from land to the north. From this view I also note that the height of the extension, where it meets the existing building, exceeds the height of the existing flat roof element. This gives the extension an awkward appearance and relationship to the host building.
19. The extension is, therefore, detrimental to the character of the building and causes harm to the character of the wider area, particularly as the extension is highly visible from the adjoining open space.
20. I acknowledge that the extension may not be complete. Nevertheless, my determination of the ground (a) appeal and the deemed application for planning permission is for the development subject of the notice. The evidence before me indicates that the condition of the extension as I observed it on my visit has not changed since the enforcement notice was issued.
21. For the reasons given above, I conclude that the development subject of Appeal A has an unacceptable effect on the character and appearance of the appeals site and the surrounding area. For this reason I find it in conflict with

BLP Policies DMP1 and BD1, and the requirements of these Policies, as set out above.

22. For the reasons already given, I am unable to identify any part of Policy D4 of the LP that might be relevant in this case. This does not, however, alter my conclusions with regard to the harm caused by the development and conflict I have identified with the above mentioned policies of the BLP.

Open Space

23. Policy G4 of the LP informs that development proposals should not result in the loss of protected open space. Paragraph 8.4.1 of the LP informs that:

'Open spaces, particularly those planned, designed and managed as green infrastructure – provide a wide range of social, health and environmental benefits, and are a vital component of London's infrastructure. All types of open space, regardless of their function, are valuable in their ability to connect Londoners to open spaces at the neighbourhood level.'

24. In addition to the above, paragraph 99 of the National Planning Policy Framework (the Framework) informs that 'existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.'
25. There is little evidence from the Council to confirm that the appeals site and the surrounding Sherrans Farm has a particular open space designation in the BLP, or that it is identified in any assessment of open space that informed the policies of the BLP. Such an assessment might identify the importance of this area of open space to the wider Council area. Nevertheless, there is no dispute that the location of the development subject of Appeal A and Appeal B is, or would be, on open space. Accordingly, I am satisfied that LP Policy G4 and paragraph 99 of the Framework are relevant to my determination of these appeals.
26. I note the appellant's contention that the land subject of the appeals is not functional open space, such that the development would result in the significant loss of access to public open space within the immediate locality.
27. Both the LP and the Framework identify a number of benefits of open space, which include environmental benefits, in particular their contribution to nature and addressing the effect of climate change¹. As noted above, the LP identifies all areas of open space as valuable, regardless of their function.
28. I acknowledge that the land occupied by the extension is to the rear of the existing community centre and that it is not part of the more open playing

¹ Paragraph 8.4.1 of the LP and paragraph 98 of the Framework.

fields or enclosed playing court at Sherrans Farm. The area to the rear of Tokyngton Community Centre is nonetheless valuable. This is not least because it fulfils many of the functions and purposes set out in the above-mentioned sections of the Framework and BLP.

29. Despite the appellant's contentions, to my mind the land connects to the wider areas of open space at Sherrans Farm. It provides a visual break of open land between the adjoining housing estate and the dominant presence of the Wembley Stadium complex, as well as providing an informal area of recreation. Such an area is also likely to contribute to wildlife and combating the effects of climate change.
30. Whilst I note the size of the area of open space that has, or would, be lost to the development, LP Policy G4 is clear, that development should not result in the loss of protected open space. I have no reason to conclude that the area occupied by the existing development, as well as the proposed scheme, is not protected open space referred to in Policy G4. For this reason I conclude that the scheme of development subject of both Appeal A and Appeal B conflicts with the Policy. Although I am mindful that the area of open space that would be occupied by the Appeal B scheme would be marginally less than that occupied by the existing extension (the Appeal A scheme), this does not change my conclusion.
31. As for compliance with the Framework, whilst I note the appellant's suggestion, that the development is, or would be, located on land that does not fulfil the function of recreational open space, the evidence falls short of an assessment that clearly shows that the open space is surplus to requirements, as required by paragraph 99 a).
32. Furthermore, the open space lost to either the Appeal A or Appeal B scheme would be for an extension to the existing community centre. Whilst I consider the benefits of the development in both Appeal A and Appeal B below, the evidence does not indicate that its use would provide the same function as open space, such that the development would be in compliance with paragraph 99 b) of the Framework. Indeed, it is not suggested that the use of the extension in either scheme would be for a sports or recreational use. Accordingly, I cannot conclude that the open space lost to either scheme would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Similarly, I have no evidence to conclude that the extension in either scheme would provide for alternative sports and recreational provision, as required by paragraph 99 c).
33. In view of the above, I conclude that the loss of the open space that results, or would result, from either the Appeal A or Appeal B scheme would not accord with the Framework. For this reason, and having regard to my conclusion in respect of Policy G4 of the LP, I can only conclude that the development is, or would not be acceptable within an area of open space.

Other Matters

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise.

35. The appellant has pointed to Policy BSI1 (Existing Social Infrastructure) of BLP and Policy S1 (Development London's social infrastructure) of the LP. Both support the provision of high quality, inclusive social infrastructure that, for example, addresses a local or strategic need; supports service delivery; is easily accessible by public transport, walking and cycling; is preferably in town centres or Growth Areas; is provided in flexible and adaptable buildings; and maximises wider community benefit.
36. The appellant has provided some evidence of how the existing community centre is used. This is for various purposes, including as a nursery, for training, as a studio, as a café, for a homework club, and for church services. The existing building is, therefore, flexible and there appears to be a number of different users. I have, however, been provided with little evidence of the need for the extension subject of either Appeal A or Appeal B.
37. I am told that an additional classroom is now needed within the building. If the extension is only to be used as a classroom, this is not sufficient for me to conclude that the development would be flexible and adaptable. Whilst it is suggested that the development would enhance and improve the facilities at the community centre, I have insufficient evidence to demonstrate this or to show that the extension would meet needs that are not currently met in the existing community centre. Such evidence might include information to demonstrate that the existing building is at or over capacity with its existing use, or that there is insufficient space within the building to accommodate the facilities, uses and space that either extension will comprise.
38. In addition to the above, the community centre is not located within a town centre, and I have no evidence that leads me to conclude that it is easily accessible by public transport, walking and cycling. Whilst I note that the centre is adjacent to a substantial area of housing, I have insufficient evidence before me to show that the community centre serves this local population. Such evidence would demonstrate that the development would be located in the community it intends to serve.
39. I acknowledge that the development would provide additional accommodation at the community centre, which can only be a benefit of the scheme that adds weight in favour of the grant of permission. However, to have the support of the policies listed above, I must be satisfied that the development would comply with the criteria listed in Policy BSI1 and provide the type of facility specified in criterion C of Policy S1. I do not have sufficient evidence to satisfy me of this. This tempers the weight I attribute to the benefit of either the Appeal A or Appeal B scheme.
40. As a separate matter, the Council has referred me to policies BT1 (Sustainable Travel Choice) and BT2 (Parking and Car Free Development) of the BLP. It has not, however, explained how it considers the development to be in conflict with these policies. Having regard to the evidence before me, I am not able to identify any such conflict.

Planning Balance and Conclusion

41. I have found the development subject of Appeal B to be acceptable with regard to its effect on the character and appearance of the appeals site and surrounding area. I have not, however, concluded the same with regard to Appeal A. I have also found both schemes to be unacceptable in view of their

location within an area of open space. There is, therefore, conflict with the development plan in the case of both schemes.

42. I have acknowledged that there are benefits of both schemes, although the weight I have attributed to these benefits has been limited for the reasons given.
43. With regard to Appeal A, the harm I have identified against both of the main issues in this case, in particular the harm in respect of character and appearance, is most certainly not outweighed by the benefits of the scheme.
44. As for Appeal B, my decision is more finely balanced. Although I have only identified harm in respect of one of the main issues in this case, the evidence before me is not sufficient for me to conclude that the benefits of the scheme tip the balance in favour of the grant of permission.
45. I have considered whether conditions would overcome the harm identified in the case of both schemes, but find that they would not.
46. To conclude, having regard to all matters before me, there are no material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, planning permission ought not to be granted and the ground (a) appeal and Appeal B should fail.

Ground (g)

47. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The Notice specifies a period of 3 months from the date the notice takes effect.
48. The appellant suggests that the period is not sufficient to identify and appoint contractors, or to undertake the works. He has not, however, provided any substantiated evidence to show that there is a particular issue with obtaining contractors to undertake the work or that the works to comply with the requirements of the notice are so complex that additional time would be necessary.
49. The notice does not require the submission of a new planning application. That three months is not sufficient for a new application to be submitted is not, therefore, relevant to whether or not the period specified is sufficient to comply with the requirements of the notice.
50. Having regard to the above, I have no reason to conclude that the period specified in the notice falls short of what should reasonably be allowed. For this reason, the ground (g) appeal should fail.

Overall Conclusions

51. For the reasons given above, I conclude that both Appeal A and Appeal B should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made on Appeal A under section 177(5) of the Town and Country Planning Act 1990 as amended.

Formal Decision Appeal A

52. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 as amended.

Formal Decision Appeal B

53. The appeal is dismissed.

J Moss

INSPECTOR