



Appeal Decision

Site visit made on 21 September 2022

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2022

Appeal Ref: APP/T5150/W/22/3296875

228 Church Lane, Kingsbury, London NW9 8SN

- 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 Path Giri against the decision of London Borough of Brent.
 - The application Ref 21/3094, dated 10 June 2021, was refused by notice dated 12 October 2021.
 - The development proposed is described as 'Demolition of single storey storage unit located within the rear service yard of 228 Church Lane and erection of a two storey dwellinghouse with alterations to Church Lane frontage to include new front terrace, the insertion of an additional entrance door and fenestration to rear to access new dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of single storey storage unit located within the rear service yard of 228 Church Lane and erection of a two storey dwellinghouse with alterations to Church Lane frontage to include new front terrace, the insertion of an additional entrance door and fenestration to rear to access new dwelling at 228 Church Lane, London NW9 8SN in accordance with the terms of the application, Ref 21/3094, dated 10 June 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of the development is taken from the appeal form and the Council's decision notice as this more accurately describes the proposed development than the application form.
3. Since the date of the Council's decision a new development plan has been adopted. Therefore, policies DMP1, DMP12 and DMP13 of the Brent Development Policies Document 2016 referred to in the decision notice have been replaced by the Brent Local Plan 2022 (LP). I have considered the development against policies DMP1, BD1, BT2 and BT3 of the LP which the council have indicated in their evidence they consider are relevant. The appellant has had the opportunity to comment on them.
4. Amended plans have been submitted as part of the appeal which clarify the provision of a commercial parking/servicing space to the rear of the property. Given that the Council have had the opportunity to comment on this information, I am satisfied that an injustice would not occur should I determine the appeal on the basis of these plans.

Main Issues

5. The main issues are a) the effect of the proposed development on the living conditions of occupiers of neighbouring properties, having particular regard to privacy, light and outlook; b) whether the proposal would provide satisfactory living conditions for future occupiers, having particular regard to privacy and outlook; c) the effect of the proposal on the character and appearance of the area; and d) the effect of the proposal on highway safety.

Reasons

Living conditions

6. 228 Church Lane (No 228) includes a 2 storey building which lies in a row of similar terraced properties with commercial uses at ground floor and residential accommodation above. There are a range of existing outbuildings of varying scale and designs to the rear of the properties, accessed by an existing shared service road to the rear of the site. This arrangement creates an ad hoc and varied street scape to the rear of the properties. The proposal includes the demolition of an existing large flat roofed storage building to the rear of the property and its replacement with a 2 storey dwelling, as well as internal works and alterations to the fenestration to the existing building. This would enable pedestrian access to the proposed dwelling from Church Lane through the existing building at No 228.
7. The proposed 2 storey dwelling would be sited to the rear of the existing property at No 228. To protect privacy the Brent Design Guide Supplementary Planning Document 1 2018 (the SPD) normally requires a minimum separation distance of 18 metres between directly facing habitable windows. However, in this instance the windows in the front elevation of the proposed dwelling, which would face the rear of No 228 are high-level such that they would not provide an outlook. The existing dwelling would therefore not be immediately apparent to occupiers of the proposed dwelling from inside the building and there would be no loss of privacy for existing occupiers.
8. The outlook from the 2 first floor bedroom windows in the flat at No 228 would be directly towards the proposed dwelling, with a separation distance, according to the Council, of over 10m. The windows would look towards the second floor of the proposed dwelling. As a result of the separation distance between the buildings, as well as the height and scale of the proposed dwelling, this arrangement would maintain an appropriate degree of openness between the existing and proposed buildings. Therefore, the proposal would not have an overbearing effect on the outlook from windows in the first floor flat at No 228. Furthermore, given the greater separation distance between the proposed dwelling and the residential properties in Church Drive to the rear, the proposal would not harm the living conditions of those occupiers through loss of light, outlook or privacy, including to rear gardens.
9. I have had regard to the Inspector's findings in appeal decision APP/T5150/W/20/3262417 regarding a similar previous proposal (the previous appeal decision). However, the proposed new building was much closer to the rear of No 228 than the proposal before me now would be. As a result, I am not persuaded that the circumstances are sufficiently comparable for me to reach a similar conclusion.

10. For the reasons above I conclude that the proposal would provide satisfactory living conditions for future occupiers of the proposed dwelling and would not harm the living conditions of occupiers of the neighbouring properties, including No 228, having regard to privacy, light and outlook. Accordingly, the proposal would be in accordance with the National Planning Policy Framework which requires that development has a high standard of amenity for existing and future users. Furthermore, it would not conflict with guidance in the SPD in so far as it seeks to ensure that development achieves a good level of privacy within buildings and private outdoor space.

Character and appearance

11. The proposed dwelling would be 2 storeys high and so would be taller than some of the single storey outbuildings to the rear of the properties. However, it would not be dissimilar to other larger scale taller outbuildings nearby, which have a noticeable presence when viewed from the service drive. The proposed dwelling would be unimposing and utilitarian in appearance, it would be constructed with brick walls which would reflect the front elevation of No 228 and other outbuildings in the vicinity. Although the windows to the elevation facing No 228 would be small, given their location they would not have prominence in the street scene or the local area. Furthermore, given that there is no clear uniformity in the appearance of the outbuildings, the building itself would not appear unusual in terms of its design and scale in this context. Moreover, the siting of the proposed dwelling, being set back from the service road and in from the side boundary, would ensure the development would not appear unduly cramped.
12. For these reasons, I conclude the development would be sympathetic to and would not detract from the character and appearance of the area. In that regard it would accord with Policies DMP1 and BD1 of the Brent Local Plan 2022 (LP), which seek among other things, to ensure that development is of high quality and complements the locality and advice in the SPD in so far as it relates to achieving good design.

Highway Safety

13. The Council suggests that parking along Church Lane is at a premium due to the location of the pedestrian crossing and high demand for parking by visitors to the commercial units on Church Lane and I have no grounds to disagree.
14. While I note the concerns of the Council regarding the site measurements, the amended plans indicate the provision of a commercial parking/servicing bay to the rear of the proposed dwelling, which would be accessed via the existing service road. Whilst the pedestrian access to the side of the building would be narrow and as a consequence would prevent the passing of large items, which would present a degree of uncertainty regarding practicality, it would nevertheless allow access to the rear of No 228 to enable servicing of the commercial premises. Therefore, I do not consider that there would be a need for servicing to take place from Church Lane. I note that the Inspector on the previous appeal decision found that arrangements could be made to access the rear service lane safely without significantly disrupting other vehicle movements along the lane. Although, more parking spaces were provided within that previous scheme, given the scale of the existing commercial use at No 228 and likely level of servicing, in the event that visiting servicing vehicles were to obstruct the lane this is likely to be occasional and transient and would

not give rise to significant inconvenience to other users. Therefore, while the previous appeal decision has not been determinative, it reinforces my findings on this proposal.

15. The proposal includes an area for the storage of refuse in the space between the buildings. The appellant has indicated that the existing arrangement for refuse collection would continue for future occupiers of the proposed development, with bins to be put out at the front of the property on Church Lane and collected by refuse vehicles. Although the access through No 228 would be narrow, from the submitted plans it appears that bins could continue to be placed at the front of the property on Church Lane. Any steps would be minimal and while inconvenient, not unsurmountable.
16. I find therefore that, in the absence of any evidence to demonstrate that the proposal would give rise to additional on-street parking and servicing, which would in turn harm pedestrian and highway safety, the proposal is acceptable in that regard. Accordingly, the proposal would not conflict with LP policy BT3 in so far as it requires the provision of servicing and delivery facilities in all development and seeks to resist the loss of existing servicing.

Other Matters

17. Third parties have suggested there is no need for additional housing in the area having regard to the number of properties available to buy and rent, as well as existing housing developments under construction. The proposal would nevertheless make a contribution towards the Council's ongoing objective to maximise opportunities to provide additional homes in the period up to 2041, albeit modest.
18. I note concerns that the development would lead to additional activity in the area and in particular noise and disturbance from future occupants of the dwelling, and also in relation to the upkeep of the service road. However, there is no substantive evidence before me to demonstrate the proposed development would lead to an increase in activity or introduce types of activity such that it would harm the living conditions of occupiers of nearby residential properties. Furthermore, noise and dust during demolition and construction works, including deliveries could be controlled by a suitably worded condition.
19. The Council have not raised any concerns regarding highway safety in relation to vehicles accessing and egressing the site from Wood Lane and I have no reason to disagree with their findings.

Conditions

20. The conditions set out in the accompanying schedule are based on those suggested by the Council in their appeal statement should the appeal be allowed. The appellant was given the opportunity to comment on them. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
21. In addition to the standard condition relating to the commencement of development; it is necessary to specify the approved plans to provide certainty. In the interests of the living conditions of the occupiers of neighbouring properties and highway safety, it is necessary to impose a condition requiring the submission and approval of a construction method statement, to include

appropriate measures to be taken to control dust and noise. A condition to safeguard the parking/servicing area for use as such, is necessary to ensure the proposal would maintain acceptable servicing facilities for the commercial premises.

22. Conditions requiring details of the external materials, and landscaping and boundary treatment have been imposed to ensure the satisfactory appearance of the development and an adequate level of privacy for the occupiers of the proposed dwelling. The provision of the refuse storage prior to the first occupation of the dwelling is also to be secured by a condition. Whilst the plans show there is adequate space to provide cycle parking between the buildings, details of the design are required to be submitted to ensure the facilities would be fit for purpose.
23. The Council suggest a condition to require the dwelling to include sound insulation and noise reduction measures. However, given that it has not been demonstrated that the appeal site is located in an unduly noisy area, such a condition is not deemed necessary.

Conclusion

24. For the reasons set out above the appeal succeeds.

Emma Worley

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 hereby permitted shall be carried out in accordance with the following approved plans: GA300, GA301, GA302, GA303, GA304, GA305, GA306, GA307, GA308 (insofar as it relates to the siting of the building), GA309, GA310, GA311 and the unnumbered Proposed Ground Floor Plan Scale 1:50 at A3 dated May 2021.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. wheel washing facilities;
 - v. delivery, demolition and construction working hours; and
 - vi. measures to be taken to control dust and noise.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Prior to the first occupation of the dwelling hereby approved the parking/servicing space to the rear of the proposed dwelling, as shown on the unnumbered drawing 'Proposed Ground Floor Plan Scale 1:50 at A3 dated May 2021' shall be constructed and laid out in accordance with details to be submitted to and approved in writing by the local planning authority. The space shall be kept available for the parking of servicing vehicles visiting 228 Church Lane at all times.
- 5) Prior to the construction of the walls of the dwelling hereby permitted details of the materials to be used in the construction of the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby approved a scheme of landscaping and boundary treatment shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 7) Prior to the first occupation of the dwelling hereby permitted an area for the storage of bins shall be provided in accordance with the approved plans. The area shall thereafter be kept available for the storage of refuse.
- 8) Prior to the first occupation of the dwelling hereby permitted covered and secure cycle parking shall be provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The facilities shall thereafter be kept available for the parking of bicycles.