



Appeal Decision

Site visit made on 19 December 2022

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 04 January 2023

Appeal Ref: APP/T5150/W/22/3300049

294 Neasden Lane, London, NW10 0AD

- 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 Mrs Abigail Salehi against the decision of London Borough of Brent (the Council).
 - The application Ref 21/3703, dated 1 October 2021, was refused by notice dated 30 November 2021.
 - The development proposed is the demolition of rear garage and erection of detached single storey building to the rear to provide a self-contained residential unit with associated cycle parking and bin stores.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description of development to reflect that as provided within the Council's decision notice and as stated at section E of the appeal form, in the interests of accuracy and consistency.
3. In February 2022 the Council adopted a new Local Plan. Therefore, Policies DMP1, DMP18 and DMP19 of the Brent Development Management Policies Plan (2016), referenced within the decision notice, have been superseded by Policies DMP1, BH6 and BH13 of the Brent Local Plan 2019-2041 (the Local Plan). As the Council submitted copies of these new policies as part of this appeal, the Appellant has been provided with an opportunity to make a submission in respect of this adoption as part of the appeal process. Therefore, I have considered the appeal against the newly adopted Local Plan.

Main Issue

4. The main issue in this appeal is whether future occupants would be likely to experience acceptable living conditions in terms of external space provision, privacy, outlook, noise and disturbance.

Reasons

5. The appeal site comprises a three storey property with commercial spaces at ground floor, with the first and second floor providing two units of residential accommodation. To the rear of the property is a yard space and garage building. A service road is located immediately to the south of the site.

6. Planning history for the site confirms that a recent planning application for a different form of development concerning provision of a rear extension for creation of two units of accommodation, was refused by the Council in August 2021. The current appeal scheme seeks to construct a single storey one bedroom unit of accommodation in the yard space to the rear of the property, following demolition of the existing garage structure.
7. In terms of the provision of private outdoor space, Policy D6 of the London Plan (2021) (the London Plan) confirms that where there are no higher local standards in the borough Development Plan Documents, a minimum of 5 square metres (sqm) of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sqm should be provided for each additional occupant.
8. The development plan in Brent sets a higher standard for development in the borough with regards to external amenity space. Policy BH13 of the Local Plan provides that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs, and that private amenity space is normally expected to be 50 sqm per home for family housing (3 bedrooms or more) situated at ground floor level and 20 sqm for all other housing. The supporting text to this policy indicates that some flexibility would be considered depending on, amongst other matters, the site's proximity to other areas of open space, but also confirms that the calculation of external amenity space does not include any parking, cycle or refuse storage areas.
9. The evidence and submissions before me indicate that an external amenity space is to be provided at the site, and that the area for that amenity space would be approximately 13 sqm. However, and whilst noting the external space would be substantially less than that required by Policy BH13 of the Local Plan, the submitted proposed floor plans show that space being used for storage of bicycles and refuse bins. As such, when accounting for the space requirements in respect of refuse and cycle storage, the amount of proposed private external amenity space at the site would be further reduced.
10. The Appellant has put it to me that the amount of external space has been increased since the abovementioned recently refused planning application was determined, and that the site is within walking distance of Gladstone Park which would provide mitigation for the shortfall in provision as identified above. Whilst I acknowledge those matters, based on observations made on my site visit, I find that the distance to the abovementioned park would not provide sufficient mitigation for the substantial shortfall of private amenity space included within the appeal proposal. Whilst it may be the case that the amount of space has been increased since the previous planning application was determined, the appeal scheme would still provide substantially less space than the development plan policy requires.
11. With regards to outlook and concerns in respect of privacy, the appeal scheme proposes a bedroom to be served by a single window. That window would look out into the existing yard space, but would be positioned approximately one metre from a set of metal stairs which serve as access into the existing residential accommodation at 294 Neasden Lane.
12. Given the proximity of those metal stairs, it is likely that future occupants of the appeal scheme would experience unacceptable loss of privacy from

residents at 294 Neasden Lane passing by that bedroom window in order to access their accommodation. Access to and use of the metal stairs by existing residents is further likely to result in unacceptable levels of noise and disturbance for future residents of the scheme.

13. Further to the above, the proximity of those metal stairs and the adjacent boundary wall to the rear of 294 Neasden Lane would have a significant enclosing and overbearing effect, and which, in my view, would result in unacceptable harm to the outlook for future residents. Similarly, outlook from the side window serving the kitchen at the appeal scheme would be restricted given its proximity to the boundary wall, with outlook to the rear being dominated by cycle and refuse bin storage areas.
14. In summary of the above, I conclude that the appeal proposal would be harmful to the living conditions of future residents in respect of external amenity space provision, outlook, disturbance and loss of privacy. Consequently, the proposed development would conflict with Policy D6 of the London Plan and would be contrary to Policies DMP1, BH6 and BH13 of the Local Plan which, together and amongst other matters, requires that development provides a high quality environment and for external private amenity space to satisfy the needs of occupiers of that development.
15. The Appellant has put it to me that the amount of external space for the scheme could be increased by reducing the amount of internal space to be provided. Whilst that is noted, there are no plans or details before me as to that amended scheme. As such, this appeal has been determined on its own merits and based on the application that was before the Council.
16. Furthermore, whilst I note the Appellant's contention that windows serving the bedroom and kitchen area could be raised, I have not been provided with any details or plans that could be considered in that respect and, in my view, it is likely that by raising the window levels or reducing their scale, that would not improve the position with regards to unacceptable outlook for future occupants.
17. The Appellant also maintains that the proposed accommodation would represent affordable housing and that the scheme would be occupied by a relative. However, planning permission would run with the land and circumstances such as ownership could change. Furthermore, whilst noting the small scale nature of the proposal, there is no evidence before me that the proposal would accord with the definition of Affordable Housing as provided within the National Planning Policy Framework, and there does not appear to be any mechanism before me which would secure the resulting dwelling as affordable housing in perpetuity.
18. The proposed development would conflict with the development plan when considered as a whole, and I attach significant weight to that conflict in the determination of this appeal. Whilst the proposal would provide an additional unit of accommodation and would generate some economic benefit during the construction phase and through the spend of future residents within local businesses, those benefits of the scheme, which are cumulatively modest benefits by reason of the scale of proposed development, would not outweigh the identified harm and associated development plan conflict.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR