



Appeal Decision

Site visit made on 24 January 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2023

Appeal Ref: APP/T5150/W/22/3299035

272 Dollis Hill Lane, London NW2 6HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Abbas Datoo, Firova against London Borough of Brent.
 - The application Ref 22/0276 is dated 21 January 2022.
 - The development proposed is demolition of existing four bed house and construction of eight flats over two storeys and an attic floor.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Abbas Datoo, Firova against the London Borough of Brent. This application is the subject of a separate Decision.

Preliminary Matters

3. In February 2022, the Council adopted the Brent Local Plan 2019-2041 ('BLP'). Therefore, the policies of the Brent Development Management Policies Plan (2016) have been superseded. I have proceeded with the appeal on this basis having regard to the available evidence.

Background and Main Issues

4. There is no formal decision from the Council. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan unless material considerations indicate otherwise. I have determined the appeal on the submitted evidence.
5. The proposal was submitted following a formal pre-application with the Council. A summary of this is provided in the Design and Access Statement. Based on this and a response from the Council to the applicant dated 1 April 2022, in which it broadly outlined the reasons for why the application could not be supported, I consider the main issues to be:
 - i) The effect of the proposal on the character and appearance of the area;
 - ii) The quality of the proposed amenity space for residents of the development;

- iii) The effect of the proposal on a London Plane, street tree located along Coles Green Road; and,
- iv) Whether or not the proposal makes adequate provision for affordable housing.

Reasons

Character and appearance

- 6. The appeal site comprises a four-bed, two storey detached dwelling, occupying a large prominent corner plot with good sized front, side and rear gardens.
- 7. Whilst the appeal property has been extended, its principal elevation along Dollis Hill Lane is viewed in the context of a row of two-storey dwellings, immediately to the east of it. These are of a similar height and feature similar projecting hipped gables as the appeal property. As such, the appeal property is part of a cohesive street scene.
- 8. The proposed building would occupy an appreciably larger footprint than the extant property. In plan form this would be consistent with the building line along Dollis Hill Lane and reflects the varied arrangement of buildings along Coles Green Road. However, in part, the building would also be taller to accommodate the attic accommodation. Because of this and its location, the new building would be particularly prominent.
- 9. Moreover, the Dollis Hill Lane elevation of the building incorporates a fairly plain entrance which is flanked by a traditional turret feature on one side and a larger contemporary projecting feature gable incorporating balconies on the other, and a further smaller and recessed gable feature. Consequently, this elevation appears cluttered and discordant. Furthermore, the design of the building incorporates a range of roof styles which appear contrived.
- 10. I do not consider the individual elements of the design unacceptable in themselves. Nonetheless, together these give the proposed building a disjointed and pastiche appearance. It is unclear how the overall design references or reinterprets local architecture and is designed to complement the area.
- 11. For the above reasons, the proposed building would fail to assimilate with the area and would appear strident. This harmful effect would be exaggerated by the buildings prominent siting. Consequently, the proposal would conflict with the design aims of Policy BD1 of the BLP which requires that all new development is of the highest architectural and urban design quality and Policy DMP1 which states that development would be acceptable provided it is if a location, use, concentration, siting, layout, scale, type, density, materials, detail and design that provides high levels of internal and external amenity and complements amenity.

Living conditions (amenity space)

- 12. Although the proposed private amenity spaces would be in line with Policy D6 of the London Plan, this Policy is clear that these standards should be applied where there are no higher standards in the Borough Development Plan Documents.

13. In this case, Policy BH13 of the BLP expects all new dwellings to incorporate external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. This is normally expected to be 50m² per home for family housing (3 bedrooms or more) situated at ground floor level and 20m² for all other housing.
14. The two dwellings on the ground floor incorporate external private amenity space of about 83m² (Unit 02) and 103m² (Unit 01). These meet the Council's amenity space requirements for this type of family housing.
15. However, the 6 other dwellings would not incorporate the required 20m² of external private amenity space. Nevertheless, the supporting text to Policy BH13 of the BLP does provide some flexibility in that where sufficient private amenity space cannot be achieved individually for each dwelling to meet the full requirement of the Policy, the remainder should be supplied in the form of communal amenity space. However, in such cases, the quality of any communal space needs to be particularly high to show it can meet residents' needs.
16. The scheme incorporates about 106m² of communal amenity space. This would be located at ground floor to the fore of the proposed building and therefore would not be particularly accessible from upper floor accommodation.
17. Moreover, in relation to the development, the communal amenity space would be near the entrance and pedestrian access to the building and circulation areas associated with external storage facilities, which would compromise the quality of this space.
18. In particular, the communal amenity space would be adjacent to the highway, the boundary along here would comprise a low wall and railings and some planting. As such, this area would be overlooked by highway users, including those using the nearby bus stop. This area is also exposed to noise and pollution associated with passing vehicular traffic.
19. Also, given that the appeal site occupies a generous plot and the proposal is for a new development, there are no clear reasons why a scheme cannot be designed to meet the Council's external private space requirements.
20. Drawing on the above reasons, the proposed private communal amenity space would not to be of an acceptable quality. As such, the proposed scheme lacks sufficient private and/or communal amenity space in terms of quality to meet the needs of those residents occupying the upper floor accommodation. Therefore, the proposal would fail to provide a high level of amenity for those residents and conflicts with the aims of Policy BH13 of the BLP. The proposal also conflicts with Policy DMP1 which aims to secure high levels of external amenity.

Street tree

21. A mature London Plane street tree is located close to the site along Coles Green Road. Based on my observations, this tree is leaning towards the appeal site.
22. The appellant advises that the crown of this tree encroaches approximately 3.5m into the site from the site boundary and that the proposed building is set back over 4m from the boundary to avoid any crown thinning. Also adding that

the most forward part of the crown of the tree closest to the proposed building, faces a blank flank wall. Even so, the tree is likely to have roots near the location of the proposed building which could be impacted on by the foundations associated with such a sizeable building. Also given the extent of the canopy this may impact on the proposed balcony areas necessitating works to the tree in the future. Therefore, in the absence of any technical evidence I cannot be certain that the proposal would not adversely affect this tree during construction or post development.

23. Indeed, Policy BGI2 of the BLP states that where development could affect existing trees adjoining a site, a tree survey should be provided.
24. Nevertheless, if the appeal were to succeed, then a tree survey could be required as a pre-commencement condition to ensure that the effects of the proposal would not be to the detriment of the adjacent street tree and therefore the proposal could be made to comply with Policy BG12 of the BLP.

Affordable housing

25. Policy BH5 of the BLP requires that developments of between 5-9 dwellings will be required to make a financial contribution for the provision of affordable housing offsite.
26. The proposed development would provide 8 new dwellings. These would be subject to a contribution towards offsite affordable housing based on a tariff of £50,000 per dwelling. This necessitates a policy compliant affordable housing contribution of £400,000.
27. The actual wording of Policy BH5 of the BLP does not provide any flexibility to the above affordable housing requirements. Indeed, the supporting text to this Policy highlights that the number of homes needed to meet Brent's affordable housing requirements are significant.
28. Moreover, paragraph 4.17 of the Council's 'Planning Obligations Supplementary Planning Document - In support of the Brent Local Plan 2020-2041' June 2022, states that the Council commissioned a study to advise on an appropriate contribution which would not impact upon viability. It is therefore assumed that the proposed tariffs will be viable in most cases. However, this document recognises that there may still be some exceptional instances where site specific circumstances result in the financial contribution requiring adjustment. In such cases, the applicant would need to provide a Viability Assessment to evidence their proposed deviation from the obligation.
29. To establish if the affordable housing requirement can be viably delivered, the appellant has provided an 'Affordable Housing Viability Report.' This report shows a viability deficit at -£92,758 based on the standard level of developers return at 18% of Gross Domestic Value. This report further adds that accounting for the deficit the developer would actually be returning 14.8%, this would allow the development to come forward as all costs are funded but the level of return is at the lowest end of the range in the guidance and so no surplus is available to viably support any financial contributions.
30. Therefore, based on the submitted appraisal and in the absence of any evidence to the contrary, the proposal cannot support a financial contribution towards affordable housing. Even so, the proposal would be in conflict with the

requirements of Policy BH5 of the BLP and given the significant need for affordable housing, such conflict attracts considerable weight.

Other Matters

31. I am aware that the proposal was amended following pre-application advice. Nonetheless, I have considered the scheme on its planning merits and found it to be unacceptable for the above reasons.
32. I note that Policy BH4 of the BLP supports small housing developments delivering a net addition of self-contained dwellings through the more intensive and efficient use of sites, where this is consistent with other policies in the development plan, which is not the case here.
33. The proposal would deliver a range of much needed housing in a location which has good accessibility. Nevertheless, this and the other benefits associated with the proposal do not outweigh the harm and conflict with the development plan, I have identified.

Conclusion

34. I have found that any impacts on the street tree could be managed by requiring a tree survey. On the other hand, the proposal would harm the character and appearance of the area. Also, the quality of the proposed accommodation would be unacceptable with regard to the provision of private amenity space for most of the dwellings. Although justified, the lack of a financial contribution for affordable housing weighs against the proposal. For these reasons and conflict with the development plan, I conclude that the appeal should be dismissed and planning permission is refused.

M Aqbal

INSPECTOR