



Appeal Decision

Site visit made on 15 February 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Appeal Ref: APP/T5150/W/22/3306272

153 Anson Road, Brent, London NW2 4AL

- 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 Mohamed Zand Farid against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/1770, dated 13 May 2022, was refused by notice dated 22 July 2022.
 - The development proposed is demolition of existing garage and storage and erection of 1 x one bedroom dwelling house.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Mohamed Zand Farid against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area.
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with regard to floor-to-ceiling height and outlook.
 - The effect of the proposed development on the living conditions of neighbouring occupiers at No 151 Anson Road, with regard to overbearing.

Reasons

Character and appearance

4. The appeal site comprises land to the rear of 153 Anson Road, which is a detached dwelling that has been converted to flats on the corner of Anson Road and Gardiner Avenue. The surrounding area is predominantly residential, comprising mainly of traditional detached and semi-detached 2-storey dwellings.

5. The site is currently occupied by a detached garage, which sits to the rear of the garden of 153 Anson Road and adjacent to 1 Gardiner Avenue. The garage is accessed from Gardiner Avenue, a small cul-de-sac comprising dwellings that are characteristic of the surrounding area. Two similar cul-de-sacs, Henson Avenue and Tracey Avenue, lie to the west of the site and are also accessed from Anson Road.
6. The proposed development would introduce a new self-contained single-storey dwelling to the site. Its front elevation would face Gardiner Avenue. Vehicular access would be provided via the existing dropped crossing serving the garage. The front elevation would be staggered, with the part closest to 1 Gardiner Avenue being stepped back from the building line of the existing garage, to provide an off-street parking area. The remainder of the front elevation would be stepped closer to the boundary with the highway.
7. Though close-boarded fencing would be retained along much of the highway boundary, the massing of the proposed new dwelling would be prominently visible above this. Coupled with the footprint of the proposed dwelling, which would cover a significant portion of the rear garden of 153 Anson Road, the resulting development would appear uncharacteristic and unduly dominant in the context of the surroundings. Its layout and scale would not reflect the built form of neighbouring dwellings or their associated outbuildings, and accordingly it would appear as an isolated and incongruous structure in the streetscene.
8. I note the example cited by the appellant of the dwelling at 11 Tracey Avenue, to the rear of 179 Anson Road, granted planning permission under application Ref 13/2269. However, I have been provided with limited substantive details of the planning decision. I observed 11 Tracey Avenue as part of my site visit, and noted some similarities with the appeal subject, particularly the siting at the entrance to a similar cul-de-sac. However, there are key notable differences, including the scale and design of the buildings, the size and shape of the respective plots, and the relationship with the closest neighbouring dwellings. I also note the example cited at 116 Anson Road, though this relates to what appear to be an original block of garages, and not a new dwelling. Accordingly, I have given these examples limited weight in my decision.
9. For the above reasons, I conclude that the proposed development would result in harm to the character and appearance of the area, which would conflict with Policy D3 of The London Plan (2021) (the LP2021), and Policies BH2 and BH4 of the Brent Local Plan 2019-2041 (Adopted February 2022) (the BLP). Together these policies seek, among other objectives, to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, to deliver housing in growth areas and priority locations with high public transport accessibility, and to deliver housing on small sites where consistent with other policies in the development plan. The Council's reason for refusal also refers to Policy H1 of the LP2021 and Policy BH1 of the BLP, which together seek to increase housing supply. Whilst I find no conflict in respect of these policies, this would not overcome the conflict with the development plan as a whole.

Living conditions of future occupiers

10. Policy D6 of the LP2021 sets minimum standards that all new housing developments are required to meet. Among the requirements are a minimum

floor-to-ceiling height of 2.5 metres for at least 75% of the gross internal area of each dwelling.

11. The proposed development would provide a maximum floor-to-ceiling height of 2.4 metres, with some parts of the interior falling below this. I acknowledge the reference within the supporting text to Policy D6 that this requirement is, in part, to counter the urban heat island effect in developments containing flats. However, the policy is clear that the standards are to be applied to all self-contained residential developments. These standards also fulfil other critical purposes, such as ensuring adequate circulation space and that ceiling heights do not cause an obstruction. Accordingly, the policy requirement remains fully applicable in this case and failure to meet it would result in unsatisfactory living conditions for occupiers.
12. The main sources of outlook for the proposed development would be from the large floor-to-ceiling windows serving the living/dining room and bedroom, on the front elevation facing Gardiner Avenue. Outlook from these windows would be on to the narrow external amenity area, which would be enclosed by close-boarded fencing. Whilst the fencing would ensure privacy for the dwelling, its height and proximity to the windows serving the main living areas would result in a poor standard of outlook for occupiers.
13. For the above reasons, I conclude that the proposed development would fail to provide acceptable living conditions for future occupiers by way of inadequate floor-to-ceiling heights and outlook, which would conflict with Policy D6 of the LP2021 and Policy BH4 of the BLP. Together these policies seek, among other objectives, to set specific design standards for all self-contained housing developments, and for housing developments on small sites to be consistent with other policies in the development plan.

Living conditions of neighbouring occupiers

14. The proposed development would be located to the rear of the existing garden serving No 153. Part of the rearmost section of the building would sit adjacent to the boundary with No 151 Anson Road, though the majority of the elevation facing this boundary would be stepped back, albeit only by approximately 1 metre.
15. Whilst I acknowledge the proposed development would conflict with the guidance in the Residential Extensions & Alterations SPD2 (January 2018) (the REASPD) with regard to the height of outbuildings, I have attached only moderate weight to this, insofar as it relates to outbuildings rather than new dwellings, and provides only guidance that does not form part of the development plan. Whilst the proposed building would be taller than the garage it replaces, a reasonable separation distance would be retained from the rear windows of No 151. Furthermore, much of the structure would be stepped away from the boundary, and though the structure would remain visible above the boundary fence, this separation would reduce the effects of its massing for those enjoying the garden of No 151. Accordingly, I do not find the proposed development would lead to specific harm to the living conditions of the adjoining occupiers.
16. For the above reasons, I conclude that the proposed development would have an acceptable effect on the living conditions of the adjoining occupiers at No 151 Anson Road and would not lead to overbearing, which would accord with

Policy D3 of the LP2021 and Policy DMP1 of the BLP. Together these policies seek, among other objectives, to deliver appropriate outlook, privacy and amenity, and not unacceptably increase pollution and general disturbance. Though the proposed development would conflict with the guidance in the REASPD, the weight I attach to this would not outweigh my findings in relation to the development plan, which has primacy.

Planning Balance

17. With regard to the Housing Delivery Test (the HDT) set out in Footnote 8 of the National Planning Policy Framework (the Framework), the appellant states that the Council's record of housing delivery for the past 3 years has fallen substantially below its targets. There is no definitive agreed position between the main parties on this matter.
18. Where the HDT indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years, Paragraph 11 d) of the Framework directs that the relevant development plan policies which are most important for determining the application must be considered out-of-date, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. For the reasons previously identified, the proposed development would conflict with the development plan as a whole, based on harm to the character and appearance of the area and the living conditions of future occupiers. For the same reasons, the proposals would conflict with Paragraph 130 of the Framework, which requires, among other objectives, that developments function well and add to the overall quality of the area, are visually attractive, are sympathetic to local character and the surrounding built environment, and provide a high standard of amenity for existing and future users. This conflict carries significant weight.
20. The Framework emphasises the Government's objective to significantly boost the supply of housing. I also note the benefits identified by the appellant that contribute to the three strands of sustainable development in economic, social and environmental terms. Whilst the site does not fulfil the development plan definition of a 'priority location', the proposed development would deliver a new dwelling in a reasonably accessible location. It would also deliver contributions to local spending, and employment opportunities through the construction phase. Whilst I recognise these benefits, the proposed development would make only a modest contribution of a single unit, and accordingly I attach only limited weight to the benefits it would provide.
21. For the above reasons, even if I were to conclude that the Council has failed to meet the HDT and Paragraph 11 d) of the Framework were engaged, the adverse impacts of allowing this appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I therefore do not find the proposals would deliver sustainable development for which the presumption in favour would apply.

Conclusion

22. For the above reasons, taking account of the development plan as a whole, the Framework and all other matters raised, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR