



Appeal Decision

Site visit made on 14 June 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2023

Appeal Ref: APP/T5150/W/22/3307923

46 Girton Avenue, Brent, London NW9 9SU

- 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 Navin Khetani against the decision of London Borough of Brent.
 - The application Ref 22/2251, dated 23 June 2022, was refused by notice dated 23 August 2022.
 - The development proposed is erection of a single storey rear extension, first floor side to rear extension and the conversion of the property into two flats (1 x 3 bed 5 person, and 1 x 2 bed 3 person) including private amenities, cycle storage, refuse storage and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey rear extension, first floor side to rear extension and the conversion of the property into two flats (1 x 3 bed 5 person, and 1 x 2 bed 3 person) including private amenities, cycle storage, refuse storage and parking at 46 Girton Avenue, London NW9 9SU in accordance with the terms of the application, Ref 22/2251, dated 23 June 2022, and the plans submitted with it, subject to the following 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: BR21-180a-FRA-01 Proposed Soak Away; BR22-068a Existing Elevations; BR22-068a Existing Floor Plans; BR22-068c Proposed Floor Plans Option 1; BR22-068d Proposed Elevations; BR22-068e Existing & Proposed Roofplan; BR22-068f Existing and Proposed Sections; BR22-068g Proposed Site Plan; BR22-068h Site Location Map.
 - 3) The external surfaces of the extensions hereby permitted shall be carried out in materials that match the external surfaces of the existing building.

Main Issue

2. The main issue is whether the proposal would meet the requirements of Policy BH11 (c) of the Brent Local Plan 2022- 2041 which seeks to protect family sized dwellings where they are located in areas with poor levels of public transport accessibility.

Reasons

3. 46 Girton Avenue is a modestly sized 3-bedroomed end of terrace property located on the corner of Girton Avenue and Eden Grove. The proposal involves the extension and conversion of the property to create a one 3-bedroomed flat at ground floor and a 2-bedroomed flat at first and second floors.
4. The appeal property is located in an established residential area. The majority of dwellings have off-street parking on their own private forecourts. Due to forecourt parking generally taking up the full width of plots in this section of Girton Avenue little on-street parking is evident.
5. The appeal scheme is for the conversion of a family sized dwelling to two independent residential units in an area with a Public Transport Accessibility Level (PTAL) rating of 1b. Brent Local Plan 2022 (BLP) Policy BH11 seeks to resist the conversion of family sized dwellings to flats except in certain circumstances including where the site is located within an area with a PTAL rating of 3 or above. The proposal would comply with the first two requirements of BLP Policy BH11 in that the extended property would have floorspace in excess of 130m² and would result in a 3-bedroomed dwelling with direct access to a garden. Although the proposal would not comply with part (c) of BLP Policy BH11, the reasons for this requirement are not set out in the BLP.
6. Some local services including convenience shops, hot food takeaways, restaurants, bus stops and an underground station at Queensbury are within a short walking distance (approximately 7 minutes) of the appeal site, supermarkets and other major shops are a little further away on Cumberland Road. From my own experience the appeal site was within a relatively easy and short walking distance of these shops and services. Further bus stops are a 5-minute walk away along Eden Grove at Princes Avenue. Although the appeal property is located within an area which is rated as being poorly served by public transport, in reality it is located within a reasonable distance of shops and services.
7. The proposal would provide adequate off-street parking for two cars in line with the Council's parking requirements. No substantive evidence has been presented to me that the area suffers from high levels of parking stress and no parking stress was evident on my site visit. Furthermore, secure cycle parking for the units would be provided in line with the requirements of London Plan Policy T5.
8. Although the proposed development would be located in area with a low PTAL rating, no material harm would arise as a result. Therefore, I conclude that although there is conflict with part (c) of BLP Policy BH11 it would not result in the loss of a larger family sized dwelling, nor would it result in dwellings which are substandard in the provision of amenities for future occupiers. No conflict with BLP Policy DMP1 which seeks, amongst other things, to ensure that development provides high levels of internal and external amenity and does not have an adverse impact on the movement network. Furthermore, there would be no conflict with BLP Policy BH4 which seeks to ensure that small housing developments within priority locations provide an efficient and intensive use of sites.

Conditions

9. I have considered the Council's suggested conditions in the light of the the tests set out in the Framework and the advice in the Planning Practice Guidance and agree that as well as the standard time limit, a plans condition is necessary and reasonable in the interests of certainty. Furthermore, it would be reasonable to impose a materials condition in the interests of the appearance of the area.
10. I have considered the Council's suggested condition for the removal of permitted development rights at the appeal property. However, as the proposal is for flats, this would not be necessary and therefore fails the tests for conditions. I have also considered the Council's suggested condition requiring further landscaping details for the front garden of the appeal property. I have not been provided with a policy imperative for the inclusion of such a condition and given proposed scheme and the overriding character and appearance of the Avenue, I do not consider the condition necessary.

Conclusion

11. Planning law¹ requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Planning Practice Guidance advises that a material planning consideration is one which relevant to making the planning decision in question. In coming to my decision, I have had full regard to the conflict with Part (c) of BLP Policy BH11. This conflict carries considerable weight in the determination of the appeal.
12. However, for the reasons given above, having considered the development plan as a whole and all relevant material considerations, although the proposal would conflict with the development plan there are material considerations that justify a departure from it and lead me to conclude that the appeal should be allowed.

K L Robbie

INSPECTOR

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004