



Appeal Decision

Site visit made on 13 June 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2023

Appeal Ref: APP/T5150/W/22/3310706

223 Oakington Manor Drive, Wembley, Brent HA9 6ND

- 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 David Normoyle against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/1977, dated 4 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is demolition of existing garage to create a 2 storey new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The site visit was arranged as an 'access required site visit'. However, neither the appellant nor their agent were present when I arrived at the site during the pre-arranged period. Nevertheless, I was able to carry out an unaccompanied site visit as I was able to see all I needed from public land. The parties were subsequently informed of this.

Main Issues

3. The main issues are:
 - Whether the proposed development would be consistent with local policies relating to the location of new housing development, having regard to accessibility to public transport and local services;
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - Whether the proposed development would provide adequate living conditions for future occupiers with regard to light, access to outdoor amenity space and fire safety; and
 - The effect of the proposed development on the living conditions of the existing occupiers of 223 and 225 Oakington Manor Drive and 106 Victoria Avenue with regard to outlook and privacy;
 - The effect of the development on flood risk and biodiversity.

Reasons

Location of Development

4. Policy BH4 of the Brent Local Plan 2022 (BLP) supports small housing developments through the more intensive and efficient use of sites, subject to consistency with other policies in the development plan and specifically within the priority locations of Public Transport Accessibility Levels (PTAL) 3-6, intensification corridors, or a town centre boundary. The aim of the policy is to support new housing in areas with good access to public transport and local services. Areas with PTAL ratings of 3-6 are likely to be better served by public transport and thus more sustainable, in terms of reducing reliance on the private car with its associated impacts, such as air quality.
5. The appeal site has a PTAL of 0. It is not therefore within a PTAL 3-6 location, nor is it located in an intensification corridor, or within a town centre boundary. A new dwelling in this location would therefore be likely to lead to higher levels of dependency on the private car, which is contrary to the Government's aim of moving to a low carbon economy set out in the National Planning Policy Framework. Whilst BLP Policy BH4 does not prohibit such development outside of these areas, it supports the development of small sites, such as the one before me, only where the proposal would be consistent with other policies in the development plan, and places greater weight on accessibility to public transport and social infrastructure within easy reach on foot.
6. The appeal site is around thirteen minutes' walk to Wembley Stadium Underground Station where there is a neighbourhood centre offering a small range of shops and services. Whilst cycle storage would be provided as part of the proposal, thereby satisfying the requirements of London Plan (LP) Policy T5, I am not convinced that this would be sufficient on its own, given the site's very low PTAL rating, to wholly mitigate dependency on private car transport and therefore would not dissuade residents from owning and using a vehicle for their day-to-day needs.
7. The development is not in an acceptably accessible location to be suitable for residential development and would, as a result, conflict with BLP Policy BH4 which seeks to direct development towards accessible locations, intensification corridors and town centres. There would also be conflict with BLP Policy DMP1 which seeks to ensure development is located where it is provided with the necessary physical and social infrastructure.

Character and Appearance

8. The proposal would be located on a plot of land made up of a portion of the rear garden of 223 Oakington Manor Drive (No. 223) and currently accommodates a detached single garage. The proposed dwelling would face towards and gain access from Victoria Avenue. The houses on this part of the Avenue are predominantly made up of short rows of 2 storey terraced housing with small, curved bay and gable features on their front elevations. Due to their terraced nature, the houses form a strong front building line. The proposed dwelling would be viewed within the context of these properties rather than those on Oakington Manor Drive.
9. Whilst the design of the proposed dwelling in terms of its front gable feature would be generally in keeping within its surroundings, it would stand forward of

the properties on the Avenue by a considerable distance. As a result, it would appear as an incongruous feature in the street scene at odds with the prevailing pattern of development. Moreover, the dwelling's diminutive height in relation to the adjacent terrace would appear at odds with the adjacent property at 106 Victoria Avenue (No. 106).

10. Therefore, the proposal would, as a result of its siting fail to represent the high standard of design and layout which is expected of development and promoted by BLP policies DMP1 and BD1 to ensure that development in the Borough complements its locality.

Living Conditions – Future

11. The proposed dwelling would have small garden areas on three sides which would be accessed via a patio window to one side. The overall quantum of space would be in line with that required by BLP Policy BH13 for a dwelling of this size. It would, however, be significantly smaller than the majority of other gardens in the locality.
12. Moreover, its configuration would mean that whilst it may be possible to sit out in the space provided. It could also be used to dry washing or for children to play or for a shed to store a lawnmower or other outdoor equipment occupants might reasonably be expected to own. It is unlikely, however, that future occupiers would be able to use the space with the flexibility expected of, or inherently required of good quality housing. Furthermore, the orientation of the space, its proximity to the dwelling and high boundary fencing would be mean that it would be likely to be in shade for much of the day, especially during the winter months. The layout of the external space would therefore provide inadequate quality of amenity which would be expected for the size and type of dwelling proposed.
13. Furthermore, the outlook from the rear ground floor of the proposed dwelling would be directly onto the boundary fence at very close quarters. The appellant states that the windows in the rear elevation would be served with acceptable levels of sunlight and daylight, although I have not been provided with any substantive evidence to demonstrate this. Nevertheless, the proposed high fences on three sides of the plot would result in a sense of enclosure which would be unduly oppressive, which given the rear elevation's east facing orientation would be likely to result in this side of the house being gloomy at the very least. The result would be a poor outlook for future occupiers.
14. I recognise that there is green space close by which could be utilised by occupiers of the dwelling for some recreational purposes. However, that is not a reason not to provide adequate private amenity space as part of the development.
15. London Plan Policy D12 requires that all development must achieve the highest standards of fire safety. The requirement to submit a Fire Statement is, however, confined to major development and therefore is not relevant in this case. Whilst no statement has been submitted with the appeal, I have not been presented with any substantive evidence why this could not be dealt with by way of condition had the appeal been allowed.
16. I conclude that the proposal would fail to provide appropriate living conditions for future occupiers of the proposed dwellings with respect to the provision of

external amenity space. Consequently, it conflicts with Policy BLP Policy BH13 which seeks to ensure that residents are provided with sufficient private amenity space for their needs. The supporting text for which explains that outdoor space should take maximum advantage of daylight and sunlight. There would also be conflict with London Plan Policy D6 which seeks to ensure that the usability of outside space is maximised, and that new development is provided with sufficient daylight and sunlight appropriate for its context. There would however be no conflict with London Plan Policy D12 with regard to fire safety.

Living Conditions – Existing

17. The proposal would be located very close to the boundaries of the neighbouring properties. Brent's Design Guide Supplementary Planning Document 2018 (SPD) provides guidance on acceptable height of buildings in relation to neighbouring properties and employs a 45° rule of thumb to protect the living conditions of neighbouring occupiers with regard to outlook. As the proposal would breach this line, it would not comply with the guidance set out in the SPD. Due to the close proximity of the proposed dwelling to the boundary of No.223 it would appear as an overly oppressive and dominant feature having an overbearing effect on the outlook from the back garden for the occupiers of that property.
18. The proposed dwelling would be located approximately west of the garden of 225 Oakington Manor Drive. As a result of the proposal's proximity to the boundary it would also break the 45° line advocated in the SPD. However, given the orientation of the proposal to No.225 itself it would not result in a poor outlook from the dwelling for its occupiers. Whilst the proposal may result in some overshadowing of the garden of No. 225, I have not been provided with any substantive evidence that it would cause a significant loss of either daylight or sunlight to the garden as a whole.
19. Although the proposal would break the 45° rule on the boundary of No.106, the relationship of the proposal with this property would be a more conventional one within a row of detached houses, it would therefore not lead to any reduction in the living conditions of occupiers of that dwelling.
20. The appeal proposal would have no windows at first-floor level in the rear elevation facing either No. 106 or No. 225 and only one small window with obscured glazing in the side elevation facing No. 223. As a result, there would be no overlooking of the gardens of neighbouring properties as a result of the proposal. The proposed high-level fence around the perimeter of the appeal site would mean that no overlooking would occur from ground floor windows. The proposal would therefore not lead to any undue loss of privacy for the occupiers of the three neighbouring properties.
21. Whilst there would be no unacceptable effect on the living conditions of the occupiers of No. 225 and No. 106 with respect to outlook, privacy and light, and No. 223 with regard to privacy, there would be an unacceptable loss of living conditions of No. 223 with regard to outlook. The proposal therefore fails to accord with BLP Policy DMP1 which amongst other things seeks to secure a high level of amenity for neighbouring occupiers.

Flood Risk and Biodiversity

22. The council refers to the lack of information on sustainable drainage methods within their decision. I have not been made aware by either party that the site falls within an area which is at increased risk of flooding. I have not been provided with any substantive evidence that the development would not be able to connect to the main drain and sewer system and given the scale of the development and its location within an established residential area, it would be reasonable to presume that this would be possible. It would also be reasonable that a condition regarding surface water drainage could be imposed on any permission granted for the development. Therefore, the proposed development would not result in an unacceptable increased risk of flooding. There would therefore be no conflict with BLP Policies DMP1 and BSU1 which seek to, amongst other things, limit the increased risk of flooding.
23. The proposal involves the demolition of the garage to facilitate the construction of the proposed dwelling and the development of an area of land previously used as a domestic garden. No biodiversity net gain assessment has been submitted with the appeal. Whilst the site is not considered to be of high ecological value, it would result in the loss of some green space. BLP Policy BGI1 and London Plan Policy G6 expects developments to achieve a net gain in biodiversity. London Plan Policy G5, however, is not relevant in this case as it only refers to major development. Whilst no assessment has been submitted with the appeal, I have not been presented with any substantive evidence that biodiversity net gain could not be achieved on the site and why this could not be dealt with by way of condition. I therefore find no conflict with BLP Policy DMP1 or London Plan Policies G5 or G6 in this respect.

Other Matters

24. The appellant has drawn my attention to a 'tandem development' on St Michaels Avenue close by. Although the properties illustrated are at right angles to a property on Oakington Manor Drive, they appear to be original and not infill development and one of which appears to have been extended with a dormer and hip-to-gable roof alteration. As such a comparison is of limited relevance to the case before me and would not lead me to an alternative decision on the main issues as set out above.

Planning Balance and Conclusion

25. Whilst I recognise that the proposal would result in the provision of one dwelling and would represent an efficient use of land. However, given the scale of the development any contribution towards housing supply or mix would be limited and the weight that this carries in support of the proposal is reduced as a consequence. These factors are not therefore sufficient to outweigh the harm that I have identified above.
26. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise. Therefore, for the reasons set out above the appeal is dismissed.

KL Robbie

INSPECTOR