



Appeal Decision

Site visit made on 20 June 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2023

Appeal Ref: APP/T5150/W/23/3314710

Land adjacent Linden Lawns, Wembley HA9 8DQ

- 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 Magdy Mohamed against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3373, dated 29 September 2022, was refused by notice dated 24 November 2022.
 - The development proposed is erection of a pair of semi-detached dwellings together with parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development would harm the living conditions of the occupiers of No's 53 and 55 Dagmar Avenue (No's 53 and 55) with particular regard to privacy within the gardens;
 - whether the proposed development would provide adequate living conditions for future occupiers with respect to ceiling heights and outlook;
 - whether the development would provide suitable arrangements for access, with particular regard to pedestrian access and the collection of household refuse;
 - whether the proposal would make adequate provision for urban greening; and
 - whether the proposed development can provide suitable fire risk mitigation.

Reasons

Living conditions – No's 53 and 55 Dagmar Avenue

3. The appeal site is located in a parcel of land in between and at the rear of residential properties which face Linden Avenue and Dagmar Avenue. It is accessed from a parking area at the head of a residential cul-de-sac called Linden Lawns. The appeal site is overgrown and enclosed by a high brick wall. The immediate area is predominantly residential in character mainly comprising large, terraced properties within spacious gardens.
4. The proposal for a pair of two-storey semi-detached dwellings would be sited centrally on the plot. While, following a previous appeal, they may have been

moved away from Linden Avenue, they are now close to the rear boundaries of 53 and 55 Dagmar Road. While the appellant suggests that they would be further from those boundaries than the distances recommended in the Council's Design Guide Supplementary Planning Document 1 2018 (SPD1), the site is raised up from the Dagmar Road gardens such that views towards them would be greater than on a level site. Notwithstanding the SPD1 guidance, therefore, I find that a significant loss of privacy to Nos. 53 and 55 Dagmar Avenue would occur.

5. Although there is a degree of mutual overlooking already, the proposal would introduce a new element and afford the opportunity for loss of privacy, even if future occupiers do not constantly look out of the windows. It changes the existing levels of privacy, and the occupiers of No's 53 and 55 Dagmar Avenue would be very aware of this additional new intrusion.
6. I therefore conclude that the proposal would cause unacceptable harm to the living conditions to the occupiers of No's 53 and 55 Dagmar Avenue in respect of privacy to garden space. The proposal would therefore be contrary to Policy DMP1 of the Brent Local Plan 2019-2041 (the BLP).

Living conditions – future occupiers

7. The Council raise concerns that the proposed development would provide substandard accommodation due to its lack of internal head height at ground floor. The appellant contends the 2.4m ground floor height would comply with Building Regulations and the Government's technical housing standards. However, the London Plan requirements is for 2.5m for at least 75% of the Gross Internal Area (GIA) of each dwelling. No clear reason has been given as to why the London Plan's standards could not or should not be met in this case.
8. The outlook from the flank wall windows would not be enclosed by built development and their overall size in relation to the area of the bedroom would be likely to allow sufficient daylight.
9. Although I do not find that outlook and daylight levels would be compromised, the proposal would fail to provide adequate living conditions for future occupiers with respect to internal ceiling heights. Accordingly, the proposal would conflict with Policies DMP1 and BD1 of the BLP and D6 of the London Plan as they together broadly seek high quality housing through ensuring that homes are of adequate size and fit for purpose.

Access

10. The appeal site has no highway frontage. The access from Linden Lawns runs between properties and is narrow. It leads to an area comprising numerous garages facing each other. The surface of this area is concrete and slopes down to the appeal site. The area does not contain any pedestrian walkways, is unlit and feels isolated with some evidence of minor fly tipping. These aspects could make the area seem unsafe and would make it unattractive and inconvenient for some pedestrian users.
11. I understand that the Council's refuse vehicles could collect refuse from Linden Lawns, but could not access the appeal site itself due to its constraints. The distance of around 50 metres would be substantial and would involve crossing the parking area which comprises numerous garages, and parked vehicles up an incline on rougher ground. Whilst some people may be able to manage this

distance, it would not be the case for everyone, particularly those who are less mobile.

12. As an alternative, the appellant has suggested that a private company be used to collect refuse and indicates that an agreement has been reached. However, I have not been provided with substantive evidence in relation to the procedure of the collections or a clear mechanism with which to secure them in perpetuity. Furthermore, given the above access characteristics and because there is no turning space within the appeal site, it is unclear how procedures for private collectors would be significantly different to those for Council vehicles.
13. I did observe a pathway between properties on Linden Avenue, which the appellant contends could be used to take refuse to be collected on Linden Avenue. However, it appeared to be narrow, and even if it is available, it has not been shown to be suitable for conveying refuse receptacles. There are no details on the proposed site plans regarding how the future occupiers would access the path from the appeal site. Nor could I obtain access to it from Linden Avenue.
14. The physical characteristics of the access, narrowness from parked vehicles and lack of turning provision within the appeal site would make it more likely that refuse bins would be stored on the public highway at the end of Linden Lawns permanently, or there would be a risk, of waste accumulating in or around the site. Neither of which would be an acceptable outcome for future occupiers or neighbouring residents.
15. The Council considers the use of the access would lead to conditions prejudicial to highway flow and safety. Activity within the garage and parking area would be expected from people walking to their cars or garages. Given the narrow width and surfacing of the area traffic speeds would be very low, and therefore I am of the view that it would not necessarily pose a risk to highway flow or pedestrian safety.
16. Despite the above, I conclude the proposed development would not provide suitable access to the site in terms of pedestrian access and refuse collection. The development is therefore contrary to Policies DMP1 and BT1 of the BLP and Policies D3 and D7 of London Plan 2021. These policies seek to ensure satisfactory access and servicing arrangements which is safe and secure and inclusive. The proposal would also be contrary to Brent's Design Guide 2018 and Brent's Waste Planning Guide 2013, which specifies the requirements for refuse collection.

Green infrastructure

17. Although the appeal site includes a building, there will be an increase in the amount of hardstanding across the site through the construction of the dwellings. Whilst there is no requirement for sites of this scale to provide on-site public open space, Policy BH4 and BGI1 of the BLP requires all minor residential developments to deliver an Urban Greening Factor of 0.4. This is a requirement within the London Plan Policy G5.
18. Although the appellant contends that the proposal would achieve an urban greening factor score of 0.4, there is no calculation or evidence before me to conclude it would. It is not possible to determine from the limited plans or

evidence if the suggested tree, ground cover, perennial and other planting would be of a type that would be appropriate for the area or achievable within the constrained space. There are no details of the species or planting numbers. Furthermore, such planting has differing scores and although permeable paving features within the appellants drainage strategy, this has a relatively low urban greening factor score and encompasses a large part of the site.

19. The supporting text requires consideration as part of the application process. Given the above uncertainties that the imposition of a condition to secure details would not be appropriate in this particular instance.
20. Consequently, the proposal would be contrary to Policies BH4 and BGI1 of the BLP and Policy G5 of the London Plan. Combined these seek to protect and enhance the existing levels of green infrastructure and achieve a net gain in biodiversity.

Fire risk

21. Part A of Policy D12 of the London Plan sets out that all development proposals must achieve the highest standards of fire safety, taking into account factors which include fire risk reduction, fire escape and evacuation and provision for firefighting. While the proposal may not provide all the requirements listed in Policy D12A, the appellant has referred me to suitability of sprinklers, which would be secured under the Building Regulations, which the Council does not dispute. Whilst the access is constrained, I note there was no objection from the London Fire Brigade.
22. As such from the evidence before me and having regard to the scale and nature of the development, I can see no reason that submission, approval and implementation of a satisfactory fire strategy to address the requirements of the London Plan Policy D12A could not be secured by means of a planning condition. I therefore conclude on this main issue that subject to a condition, there would be adequate standards of fire safety and I find no conflict with Policy D12A of the London Plan.

Other Matters

23. The proposal would make effective use of the site to deliver two additional dwellings, contributing to targets for the provision of new housing in the borough in an accessible location with access to local services and public transport. The proposed development including the materials would also be of a suitable design and provide some enhancements to the area. However, the contribution including that of construction and spending by residents would be limited by the small scale of the development.
24. There is no dispute between the parties with regards to the principle of development; the design or whether the proposed materials or effect on trees would be appropriate. In addition, all properties meet space standards. However, these would only represent neutral factors and would not weigh in favour of the proposal. It may well be that tidying the site up would make it less likely to attract rodents or other pests to the neighbourhood, but there is no substantive evidence that this is a significant problem that can only be resolved by development of the site.

Balance and Conclusion

25. Although I did not find harm in respect of future occupiers outlook or the requirement for a fire strategy, I do not consider that the very modest benefits of the proposal would outweigh the harm that would be caused to the living conditions of neighbouring and future occupiers, and through the unsatisfactory access for pedestrians, refuse collection and urban greening. While there might be compliance with the Framework in respect of the delivery of housing in an accessible location and some of the neutral matters I have identified, the harm would result in conflict with it read as a whole.
26. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and other relevant considerations do not indicate that a decision contrary to the development plan should be reached.
27. I therefore conclude that the appeal should be dismissed.

K Williams

INSPECTOR