



Appeal Decision

Site visit made on 18 July 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/T5150/W/23/3317055

101A Beresford Avenue, Wembley, Brent HA0 1NU

- 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 Mrs Gangaben Jaentilal Maugi against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3573, dated 17 October 2022, was refused by notice dated 30 January 2023.
 - The development proposed is creating a driveway on an existing front garden.
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Decision

1. The appeal is allowed and planning permission is granted for creating a driveway on an existing front garden at 101A Beresford Avenue, Wembley, Brent HA0 1NU in accordance with the terms of the application, Ref 22/3573, dated 17 October 2022, 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: 101a Location and site plan, 101a Location plan and Proposed Front Garden Plan Ref: 22/3573.
 - 3) Notwithstanding condition 2, no development shall take place until a plan detailing a footway crossover and driveway hardstanding of 2.4 metres in width has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved plan. The driveway hardstanding shall not be used for the purposes of vehicular parking until the footway crossover has been completed.
 - 4) No development shall take place until details of the materials to be used in the construction of the driveway hardstanding have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Main Issues

2. The main issues are the effects of the proposed development upon highway safety and the promotion of sustainable transport modes.

Reasons

3. 101A Beresford Avenue is a flat located within a semi-detached property within a predominantly residential area. The pair of semi-detached properties is situated on a corner plot with Beresford Avenue to one side and Kenmere

Gardens to the other. Within the bounds of the appeal site there is an existing vehicular access onto Kenmere Gardens together with a driveway. To the rear of this driveway there is a storage building. Also within the appeal site, and beside the front and side elevations of the semi-detached house, there is a garden and some hard surfacing.

4. The proposed driveway would be accessed via Kenmere Gardens. On-street parking on Kenmere Gardens is not the subject of controls, save for some areas which are served by double yellow lines. These double yellow lines are, in part, adjacent to the appeal site. Only some properties on Kenmere Gardens are served by driveways. During my site visit, Kenmere Gardens was heavily parked. Vehicles were parked on both sides of the road with only a narrow width of carriageway remaining which would effectively permit only a single lane for vehicular passage. Cars were partly parked on the pavements and in places the width of pavement that remained was so narrow that I observed pedestrians walking along the carriageway as the pavement was too obstructed.
5. The Council submit that Kenmere Gardens is heavily parked at night and although my visit was conducted during the day, I have no reason to disagree with this submission. Therefore, given the evidence before me and my own observations on site, Kenmere Gardens is the subject of significant concentrations of on-street parking during the day and night. Given the prevalence of the on-street parking and the indiscriminate nature of some of the parking which I witnessed, I find that existing on-street parking will be causing some detriment to the passage of some highway users and, thereby, will be prejudicial to highway safety.
6. As existing, one parking space on the existing driveway serves the semi-detached property within the appeal site. I have no compelling evidence before me which demonstrates the allocation arrangements of this space between the flats within the property. However, on the basis of all that is before me, it is a likely scenario that the occupant of No 101A does not have access to the existing space.
7. In providing the occupant of No 101A with opportunity to park within the appeal site rather than on-street, a contribution, albeit a modest one, towards reducing parking pressure on Kenmere Gardens and, alleviating some of the detrimental conditions which prevail for highway users, would be made.
8. Policy BT2 and, the accompanying Appendix 4, of the Brent Local Plan 2019-2041, February 2022 (BLP) state that residential developments should provide parking consistent with the standards set out within Policy T6.1 of the London Plan, 2021 (LP). The parking standards within Policy T6.1 are maximum parking standards and, the space allowance is dependent upon the dwelling bedspaces and the Transport for London Public Transport Access Level (PTAL).
9. As well as the allocation of the present parking space not being wholly clear, I have no compelling evidence before me which confirms the number of bedspaces serving the flats within the property. Therefore, given that the appeal site is within a PTAL 2 area, if the proposed driveway would be the only parking space to serve No 101A and if the flat contains 3 or more bedrooms, the proposed development would be in compliance with the applicable parking standards.

10. However, it could well be the case, as has been put to me by the Council, that the 2 flats within the property are each 2 bedroomed. In this scenario the parking standards detailed within Policy T6.1 of the LP permit a total of 1.5 parking spaces in total to serve the flats. Coupled with the existing parking space within the site, the proposed drive would create 2 parking spaces which would exceed the maximum provision within the standards. On this basis, conflict with the applicable parking standards would result from the proposal. However, given the uncertainties on flat bedspaces, it is also not conclusive that this policy conflict would arise.
11. Although Policy BT2 of the BLP and Policy T6 of the LP set out that car-free development is the starting point for all development in well-connected places, given the appeal site is within PTAL 2, the property is not within a part of London with especially good connections. Indeed, the Council describe the site's public transport access as being "low". Therefore, whilst in providing more dedicated off-street parking, the proposal would not be promoting a reduction in the dependency upon private vehicles, the appeal site is not within a location where more sustainable modes of transport provide a particularly attractive alternative.
12. Whilst it is submitted to me that an extension to a bus route is proposed in the future and, this may provide some improvement in public transport accessibility, I have no substantive evidence before me on the certainty of its delivery. The extended bus route would also not alter the PTAL the appeal site is within. In such circumstances this is a matter of limited weight in my decision.
13. In the proposal, no infrastructure provision would be made for electric vehicles or other Ultra-Low Emission vehicles, and this would be contrary to criteria within Policies T6 and T6.1 of the LP.
14. At 1.8m wide the driveway as shown on the submitted plans would be narrower than that stated as the norm within the London Borough of Brent Domestic Vehicle Footway Crossover Policy (Crossover Policy). If a crossover and driveway was provided at a width of 2.4m it would accord with the Crossover Policy and in doing so, ensure adequate space for the opening of car doors. This greater width would also ensure that a vehicle could safely manoeuvre on and off the highway with limited disruption to any traffic flow on the street. Given the evidence before me and my own observations on site, I have no reason to conclude that the 0.6m width increase in the driveway from that shown on the plans could not be accommodated. A suitably worded condition would permit further details to be submitted and agreed so as to ensure this. Whilst this would be a modification to the plans submitted, I am satisfied that it would not modify the development proposed in a substantial way and therefore such a condition would be reasonable.
15. No new boundary enclosures are proposed, and I am mindful that the Crossover Policy states that appropriate boundaries should be provided so as to prevent vehicles illegally crossing onto plots via inappropriate parts of the pavement. However, there is low level brickwork partly enclosing the garden. Together with an existing pavement bollard which is located quite close to the proposed siting of the driveway, I am satisfied that deterrents are already in place which would reduce the likelihood of vehicles crossing over sections of the pavement in an inappropriate manner.

16. Therefore and, having regard to all of the above, the proposal would not provide infrastructure for electric vehicles or other Ultra-Low Emission vehicles. Conflict with the applicable maximum parking provision standards may take place, albeit it is inconclusive that this would be the case. For these reasons and, assuming that conflict with the parking standards would arise, I accept that the proposal would not be minimising car use nor ownership, whilst the proposal would not be promoting sustainable transport modes. Consequently, the proposed development would conflict with Policy BT2 of the BLP and Policies T6 and T6.1 of the LP.
17. On the other hand, I have identified that existing parking conditions are prejudicial to highway safety. If I were to dismiss the appeal, any contribution to this parking congestion made by the occupiers of No 101A would continue to subsist. In providing opportunity to park off-street, the proposal would contribute to limiting on-street parking demands within a heavily parked street. This would be in accordance with some content within Policy BT2 but, would not alter that the proposal would conflict with that policy overall as well as the other policies I have mentioned within the development plan. I have also identified that a condition could be imposed to adjust the dimensions of the proposed driveway and crossover. I am therefore satisfied that a driveway would be implemented which would be in accordance with the Crossover Policy.
18. In the round, for the reasons given and in these particular circumstances, I find that any conflict with the parking provision standards and the failure to promote sustainable transport would be outweighed by the contribution the proposal would make to alleviating parking pressures in the area. Therefore, overall, the effects of the proposed development upon highway safety and the promotion of sustainable transport modes would be acceptable.
19. In coming to this view, I acknowledge that the Council state a Controlled Parking Zone is proposed to be introduced in the area. It may be that this would bring with it a marked improvement to the problematic parking I have identified. However, I have limited information before me on the detail of these proposed measures or the processes to be undertaken prior to its implementation. In such circumstances, I cannot be very certain that the parking control measures will come into fruition and solve the problems I have identified. This matter is therefore of limited weight in my decision.

Conditions

20. I have imposed the standard condition in respect of time limitation and a plans condition in the interests of certainty. I have imposed further conditions so that the dimensions of the proposed driveway and associated crossover are agreed along with the materials to be utilised in the construction of the driveway. These conditions are necessary so as to ensure the precise design of the driveway and crossover are acceptable having regard to both highway safety and the character and appearance of the area.
21. Although the appellant has submitted to me some details in respect of the driveway materials, these are not of sufficient detail to remove the requirement for the condition. The conditions relating to the design and material finish are each pre-commencement conditions. This is necessary as it would be unacceptable for construction to proceed in the absence of the approved final dimensions and material make-up of the driveway and associated crossover having first been agreed.

Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.
23. The proposed development would conflict with development plan policies and the development plan taken as a whole. However, I have identified that the proposed development would contribute to alleviating parking pressures in the area which are prejudicial to highway safety. This consideration is sufficient to outweigh the conflict with the development plan. Therefore, the appeal is allowed subject to the conditions above.

H Jones

INSPECTOR