



Appeal Decision

Site visit made on 1 August 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 6th September 2023

Appeal Ref: APP/T5150/W/3313888

Land at 9-10 Heather Park Parade, Heather Park Drive, Wembley HA0 1SL

- 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 Ramesh and Nayantara Parmar against the decision of the Council of the London Borough of Brent.
 - The application Ref:22/1592 dated 3 May 2022, was refused by notice dated 28 June 2022.
 - The development proposed is demolition of existing outbuildings on the land at 9-10 Heather Park Parade for the erection of a two storey building containing business units at ground floor, first floor and mezzanine units (Use Class E(g))
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Decision

1. The appeal is dismissed.

Costs Decision

2. An application for costs was made by Ramesh and Nayantara Parmar against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Preliminary Matters

3. A Fire Strategy was submitted at the appeal stage under Plan No. ICE21.259.PL2.12 to address the fourth reason for refusal. As this was submitted at the time of the appeal, it was available to the Council to consider and it appears that the Council consulted the London Fire Brigade (LFB) on the appeal submission. Although late in being received in relation to the appeal timescales, I have accepted the comments received from the LFB. I consider this further below.
4. The second reason for refusal on the Council's decision notice refers to the draft Local Plan but I this appears to be an error as the Local Plan was adopted in February 2022 and all other references have been to the adopted Plan.
5. I have taken into account that these scheme proposals followed on from an earlier withdrawn application and the Appellants sought to overcome the concerns raised by the Council to that earlier scheme. However, my consideration must be based on the proposals before me.

Main Issues

6. The main issues in this appeal are:

- a) The effect of the proposal on the character and appearance of the local area;
- b) Whether the proposal would affect the living conditions of neighbouring residents;
- c) Whether the proposal would provide satisfactory access and servicing provision;
- d) Whether the proposal would be satisfactory for incoming users, and
- e) Whether the proposal would satisfactorily address Fire Strategy issues.

Reasons

Issue a) Character and Appearance

- 7. The appeal site relates to land to the rear of Nos 9-10 Heather Park Parade, with access at the northern end of the Parade and between No 10 and No 57/57A Heather Park Drive. Heather Park Parade comprises a terrace of three storey properties with retail and commercial activities at ground level and two floors of residential above, with rear deck access at first floor level. There is open land to the rear with a number of mainly vacant buildings, garages and structures. The appeal site comprises a large single storey storage building which fills the width of the site with open ground to the front and a former builders' yard to the rear. The surrounding area is predominantly residential with a mix of houses and flats.
- 8. The proposed development would replace the existing commercial unit with a mainly two storey building with a part mezzanine over at the north-west end, for commercial business use, sub divided into 4 potential units. Access to the site would be available as existing and a loading bay is shown to the immediate south-east of the building with access from the rear service road.
- 9. The Council has raised no issue with the principle of the proposed development, and I agree that the principle to seek to make more effective and efficient use of this piece of land for commercial office use is to be supported and encouraged.
- 10. Although the existing building does not make full use of the site, and the proposed height of the replacement building would reflect the scale of surrounding buildings, I am concerned that the site could not accommodate a development of the size and scale proposed in terms of its overall footprint and layout in relation to the size of the plot. It would appear cramped in form particularly in the relationships created at the site boundaries. The pedestrian access arrangements within the site to the individual units would appear very tight and contrived with an overdominance of hard landscaping with little relief from soft landscaping.
- 11. In terms of materials, I agree with the Council's concerns about the siting of the living green wall on the rear elevation and the site boundary with no explanation as to how this would be protected and maintained. The proposed scale of the development in relation to the size of the site would be

exacerbated because of the range of materials proposed which would, in my view, result in an overly complicated and bulky design solution for this small site.

12. I therefore conclude that the proposed development would appear cramped within its site and an overdevelopment of the site; it would be detrimental to the character and appearance of the local area. This would conflict with Policies DMP1 and BD1 of the Brent Local Plan (Local Plan) and the guidance in the Council's Supplementary Planning Document 1 – Brent Design Guide (SPD 1) as well as the National Planning Policy Framework (Framework) and in particular Section 12, all of which amongst other matters seek a high quality of design which respects the local context.

Issue b) Living Conditions of Neighbours

13. There is rear deck access to the residential flats above the shops and commercial units of Heather Park Parade, with residential uses further to the north and west of the site. The properties closest to the appeal site are flats with the appearance of houses from the front. At the present time the existing buildings on the site cover a large extent of the site and minimise views into and over neighbouring buildings. However, I agree with the Appellant that there is already some mutual overlooking of the surrounding residential properties and their gardens, given the elevated deck access to the dwellings above the commercial premises in Heather Park Parade as well as overlooking of the rear gardens to Heather Park Drive from the rear of the existing residential dwellings and their rear access to their gardens.
14. However, the proposed development would be sited in very close proximity to the adjoining dwellings in Heather Park Drive with windows from the upper floor units facing directly towards and over the rear garden. The Council has calculated the distance of these windows to the shared boundary to be less than 3m. The upper floors of the commercial units would be accessed via an external staircase running along the shared boundary and although a fence is shown on the sections, on the basis of the limited details provided, I am not satisfied that this would remove the opportunity for direct views from the staircase and upper platform both over the adjoining rear garden as well as back towards the windows of the dwellings.
15. Whilst I accept that there is some overlooking already, the proposal would in my view materially exacerbate the extent of overlooking because of the very close proximity of the proposed units with their external access, to the boundaries and surrounding development. This would harm the living conditions of the neighbours through overlooking and loss of privacy. This would conflict with Policies DMP1 and BD1 of the Local Plan and the guidance in SPD 1, as well as the Framework and in particular paragraph 130, all of which amongst other matters, seek to protect the amenities of existing and future occupiers.
16. I have noted that there were no objections raised by the immediate neighbours on grounds of overlooking and loss of privacy. However, this is not in itself conclusive of the acceptability of a proposal, particularly as the permission, if granted, would endure for future residents.

Issue c) Servicing Arrangements.

17. The existing access to the site for both vehicles and pedestrians appears to be off Heather Park Drive between the appeal site and 57/57A Heather Park Drive, although this access is gated, and the access arrangements are not clear. The access point is also of very limited width. The development proposed would be car free but with on-site cycle parking.
18. At the time of my site visit there was no access through to the rear of the units further to the south-west; it is understood that this was closed off some time ago in agreement with the Council.
19. The plans submitted show a loading area between Heather Park Parade and the new building with the service road to be re-established and a new gate installed. However, and notwithstanding the land registry documents attached, there is insufficient information before me as to whether the proposed servicing arrangements would work in practice, for example if a van were to enter the site from the south-west, how it would exit the site, given the very limited space within the site for manoeuvring and turning. No vehicle tracking assessments have been submitted.
20. The photographs submitted of the site as existing show plant at rear of the ground floor units at Heather Park Parade, and it is not clear to me that the bins could be stored as close to the rear wall as shown, potentially reducing the available area for loading, manoeuvring and servicing.
21. I appreciate the constraints of the site but given the small size of the site, the access constraints and the need to ensure safe and appropriate access for pedestrians and cyclists as well as for servicing, I am not satisfied that this can be achieved on the basis of the information provided. As result of these concerns, and even if there were no other matters of concern and planning permission were to be granted, I am not satisfied that such matters could be resolved by condition, unless and until the principles of the proposed servicing arrangements were resolved.
22. I therefore conclude that the proposal would not incorporate adequate servicing arrangements. This would conflict with Policy T7 of the London Plan and Policies DMP1 and BT3 of the Local Plan, all of which amongst other matters seek a high quality of design with appropriate servicing facilities to serve new developments.

Issue d) Suitable and Satisfactory for Incoming Users

23. The Council's reason for refusal refers to the insufficient size of two of the units, (1 and 3) to support the proposed use but my attention has not been drawn to any specific policy requirements which stipulate a minimum size. The proposal would create four units of varied size, each with toilet and space for kitchenette facilities. The majority of the spaces would be regularly shaped, each with independent access and light.
24. The Council also raises a concern that there would be no disabled access to the mezzanine floor of Unit 4. Disabled access would be possible to the main first floor but on the basis of the submitted plans would not appear feasible to the mezzanine level. However, were no other matters of concern and planning permission were to be granted, it would be possible to impose a condition to

require further details of the proposed use and layout of the accommodation, and such matters would also be a requirement under building regulations.

25. Subject to the imposition of a condition as set out above, I consider that the spaces proposed would accord with Policies E2 and D5 of the London Plan as well as Policy DMP1 of the Local Plan as well as the Framework and in particular paragraph 130, all of which, amongst other matters, seek to protect the amenities of existing and future occupiers.

Issue e) Fire Strategy

26. The development does not fall into the category of a major development proposal for which a Fire Statement is required under Policy 12 B of the London Plan, but Part A of the same policy seeks to ensure that all development proposals achieve the highest standard of fire safety and sets out criteria to be addressed.
27. At the appeal stage the Appellant provided a Fire Statement Form which addressed a number of the criteria under Policy 12 A. Whilst it does not provide all the details referenced under Policy D12 A of the London Plan, the policy is directed to all forms of development.
28. The submitted statement demonstrates that consideration has been given and provision made for, amongst other matters, escape routes and fire detection and alarm systems. The LFB has not raised any objection to the proposals but offered further advice regarding compliance, including in relation to Building Regulations. Given the submission of the Fire Strategy and the comments from the LFB, I do not consider that there would be any reason to withhold planning permission in this regard and that the submission would satisfy the requirements of Policy 12 A of the London Plan. As set out by the LFB, further consideration would be required under Building Regulations.

Conclusion

29. I have found that the proposal would be acceptable in terms of its Fire Strategy and would, subject to the imposition of conditions, provide suitable and satisfactory internal accommodation for incoming occupiers. However, these findings do not outweigh the harm I have concluded both to the character and appearance of the local area, the harmful effect on the living conditions of immediate residential neighbours, as well as in terms of inadequate servicing arrangements for the new development.
30. There are no other material considerations which would justify me making a decision other than in accordance with development plan policy. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR