

Appeal Decision

Site visit made on 14 August 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref. APP/T5150/D/23/3319933 127 Dartmouth Road, London NW2 4ES

- 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 and Mrs Carlos against the decision of the Council of the London Borough of Brent.
 - The application ref. 22/3635, dated 21 October 2022, was refused by notice dated 27 January 2023.
 - The development proposed is described on the application form as "*Proposed rearrangemtn (sic) of existing ground floor rear roof and proposed rear single storey extension with associated internal works.*"
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Decision

1. The appeal is allowed and planning permission is granted for proposed rearrangement of existing ground floor rear roof and proposed rear single storey extension with associated internal works at 127 Dartmouth Road, London NW2 4ES in accordance with the terms of the application ref. 22/3635, dated 21 October 2022, subject to the conditions contained in the Schedule at the end of this Appeal Decision.

Preliminary comments and main issues

2. The appeal site is situated within the Mapesbury Conservation Area (MCA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (s72 of the Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
 3. The Council did not take exception to the proposed rearrangement of the existing ground floor rear roof. I see no reason to reach a different view.
 4. The third and final reason for refusal refers to a lack of evidence to demonstrate how existing trees would be impacted and/or protected. However, 5 documents relating to the matter of trees were prepared by Arbtech Consulting Limited and submitted with the appeal. They are set out in full in condition 2 of the Schedule. They provide sufficient information to address this reason for refusal and show that this is an arboriculturally defensible scheme. These documents, or something very similar to them, were evidently seen by the Council's Principal Tree Officer when application ref. 22/2021 received
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planning permission. No objections were raised to the 4 trees shown for removal then, including the common hawthorn tree T14 which I can confirm is correctly recorded as growing within the boundary of the appeal property. The same 4 trees, which are of low quality, are shown for removal now although Table 4 on page 7 of the *Arboricultural Method Statement* contains an error and should be disregarded. I return briefly to the matter of trees in paragraph 18.

5. Accordingly, flowing from the first and second reasons for refusal, the main issues are the effects of the proposed single storey rear extension upon the character and appearance of the dwelling and the MCA and upon the amenities and living conditions of the neighbours at 125 Dartmouth Road, with particular regard to the potential for an overbearing impact and loss of outlook and light.

Reasons

6. The significance of the MCA is derived from its cohesive collection of late Victorian and Edwardian houses of grand scale and quality architectural detailing, broad tree-lined streets largely running parallel to each other and the railway line and deep back gardens, many of which contain mature trees. All these characteristics are present at the attached 3-storey house at no. 127.
7. The first reason for refusal mentions the *MCA Design Guide* (MCADG). Given the heritage interest of the site, this document, insofar as the issue of character and appearance is concerned, takes precedence over the *Residential Extensions & Alterations SPD 2* (SPD2). Like all supplementary planning documents, they carry weight as a material consideration in decision making but they contain recommendations as opposed to planning policy and should not be applied prescriptively to the exclusion of all other factors, including the physical circumstances and context of a site.
8. Original 2-storey rear outriggers, which produce irregular rear building lines, predominate throughout the MCA. However, the 3-storey house at no. 127 and virtually all the other similar properties on the same southern side of Dartmouth Road between its junctions with Lydford Road and Dawlish Road do not follow that typical plan form. Moreover, a great number of the houses in that row have been enlarged at the rear with deep single storey extensions.
9. On a plain reading of the MCADG, the recommended standards for the depth of single storey rear extensions found at section 3.2 and further illustrated on page 18 are primarily aimed at infill extensions alongside 2-storey rear outriggers or at extensions off the rear wall of an outrigger. Those scenarios are not in play here. Even though the proposed flat-roofed rear extension would effectively be an extension to an extension leading to a cumulative depth of over 7 m, it would be half width, have a lower roof line than the existing extension integrating well with it and appear sufficiently subsidiary to the original 3-storey house. The Council did not object to the style or materials of the proposed extension. I agree with that stance.
10. I am satisfied that the extension would respect the style, proportions and character of the host building. The rear of the building is not open to any clear views from public vantage points. In any event, the extension would not be on such a scale as to spoil the yard/garden setting or stand out from the general rear building line in the particular surroundings of this site. It would leave the character and appearance of the MCA unharmed.

11. I find on the first main issue that the proposed single storey rear extension would preserve the character and appearance of the dwelling and the MCA. As such, there would be no conflict with the aims of s72 of the Act or Policies DMP1 and BHC1 of the Brent Local Plan 2019-2041 (BLP). There would be sufficient respect paid to the MCADG and to the National Planning Policy Framework (the Framework) insofar as it relates to achieving well-designed places and conserving and enhancing the historic environment.
12. Turning to the second main issue, the second reason for refusal mentions SPD2. This explains that the maximum depth normally permitted for single storey rear extensions to attached houses is 3 m, but an extension up to 6 m deep may be acceptable providing that for every additional metre beyond 3 m, the extension is set in from the boundary by an additional metre. The maximum height permitted for a flat-roofed single storey rear extension is 3 m on the boundary including parapets. By and large, these guidelines seek to protect neighbouring residential amenity. The stipulation on height would be met. The guidance on depth would not be followed but I consider that the physical circumstances and context of this site would support a more flexible approach insofar as the impact on no. 125 is concerned.
13. The rear elevations and back gardens of nos 125 and 127 are south-facing. A tall wall on the common boundary between them reaches about 4 m in depth. It projects just beyond the existing rear extension at no. 127 and encloses one side of the patio at the rear of no. 125. The edge of that patio bordering the open back garden is enclosed by walling, fencing and gates set to a line which matches the depth of the existing rear extension at no. 127. There is also a sizeable awning or parasol situated over part of the patio. The ground floor habitable room windows are hard to detect behind all those substantial structures. Given these physical circumstances, I am not convinced that an additional depth beyond the boundary wall of just under 4 m is likely to be significant or excessive enough to cause adverse detriment for any reason relating to overbearing impact or loss of outlook and light.
14. The appellants have demonstrated how, using BRE guidance *Site layout planning for daylight and sunlight: A guide to good practice*, the extension would pass the 45 degree test in elevation form, albeit not in plan form. Still, this result would mean the impact of the extension is likely to be small, even without all the intervening physical structures. More importantly, I consider that any occupiers of no. 125 are likely to welcome the removal of the common hawthorn tree T14 which has a number of stems, reaches about 8 m high and is partly covered by dense ivy. This would open up the rear aspect of no. 125 to a notable degree.
15. I find on the second main issue that whilst there would be conflict with some parts of SPD2, the proposed single storey rear extension would not materially harm the amenity and living conditions of the neighbours at 125 Dartmouth Road, with particular regard to the potential for an overbearing impact and loss of outlook and light. The scheme would not therefore conflict with Policy DMP1 of the BLP or the Framework, both of which seek a high quality environment for those in the development and neighbours.
16. Turning to other matters before me, in my view, significant weight should be attached to the rearrangement of the existing ground floor rear roof as this

would simplify and enhance the rear elevation which currently appears disjointed in terms of roof shapes and heights. That the scheme would offer the appellants and their family enhanced ground floor living accommodation lends further support in favour of this appeal.

Conditions

17. In the Council's Questionnaire, 4 planning conditions were suggested in the event of the appeal succeeding. In addition to a condition setting a time limit for the commencement of development, a condition requiring that the development is carried out in accordance with the relevant approved drawings and documents is necessary as this provides certainty. In the interests of preserving the character and appearance of the MCA, a condition is needed to ensure that the materials to be used in the construction of the external surfaces of the development should be as stated on the submitted application form or approved drawings.
18. Protection of the trees to be kept is necessary in the interests of biodiversity, visual amenity and the character and appearance of the MCA and to comply with Policy DMP1 of the BLP and the MCADG. I have adapted the Council's fourth suggested condition, which covers tree protection, to reflect the fact that reliance can be placed upon Arbtech Consulting Limited's *Arboricultural Method Statement* and *Tree Protection Plan* submitted with the appeal.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR

Schedule of Planning 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 drawings/documents numbered or titled: 98-001 P01; 98-002 P01; 98-200 P01; 98-201 P01; 98-202 P01; 98-203 P01; 98-210 P01; 98-211 P01; 98-212 P01; 100-200 P01; 100-201 P01; 100-202 P01; 100-203 P01; 100-210 P01; 100-211 P01; 100-212 P01; 100-213 P01; Heritage Statement; Arbtech AIA 01 *Arboricultural Impact Assessment*; Arbtech AMS 01 *Arboricultural Method Statement* (but disregarding Table 4 on page 7); Arbtech TCP 01 *Tree Constraints Plan*; Arbtech TPP 01 *Tree Protection Plan*; and Arbtech TS 01 *BS5837: 2012 Tree Survey*.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as stated on the submitted application form or approved drawings.

4) Operations on site in connection with the construction of the development hereby permitted shall not be carried out except in accordance with all the details within the Arbtech AMS 01 *Arboricultural Method Statement* (but disregarding Table 4 on page 7) and the Arbtech TPP 01 *Tree Protection Plan*. All tree protection methods detailed in those documents shall not be moved or removed, temporarily or otherwise, until all construction works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior written approval of the Local Planning Authority has been sought and obtained.

End of Schedule