



# Appeal Decision

Site visit made on 13 July 2023

**by P Storey BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 November 2023**

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**Appeal Ref: APP/T5150/W/22/3310630**

**1 Wickliffe Gardens, Brent, Wembley HA9 9LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Kazim Khan against the decision of the Council of the London Borough of Brent.
  - The application Ref 22/2879, dated 1 July 2022, sought approval of details pursuant to condition No 6 of a planning permission Ref 16/4629, granted on 7 June 2017.
  - The application was refused by notice dated 11 October 2022.
  - The development proposed is described on the decision notice for planning permission Ref 16/4629 as: *"Demolition of existing single storey outbuilding and part of rear dormer window, erection of a single storey rear extension, creation of a basement level, insertion of two side roof lights, replace roof tiles and single storey outbuilding in rear garden of dwellinghouse."*
  - The details for which approval is sought is condition No 6, which is set out as follows: *Within 6 months of the date of this planning permission details of a revised site layout plan should be submitted and approved in writing by the Local Planning. The revised site layout plan should indicate the following details:*
    - (i) *two off-street parking spaces;*
    - (ii) *widening/repositioning of the crossover at the applicants expense to facilitate access to two off-street parking spaces;*
    - (iii) *minimum 50% soft landscaping for natural drainage;**The work shall be carried out in accordance with the approved details.*
  - The reason given for the condition is:  
*In the interests of the free flow of traffic and general conditions of the highway safety and on the neighbouring highway.*
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the submitted details comply with the requirements of the condition.

## Reasons

3. The condition subject to this appeal requires details to be submitted to the local planning authority (sic) within 6 months of the date of the planning permission, which was granted in June 2017. The application to approve the details was not submitted within this time period.
4. Various arguments have been put forward by both main parties concerning whether or not the submitted details would deliver the objectives sought by the condition. Notwithstanding these arguments, both parties consider that the

condition could be complied with if the submitted details were found to be acceptable, even though they were submitted outside of the timeframe stipulated by the condition.

5. In determining the appeal, I am only able to consider whether the requirements of the condition have been met. I am not able to reconsider the planning permission or discuss the merits of the condition.
6. Procedurally, if I was to agree to a flexible approach in respect of the timing clause, this would effectively vary the condition. Such an approach would negate the role and importance of timing clauses in drafting planning conditions. Furthermore, there is separate legislation and a separate application process under Section 73 of the Town and Country Planning Act 1990 applicable to the variation of planning conditions.
7. I am aware of other factors, including enforcement cases and changes in ownership at the site address, that may have influenced progress in terms of complying with the condition. However, whilst I have no reason to doubt the sincerity of these claims, these factors would not overcome the fundamental issue regarding the timing clause of the condition.
8. Given my findings, the condition cannot be complied with. It is therefore not necessary to consider whether the submitted details would have been acceptable in the event of the timing clause being met.

### **Conclusion**

9. For the reasons given above I conclude that the appeal should be dismissed.

*P Storey*

INSPECTOR