



Appeal Decision

Site visit made on 24 August 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/T5150/W/22/3312181

71 Geary Road, Brent, London NW10 1HJ

- 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 C Onwuagha against the decision of the Council of the London Borough of Brent.
- The application Ref 22/2770, dated 3 August 2022, was refused by notice dated 3 October 2022.
- The development proposed is described as the “conversion of dwelling house in two residential units for the same family”.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant’s name on the planning application form is inconsistent with that on the appeal form. However, the appellant has confirmed the correct name, which is included within the banner heading above.
3. Revised plans have been submitted with this appeal, which seek to reduce the first floor flat to 2 bedrooms, introduce a flat roof to the first floor rear extension and create a shared access between 69 and 71 Geary Road. While my attention has been drawn to the Wheatcroft principles¹, as third parties have not had the opportunity to comment on the revised plans, I cannot be certain that their interests would not be prejudiced if I were to accept them. Furthermore, following comments from the Council in their appeal statement, the amended plans appear to raise new issues with regard to the Council’s policy on the retention of family housing, which have not been properly considered. Therefore, I have determined the appeal based on the plans submitted with the planning application to the Council and upon which the views of interested parties were sought.
4. The appellant has submitted a planning obligation in the form of a draft Section 106 Heads of Terms (HOT). I return to this matter below.
5. I observed during my site visit that some development has commenced, however it is not clear which previously approved scheme has been implemented. In respect of the single storey extension, while this is shown on the existing plans, there is no resolution between the parties in relation to whether a previous proposal, reference 21/0730, has been lawfully implemented, or agreement about the hip to gable and rear dormer considered under reference 19/2305. The resolution of such matters is not for determination as part of an appeal made under section 78 of the Town and

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Country Planning Act (the Act). In this regard, it is open to the appellant to apply to have the matter determined under section 191 of the Act. For clarity, I have considered the appeal based on the property as it existed at the time of my site visit, the development applied for, and the plans submitted with it.

6. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

7. The main issues are:

- the effect of the proposed development on the character and appearance of the area,
- whether the proposed development would result in the loss of a family sized home,
- the effect of the proposed development on the living conditions of future occupiers, with particular regard to internal space and external private amenity space, and
- the effect of the proposed development on the living conditions of the occupiers of 73 Geary Road, with particular regard to light and outlook.

Reasons

Character and appearance

8. Properties along Geary Road comprise of predominately modest, two storey, semi-detached properties. While some properties have been extended, such development has typically been consistent with the modest proportions of the built form locally. No 71 contributes towards the character and appearance of the area, by virtue of its semi-detached layout and modest scale.
9. The proposed development would substantially extend the rear elevation of No 71. The extant dormer roof extension extends almost the full width of the host property, which the roof of the proposed first floor extension would adjoin. The guidance within the Residential Extensions and Alterations SPD 2 2018 (SPD 2) advises that such a relationship can result in an unacceptable design. This arrangement would appear excessively bulky, resulting in an overly dominant extension, that would erode the modest proportions of the host property and result in an awkward relationship between the dormer extension and the proposed pitched roof. This would be at odds with, and detrimental to, the prevailing character and appearance of the area.
10. For these reasons, the proposed development would result in unacceptable harm to the character and appearance of the area, contrary to Policy DMP1 of the London Borough of Brent Local Plan 2022 (BLP) and the guidance within SPD 2. Collectively, these seek, among other things, to ensure development is of a scale and design that complements the locality. It would also conflict with the Framework, which requires high quality development that is sympathetic to local character and the surrounding built environment.

Family sized home

11. The appeal proposal involves the extension and conversion of No 71, to create one 2 bedroom flat (Flat A), located at ground floor, and one 3 bedroom flat (Flat B), located on the first floor and within the roof space.
12. The main thrust of BLP Policy BH11 is to maintain family sized housing, defined as 3 bedrooms or more. This policy states, among other things, that the conversion of a family sized home to two or more dwellings will only be allowed where three criteria are met. The proposal would comply with criteria a) of BLP Policy BH11, in that the existing property has a floorspace in excess of 130sqm.
13. Criteria b) of BLP Policy BH11 requires the conversion to result in at least a 3 bedroomed dwelling, preferably with direct access to a garden. The supporting text to BLP Policy BH11, highlights that the policy seeks to ensure the continued provision of family sized housing suitable for occupation by families to meet Brent's housing needs.
14. Although Flat B would be provided with 3 bedrooms, it would be located on the first floor and within the roof space of the host property. A shared outdoor amenity space, located to the rear of No 71, would serve both Flat A and Flat B. While the submitted HOT covenants to dismantle the divide between 69 Geary Road and No 71, to create a wider shared pathway to the rear gardens of both No 69 and 71, as the HOT only have been submitted, and there is no signed agreement, this can only be given negligible weight. In any case, access to the rear outdoor amenity space for future occupiers of Flat B would be via the door to the front of No 71. This arrangement would be indirect and onerous, and unlikely, therefore, to be suitable for occupation by families, contrary to criteria b) of BLP Policy BH11.
15. Criteria c) of BLP Policy BH11 requires the proposed development to be within an area of Public Transport Accessibility Level (PTAL) rating of 3 or above. While the appeal site lies close to train services, including Dollis Hill, Neasden and Willesden Green, and is a walkable distance to nearby bus stops, it nevertheless lies within PTAL 2 and does not, therefore, comply with criteria c) of BLP Policy BH11.
16. The use of PTAL ratings is the established approach to assessing accessibility set out in the recently adopted BLP. As such, there is limited substantive evidence in respect of the location to outweigh the conflict with BLP Policy BH11, which seeks to maintain family size housing within an area of PTAL 3 or above.
17. For these reasons, the proposed development would result in the loss of a family sized home, contrary to BLP Policy BH11, as set out above.

Living conditions future occupiers

18. Policy D6 of the London Plan 2021 (LP) requires a two storey, three bedroom, six-person unit to have a minimum floor area of 102sqm and a minimum ceiling height of 2.5m for at least 75 per cent of the gross internal area. BLP Policy DMP1 seeks to secure high levels of internal amenity.
19. The main living area serving Flat B would be located within the roof space of the host property, comprising the kitchen, dining and living areas. A bathroom

would also be located within the roof space. The main living area would have a maximum floor to ceiling height of 2.26m, which would be further reduced due to the front roof slope.

20. While the main parties have provided differing figures for the gross internal floor area for Flat B, the functional space of the living area would be substantially restricted, by virtue of the lower ceiling height and location of a large section of this area within the front roof slope. The location of the bathroom would further reduce the size of the living area. Consequently, the proposed layout would result in cramped living conditions for future occupiers.
21. BLP Policy BH13 requires, among other things, all new dwellings to have external private amenity space of sufficient size. For family housing situated at ground floor level, this is expected to be 50sqm, with 20sqm for all other housing. For the development proposed, an area of 70sqm is required.
22. Although a plan showing the external private amenity space has not been submitted, the appellant contends that such an area would exceed 40sqm. The Council state the area would be 50sqm. Even taking into account the higher figure, this would still represent a sizable shortfall in external private amenity space with regard to that required by the BLP Policy BH13.
23. The supporting text to BLP Policy BH13 acknowledges there may be some locations in which meeting the overall minimum external private amenity space might be challenging. It goes on to state that where sufficient space cannot be achieved individually, the remainder should be supplied in the form of communal amenity space.
24. The appellant advises the external private amenity space would be a shared space between the occupiers of Flat A and Flat B. Flat A would have ground floor habitable room windows, serving the kitchen, dining and lounge area and guest bedroom, facing directly onto the shared space. As a result of this layout, there is likely to be direct views from the shared external private amenity space into these rooms. This would be to the detriment of the future occupiers of Flat A's privacy.
25. When developments do not meet the standards, the supporting text to BLP Policy BH13 requires developments to demonstrate how the level of amenity space provided is considered to be acceptable, taking into account a number of factors. While noting Gladstone Park is close to the appeal site, it has not been sufficiently demonstrated that the level of outdoor amenity space provided is acceptable, taking into account the accessibility of Flat B to the shared space, the internal amenity space afforded to Flat B and the quality of the space, in respect of the living conditions of future occupiers of Flat A.
26. For these reasons, the proposed development would not provide acceptable living conditions for future occupants, with particular regard to the internal space for Flat B and the outdoor amenity space for both flats, contrary to BLP Policies DMP1 and BH13 and LP Policy D6, as set out above. It would also conflict with the Framework which seeks to create places with a high standard of amenity for future users.

Living conditions existing occupiers

27. To protect neighbouring residential amenity, SPD 2 states, among other things, that single storey rear extensions up to 6 metres in depth may be acceptable

providing that, for every additional metre beyond 3 metres in depth, the extension should be set in from the boundary by an additional metre.

28. While the single storey extension has a staggered rear projection and the appellant contends the aims of SPD 2 would not be breached, it would, nevertheless, extend the full width of No 71 and immediately adjoin the shared boundary between No 71 and No 73 for the majority of its depth. Therefore, it would conflict with the guidance within SPD 2.
29. The proposed extension, due to its partial pitched roof, depth and proximity to the shared boundary, would result in a visually dominant form of development that would adversely affect the outlook for occupiers of No 73. Furthermore, having regard to the orientation of both properties, this arrangement would also overshadow and reduce the amount of daylight to the rear garden area and ground floor, rear facing windows serving No 73.
30. The Council has raised no concerns in respect of the living conditions of the occupiers of No 69. This property has been extended to the rear and is detached from the appeal property. As a result of its siting, orientation and relationship with No 71, together with the location, height and depth of the extension at No 69, I see no reason to disagree.
31. Nevertheless, the proposed development would have a harmful effect on the living conditions of the occupiers of 73 Geary Road, with particular regard to light and outlook. Accordingly, it would conflict with BLP Policy DMP1 and the guidance within SPD 2, which collectively seek, among other things, to ensure to secure high levels of external amenity. It would also conflict with the Framework which seeks to create places with a high standard of amenity for existing users.

Other Matters

32. The proposed development would make a modest contribution towards the areas housing supply and support the Government's objective of significantly boosting the supply of homes, in an area which is fairly close to bus and train transport services and local facilities, including schools, parks and shops. It would also contribute towards the type and mix of housing supply, thus complying with the aims of LP Policy H2, and make efficient use of brownfield land. It would also contribute towards the local economy, including during the construction phase, and provide support to local services and contribute towards healthy communities, through additional consumer spending and its accessible location. However, given the scale of the development, these benefits would be limited in extent.
33. The appellant contends the proposed development would include a higher standard of insulation, thereby lowering the buildings carbon footprint, and asserts the expense of achieving significantly higher levels of insulation and energy efficiency is unlikely to be achieved if the building remained as a single dwelling. While there is little substantive evidence to demonstrate the same levels of insulation could not be achieved if the property remained as a single dwelling, having regard to the modest amount of development proposed, this benefit carries little weight in favour of the scheme.

Conclusion

34. For the reasons given above, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR