



Appeal Decision

Site visit made on 11 December 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/T5150/W/23/3323843

Land to the rear of 22-24 Connaught Road, London NW10 9AG

- 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 Atlas Construction against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3609, dated 26 October 2022, was refused by notice dated 4 May 2023.
 - The development proposed is erection of a single storey 2B4P dwellinghouse and garden.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted amended plans prior to the Council's determination of the application. However, there is no evidence that the Council accepted them, and it did not comment upon during the appeal process. The amended plans increased the size of the rear garden, enclosed the living room/kitchen with an internal wall, and inserted rooflights. Although individually these amendments were small, collectively they could affect the overall acceptability of the proposal. In the absence of evidence that they have been subject to full consideration and consultation by the Council, I consider it would be prejudicial to interested parties to accept them. I have therefore determined the appeal on the basis of the plans listed on the Council's decision notice.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area,
 - Whether the proposal would provide acceptable living conditions for intended future occupants, with particular reference to outlook and privacy; and
 - Whether the proposal would affect the living conditions of existing occupants within Nos 22-24 Connaught Road (No 22-24) and Nos 12-14 Nicoll Road (Nos 12-14) with particular regards to privacy.

Reasons

Character and appearance

4. The appeal site is located to the rear of Connaught Road and accessed via an alley between Nos 24 and 26. The land has been severed from Nos 24 and 26 with a boundary and is being utilised in its entirety for the storing of building materials and contains a number of single-storey containers. The entrance and boundary to the alleyway is screened from view by a set of tall metal gates and hoarding.
5. The appeal site is set within a predominantly residential area containing two-storey semi-detached dwellings to Connaught Road and predominantly detached buildings to Nicoll Road, both streets have extensive rear gardens which appear to be free from detached outbuildings. The exception to this is No 20 which contains a wooden mono-pitched garden building situated at the far boundary, and No 26, which has been severed and the furthest point hard landscaped. Despite the building at No 20, the prevailing character to the rear is open.
6. The overall footprint of the proposed dwelling would extend across the full width of No 24 and some of No 22, occupying almost the full width of the site with only minimal space between the walls of the dwelling and the boundaries with adjoining gardens. Whilst single-storey, the height would be significantly taller than both the outriggers associated with Nos 22 and 24 and the existing containers on site. As the overall width would extend across the rear boundaries of Nos 22 and 24, the projection above the boundary would introduce significant bulk, cluttering the visual transition between the rear of Connaught Road and Nicoll Road. Eroding the existing spaciousness and would appear unsympathetic within its context. Thereby, failing to assimilate the proposal into the established pattern of development which is characterised by houses with direct road frontages with good-sized, generally open rear gardens.
7. The proposed planting and green roof would reduce the visual impact of the proposal from the upper floors of the neighbouring properties and the removal of the containers would improve the appearance of the site. However, these benefits would not be sufficient to outweigh the harm identified above.
8. I am mindful that planning permission had been previously granted for a single-storey building for the purposes of car storage¹. Despite being similar in height, the development's nature is sufficiently different from the scheme before me. Furthermore, the condition of the site does not outweigh the harm I have identified above.
9. I conclude that the proposed dwelling would be harmful to the character and appearance of the area, contrary to Policies BD1 and DMP1 of the Brent Local Plan 2019-2041 (2022) (Local Plan) which collectively seeks to achieve, amongst other things, good design, scale and layout.

¹ 18/0184

Living Conditions – Intended future occupiers

a) outlook

10. The proposed dwelling would only have windows offering an outlook on its front and rear elevations. The principal outlook from all rooms would be onto the rear garden and both bedrooms would be single aspect. This area would be northeast facing and set beneath the canopy of those trees within the gardens of Nicoll Road. The close proximity of the rooms to the rear boundary, together with the overhanging tree canopies would severely restrict the outlook from these rooms, resulting in oppressive living conditions for future occupants. The distance between habitable rooms and the boundary would fall significantly below the 9 metres set out in SPD1 and is not compensated for by the garden extending across the full width of the plot.
11. My attention has been drawn to Policy D6 of the London Plan with regard to the depth of outdoor space. I have not been provided with a copy to make a comparison. Whilst restricted outlook is not uncommon across London, each application needs to be considered on its own merits. Even if the minimum depth of the external area was 2.5 metres, given the predominant single aspect of habitable rooms and the presence of the tree canopy, this would still result in a restricted outlook for those intended future occupiers.

b) privacy

12. As the proposed dwelling would be single-storey and enclosed by appropriate boundaries, there would be no intervisibility between habitable rooms of the adjacent properties at ground floor level in either Connaught or Nicoll Roads. However, there would be direct overlooking from the upper rooms of Nos 22 and 24, and the roof terrace of No 22 towards the front elevation of the new dwelling. This would give rise to inadequate levels of privacy within the main living area and the front garden. Although the front garden is a secondary amenity area it does fall within the useable external amenity area associated with the dwelling and would be south-west facing. Its orientation means that it will receive more sun than the rear garden and is therefore likely to be used by future occupants. The direct overlooking would result in a loss of privacy for intended future occupiers.
13. The distance between the rear of Nos 12 and 14 and the rear of the proposed dwelling would exceed the 18 metres set out in SPD1, however, this would not be the case with Nos 22 and 24. With the elevated position of windows together with their close proximity to the proposed dwelling providing opportunities for direct overlooking into the proposed dwelling.
14. I conclude that the proposed dwelling would fail to provide acceptable living conditions for future occupants. The proposal would therefore fail to comply with policy DMP1 of the Local Plan which seeks, amongst other matters, to provide high levels of internal and external amenity for future occupants. The proposal would also conflict with the SPD1 which seeks to ensure new development provide adequate privacy and amenity for future occupants.

Living Conditions – Existing Occupants

15. As a single storey dwelling enclosed by a boundary fence, the proposal would not give rise to any unacceptable overlooking of the adjoining gardens of Nos

12 and 14 or Nos 22-24. It would however be possible for users of the garden area at the front of the proposed dwelling to look up towards the roof terrace of No 22. Whilst I accept that this area is visible from the rear of Connaught Road and may be seen from Nicoll Road; the proposal would introduce additional residents within the rear. This together with the proximity of the new dwelling would contribute further to the perception of being overlooked and impact the quality of outdoor amenity space existing occupants currently enjoy.

16. The proposal would not cause any harmful loss of privacy for the occupants of Nos 12 or 14. However, I conclude that there would be an unacceptable loss of privacy for the occupants of No 22, the detriment of their living conditions. Accordingly, the proposal conflicts with policy DMP1 of the Council's Local Plan, which seeks to ensure development provides high levels of internal amenity for neighbouring occupiers. There would also be conflict with SPD1, which seeks to ensure development protects the privacy for existing residents.

Planning Balance

17. The proposed development would provide one housing unit on a small site in an existing residential area, identified as having excellent public transport accessibility. The principle of the proposal is therefore acceptable in respect of Policies BH4 of the Local Plan. It would also be acceptable in respect of Policy H2 of the London Plan insofar as it encourages the development of small sites and helps address meet housing delivery for London.
18. Increasing housing numbers and matters of good design are not mutually exclusive. The proposal would harm the character and appearance of the area. Even though the dwelling would provide adequate internal living space for reasons set out above, I have found that it would cause harm to the living conditions of future occupiers and neighbours at No. 22. I therefore find that the proposal conflicts with the development plan taken as a whole.

Other Matters

19. My attention has been drawn to a scheme the Council approved to the rear of 47-51 Connaught Road. Whilst the proposal is similar in that it relates to the insertion of dwellings to the rear of Connaught Road in other respects its relationship with adjacent properties differ from the appeal proposal. As such whilst this scheme may be sited in a similar location, I do not consider it comparable to the matter in hand.

Conclusion

20. For the reasons set out above, the proposal conflicts with the development plan taken as a whole. There are no other considerations which indicate that the decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

L Clark

INSPECTOR