



Appeal Decision

Site visit made on 12 December 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/T5150/W/23/3324366

233-235 Kilburn High Road, London NW6 7JN

- 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 Bluetown Commercial Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/3821, dated 8 November 2022, was refused by notice dated 6 January 2023.
 - The development proposed is alterations and extensions to second, third and fourth floor levels for residential use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of the occupiers of 231 and 237 Kilburn High Road, with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site (Nos 233-235) comprises a late 20th-century mid-terrace property fronting Kilburn High Road, built over five storeys with commercial use on the ground floor and eight self-contained flats above.
4. The built form locally largely consists of late 19th and early 20th century properties with ground floor commercial units and ornate frontage facing Kilburn High Road. A secondary rear elevation backs onto Waterloo Passage. The rear elevation of No 233-235 is particularly prominent owing to its proximity to the junction with Burton Road and Waterloo Passage. The building incorporates steps in the building line on the second, third and fourth floors. The first step within the rear is at the second floor and is set below the roof terrace of 231 Kilburn High Road (No 231). Notwithstanding the stepped approach, from this vantage, the scale and relationship of the plot stand out as anomalous compared with the overall scale and relationship to the neighbouring buildings.

5. Whilst there is a variation to the scale and form of the outriggers within the terrace on which the appeal property is located, the predominant character is one whereby the outrigger decreases in scale as it progresses upwards on the building, with half-width outriggers for the most part terminating at the second. The exceptions to this are No 231, No 247 and No 251-255 Kilburn High Road.
6. No 231 directly adjoins the appeal property, occupying a corner plot with Burton Road and incorporates full-width extensions to the rear of the first, second and third floors. No 251-255 is situated to the opposite end of the terrace, occupying a corner plot with Buckley Road and has two storeys built upwards on Waterloo Passage. Whilst the depth of the rear outrigger associated with No 247 remains in approximate line with the bulk of the terrace, the height of the half-width outrigger projects a further floor, terminating at the third floor. Despite the variety to the building line, it still retains a predominant vertical emphasis.
7. The appeal scheme proposes rearward extensions of No 233-235 to increase the size of the second (Flat D), third (Flat F) and fourth (Flat H) floor flats and would provide external terraces for Flat D and Flat F, whilst also extending the rear elevation of No 233-235 upwards and outwards.
8. Whilst the rear would incorporate a step, this would be at the third floor above the roof terrace of No 231 and terminate at approximately the same height as the eaves of No 2 Burton Road. This projection upwards would notably enclose the current openness of Waterloo Passage and exacerbate the sense of confinement to pedestrians using it. Furthermore, the outwards extension at the third and fourth floors would significantly increase the bulk and massing of the building and would exacerbate its prominence when viewed from within Waterloo Passage and from Burton Road.
9. I acknowledge that the proposed development would utilise similar materials and that there is variation in the scale of outriggers within the rear. However, the existing building is larger than its immediate neighbours and the proposed development would increase its scale further. This increase in overall scale together with the extensions would visually erode the remaining spaciousness which exists at the rear of Kilburn High Road. The scale of the resultant building would therefore appear unduly prominent within the street scene and unsympathetic to the prevailing character of the area.
10. I conclude that the proposed development would be harmful to the character and appearance of the area, contrary to Policies DMP1 and BD1 of the Brent Local Plan 2019-2041 (2022) (Local Plan) which seek, amongst other matters, that new development must be of the highest architectural and urban design quality. There would also be conflict with the Brent Design Guide SPD1 (2018) which seeks, amongst other matters, to ensure that new development height and massing positively respond to the existing context and scale.

Living conditions

11. No 233-235 adjoins No 231 and 237 Kilburn High Road (No 237) which I am told are residential in use on the upper floors. The appeal building is much larger compared with its neighbouring properties and steps well forward of the rear elevations of both No 231 and No 237. The extant building already breaches the '2:1 rule' outlined in the Council's Residential Extensions &

Alterations SPD2 (2018). Whilst this is the case, the proposed extensions would significantly increase the overall depth of No 233-235 beyond the rear elevation of both the adjoining buildings.

12. Plans of the existing side elevations show the outline of the appeal building featuring angled side parapets. This allows for some open outlook from the rear windows of No 231 and No 237, with existing occupants able to look up and over these features contributing to some sense of openness. The appeal scheme extends rearward beyond the extant building line from the second to the fourth floor and replicates the angled parapet feature to the roof terrace at the third floor. The combination of the upward and outward extension would result in large expanses of brickwork being visible from these windows, exacerbating the looming presence of the appeal building and creating an overbearing and bleak outlook for existing occupants.
13. Even if there would be no harm in respect to the loss of sunlight or daylight and no increase in the overall footprint, the imagery provided does show when read alongside the floor plans, that the flank elevation of No 233-235 would be solid and extended. The proposed extension on the boundary with Nos 231 and 237 which increases the overall mass of No 233-235, would result in the appeal building having an overbearing impact upon existing occupants. It follows that the proposals would cause harm to the living conditions of both No 231 and 237, particularly in terms of outlook.
14. I conclude that the proposed development would result in unacceptable living conditions for nearby occupiers. Accordingly, the proposal would be contrary to Policy DMP1 of the Local Plan which seeks, amongst other matters, to ensure development provides high levels of internal and external amenity. There would also be conflict with the SPD1 and Brent Residential Extensions & Alterations SPD2 (2018), which seek collectively, amongst other matters, for development to protect the amenity of existing residents.

Other Matters

15. Even if there would be no harm to the significance of the North Kilburn Conservation Area as a designated heritage asset, this doesn't alter my overall conclusions.
16. I concur that the appeal property is situated within Public Transport Accessibility Level 5, however as this matter is not in dispute, I attach little weight to the site's connectivity to public transport.
17. I am sympathetic to the fact that the Council did not engage during the application. However, this is not within the scope of my assessment which must focus on the planning merits of the appeal proposal. I also appreciate that the appellant has attempted to overcome the concerns previously raised within their pre-application advice¹. The amendments would still result in a proposal that would harm the character and appearance of the area for the reasons I have already outlined.
18. Furthermore, whilst no comments have been received from the occupants of neighbouring properties, the absence of objections does not in itself render the scheme acceptable.

¹ 21/0308/PRE

Planning balance

19. The proposed development would increase the size of the internal accommodation of Flats D, F and H and improve the external amenity areas of Flats D and F, however, the benefits of doing so would not outweigh the harm that it would cause to the character and appearance of the area or the living conditions for the existing occupants within No 231 and No 237. On balance, therefore, I find that the proposal conflicts with the development plan taken as a whole, and material considerations do not indicate the decision should be made other than in accordance with the development plan.

Conclusion

20. For the reasons set out above, the appeal should be dismissed.

L Clark

INSPECTOR