



Appeal Decision

Site visit made on 23 January 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2024

Appeal Ref: APP/T5150/W/23/3320236

19 The Avenue, Brent, London NW6 7NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval of details required by a condition of planning permission ref APP/T5150/C/20/3264790.
- The appeal is made by Mr Nadim Saad against the decision of the London Borough of Brent.
- The application Ref 22/4150, dated 16 December 2022, sought approval of details pursuant to conditions (i) a) to e) of planning permission ref. APP/T5150/C/20/3264790 granted on 5 May 2022.
- The development proposed is the demolition of a dwellinghouse and the rebuilding of a new dwellinghouse which includes extensions to the roof, and two storey extensions to the rear and side of the premises.
- The details for which approval is sought include:
 - (i) The building operations hereby permitted shall be removed and all materials resulting from the demolition shall be removed within 12 months of the date of the failure to meet any one of the requirements set out in (a) to (e) below:
 - a) Within two months of the date of this decision a scheme to amend the front porch and the main roof form so that the ridgeline, front and rear roof slopes and rear dormer match the front porch, ridgeline, front and rear roof slopes and rear dormer being built under joint planning permission reference 19/0884 at 17 The Avenue, shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - b) If within eight months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, a valid appeal shall have been made to the Secretary of State.
 - c) If an appeal is made in pursuance of b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - d) The approved scheme shall have been carried out and completed in accordance with the approved timetable.
 - e) Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

Decision

1. The appeal is dismissed and approval of the details submitted pursuant to the condition is refused, namely the details submitted pursuant to condition (i) a) of planning permission ref APP/T5150/C/20/3264790.

Preliminary Matters

2. To be precise, I have referred to the condition numbering (i) rather than (1), as stated on planning permission APP/T5150/C/20/3264790. Also, the details submitted pursuant to the appeal proposal relate to the requirements of

condition (i) part a), with the requirements of condition (i) parts b) to e) flowing from the requirements of condition (i) a).

3. The appeal property, 19 The Avenue (No 19) and 17 The Avenue (No 17) form a pair of semi-detached dwellings. No 17 has recently had extensions and alterations made to it, which appear to be complete. The Council's statement of case sets out that it is undertaking enforcement investigations in respect of No 17, which in their view has not been built in accordance with planning permission ref 19/0884.
4. Since the appeal was submitted, the Council has received a new planning application, ref 23/2004 in respect of No 19. However, I have not been advised whether a decision has been made in respect of this.

Background and Main Issue

5. On quashing an Enforcement notice planning permission was granted on appeal, ref. APP/T5150/C/20/3264790 for the rebuilding of a new dwellinghouse, subject to conditions. Having regard to the evidence before me, the appellant did not submit the required details of condition (i) a) of that permission within the prescribed timescales. However, the details submitted in respect of the appeal proposal seek to regularise and mitigate the development.
6. Having regard to the evidence and Council's decision, the main issue in this appeal is:
 - whether the submitted details satisfy the requirements of the relevant condition.

Reasons

7. The appellant delayed submitting details to comply with the requirements of the condition because the owners of No 17 were seeking to amend the design of their proposed extensions. However, whilst the proposed amended plans seek to ensure the ridgeline and design of No 19 match that of No 17 as amended or built, this is not the requirement of condition (i) a). Rather, the condition requires that submitted amended plans match the plans approved under joint planning permission ref. 19/0884 and not an alternative scheme.
8. In comparing the proposed plans with the plans which were approved under ref. 19/0884, the design of the front porch and the main roof form do not match. The proposed design of the porch roof is different and the main roof form, including the roof widths and angles, also vary to that shown on the previously approved plans. Therefore, the details shown on the proposed plans, do not fully accord with the requirements of condition (i) a).
9. Whilst the appellant notes that the originally approved plans, as approved under application ref. 19/0884, cannot be physically implemented and that the proposed plans seek to provide a suitable solution, such a solution is not possible under the requirements of the condition which is the subject of this appeal. Furthermore, the variation or removal of the condition is not sought as part of the appeal proposal and therefore is not for my consideration.

10. In view of the above, as the proposed submitted details do not match those approved under application ref. 19/0884, they do not satisfy the requirements of the relevant condition.
11. As the requirements of the condition are not met, the merits of the proposed scheme and policies within the development plan are not directly relevant to my consideration of the appeal proposal.

Conclusion

12. For the reasons given above, I conclude the appeal should be dismissed.

C Billings
INSPECTOR