



Appeal Decision

Site visit made on 12 February 2024

by **L Clark BA(Hons) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/T5150/W/23/3326154

Flat 1, 123 Brondesbury Road, Brent, London NW6 6RY

- 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 Ms Louise Mendoza against the decision of the Council of the London Borough of Brent.
 - The application Ref 23/0512, dated 15 February 2023, was refused by notice dated 25 April 2023.
 - The development proposed is removal of existing grass coverings to the rear garden of Flat 1 and replacement with pre-cast concrete pavings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has stated that the development would assist in them living with an ongoing medical condition. In accordance with the Public Sector Equality Duty (PSED), I have taken this into account in determining this appeal.

Main Issues

3. The main issues are:
 - whether or not adequate arrangements are made for: (a) the disposal of surface water from the site; (b) biodiversity, and
 - the effect of the development on the character and appearance of the surrounding area.

Reasons

Surface water drainage and biodiversity

4. The appeal site (Flat 1) is not located within any flood zone, indicating that there is a low risk of flooding. Nevertheless, Policy BSUI4 of the Brent Local Plan 2019-2041 (Local Plan) still requires a drainage strategy be submitted for, amongst other matters, minor developments where proposals would impact on the current drainage regime.
5. The proposal would increase the existing area of hard paving so that it would cover approximately the whole garden. Whilst this proposal may be small-scale, hard paving to the whole garden area is likely to have an impact on surface water drainage conditions. I note the appellant's statement suggests the use of permeable paving as mitigation to address concerns relating to

surface water. However, this has not been shown on the submitted plans nor has it been applied for.

6. Policy BGI1 requires all development to achieve a net gain in biodiversity. Whilst approximately half of the garden is laid to grass, the replacement with pre-cast concrete would undoubtedly result in a loss of biodiversity, albeit minimal. Notwithstanding this, Flat 1 is within an area where nearby trees and shrubbery contributes to the wider biodiversity, and measures to achieve a net gain are wider ranging than solely providing flower beds or planters. Taking a proportionate approach to the loss of the grass, I consider that it would be possible to apply a condition where a net gain within the site could be achieved.
7. I conclude that even though it would be possible to achieve a biodiversity net gain to comply with Policy BGI1 of the Local Plan, it has not been demonstrated that adequate provision for sustainable drainage of surface water can be achieved on site. As such, the proposed development would fail to comply with Policy BSUI4 of the Local Plan which seeks to ensure proposed developments make use of sustainable drainage measures.

Character and appearance of the area

8. Flat 1 is one of four flats within a mid-terraced building located within a predominantly residential street. The rear of Brondesbury Road, where Flat 1 is located, abuts the rear gardens of properties on Victoria Road. Views within the rear between gardens are largely obscured by the outrigger and fencing associated with Flat 2 within 123 Brondesbury Road (No 123) to one side; the high timber fence to No 125 to the other; and the single storey outbuilding set within the garden of 130 Victoria Road. As the change in the surface material would be at such a low level, and the rear is obscured from public view, it would not affect the overall character and appearance of the surrounding area.
9. My attention has been drawn to planning permission ref: 15/4851, which I am told includes soft landscaping as part of the conversion of No 123 into 4 self-contained flats. Notwithstanding this, as the rear is obscured from public view, it would not affect the overall character and appearance of the surrounding area.
10. Taking into consideration the restricted views, I conclude that the proposal would not have an unacceptable adverse effect on the character and appearance of the surrounding area. As such, there would be no conflict with Policy DMP1 of the Local Plan which seeks, amongst other things, to provide high levels of external amenity.

Other Matters

11. The lack of objection from neighbouring properties does not in itself render the scheme acceptable.

Planning Balance and Conclusion

12. I have had due regard to the PSED and I find that the development could provide the opportunity to advance its aims by meeting the needs of the appellant, through the provision of a low maintenance garden. However, set against the need to safeguard neighbouring properties from surface water

flooding which has not been demonstrated and is in the public interest, dismissing the appeal is a proportionate response in this case.

13. On balance, the proposal conflicts with the development plan taken as a whole, and material considerations do not indicate a decision otherwise than in accordance with the development plan. I therefore conclude that it is proportionate and necessary to dismiss the appeal.

L Clark

INSPECTOR