



Appeal Decision

Site visit made on 26 February 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2024

Appeal Ref: APP/A5270/W/23/3325317

269 Brunswick Road, London, W5 1AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Nahid Yousefi against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 231189FUL.
 - The development proposed is described as 'proposed amendments to regularise the built ground floor single storey rear extension.'
-

Decision

1. The appeal is allowed and planning permission is granted for a ground floor single storey rear extension at 269 Brunswick Road, London, W5 1AJ in accordance with the terms of the application, Ref 231189FUL, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the approved plans:
 - 986 A1 SU03 B site plan and block plan (Dated 04/04/18);
 - 269BRU-ATG-03-ZZ-DR-A-0001 Proposed Floor Plans (Dated 13/03/2023)
 - 269BRU-ATG-03-ZZ-DR-A-0002 Proposed Elevations (Dated) 13/03/2023)
 - 2) A timescale for the installation of the proposed alterations and trellis boards shall be submitted for the written approval of the Local Planning Authority within 2 months of the date of this decision. Thereafter, development shall be carried out in accordance with the approved details shown on plan: 269BRU-ATG-03-ZZ-DR-A-0002 Proposed Elevations (13/03/2023) and completed within the approved timescale and thereafter retained for the lifetime of the development.

Preliminary Matters

2. The address I have used is the one given on the original planning application form and used by the Council. The description of development in the decision above removes the reference to regularising the development, as this is not a description of development. I note the description of the development provided by the Council was different, but there is no evidence a change was agreed.
3. Amended plans were provided to the Council after the application was submitted. I have sought clarification of the plans which were considered by the Council when it made its decision. On the basis of the evidence before me,

I have determined the appeal on the basis of these plans that were accepted by the Council, which shows trellis, which is referred to in the Council's description of development and referred to in the officer report.

4. The development has in part been carried out. However, what I observed on site was not the same as shown on the proposed plans. I have determined the application on the basis of the plans before me, rather than as a wholly retrospective application.
5. During the appeal, a new version of the National Planning Policy Framework (the Framework) was published. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed there is no requirement for me to seek further submissions on the latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

6. The main issue is whether the proposal would preserve or enhance the character and appearance of the Brunswick Conservation Area.

Reasons

7. The appeal site comprises a ground floor flat and garden within the Brunswick Conservation Area (BCA). The BCA is predominantly residential with a cohesive architectural style. The significance is also derived from the layout of the residential properties which include generous rear garden space and gaps between dwellings. Several properties have extensions to the rear there are garages between dwellings and some gardens contain large outbuildings. The rear garden of the appeal property occupies an unobtrusive position in the residential layout of Brunswick Road. There are long distance views towards the west and across other rear gardens. However, the rear of No 269 was largely restricted from external views due to the layout and relationship of adjacent buildings, which had a screening and enclosing effect on the rear of the property and its garden.
8. The Brunswick Conservation Area Management Plan March 2007 (the BCAMP) states that single storey rear extensions should not extend further back than two meters from the original building or further than either of the extended rear walls of the neighbouring houses. The proposal would, on face value, conflict with this aspect of the policy. However, planning permission was granted by the Council at the appeal property for a "Single storey rear extension; terrace with balustrade and staircase to rear garden¹" (the approved scheme). The approved scheme extension projected 3.4m and the decking 1.3m, and the steps a further 0.9m, thus in my view the conflict with this guidance is not sufficient to withhold permission on this basis here.
9. The differences between the approved scheme, and that built is the extension projects further and the raised platform is larger and of differing design. The proposal would increase the scale and massing of the existing built form at the rear of the property compared to the approved scheme. As a result, the existing arrangement would change.

¹ Council Reference 201102FUL

10. However, the design of the extension is reflective of the approved scheme. It would also only marginally extend beyond the extension of the adjoining property, and therefore would not appear excessively deep or out of context. Whilst it would cross the width of the property, it does not fill the width of the plot and therefore would not dominate the existing dwelling or reduce an important gap between properties.
11. The Council has acknowledged there are other platforms in the area, I have no evidence that they gradually step down to the garden, are of a lower height or smaller size. The proposed trellis and rails would both have a lightweight appearance with the gaps between the timber slats allowing natural light to permeate through. Moreover, the natural material would have an understated appearance and although the trellis would be more visible, it would not be a dominant or alien feature in the surrounding garden context or within the street given that it would be set back into the site.
12. Although covering a larger area of the rear garden, I do not consider that the cumulative effect of the development would undermine the contribution the appeal site makes to the significance and special interest of the Conservation Area. An extensive rear garden area would remain and seen against the context of the garages associated with 273 and 267 Brunswick Road which project much further into the rear garden space than the development, I am satisfied that the overall rhythm, pattern of development and spatial character would still be clearly legible and thus be in accordance with the aims of the guidance contained within the BCAMP.
13. I note the Council's view that some nearby extensions pre-date the designation of this Conservation Area, and do not form a precedent, but nonetheless they form part of its residential and suburban character. I have found that the extension would not be harmful against this context or to the host dwelling. Whilst visibility of development in a conservation area is not an overriding issue, the extension, raised platform and trellis will not readily be seen from the public realm due to the enclosed environment to the rear of this part of the buildings on Brunswick Road. Even if the proposal is more likely to be experienced from private views, I consider that the proposal would be of an acceptable design, scale and massing.
14. In reaching these findings I am particularly mindful that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area².
15. Taking these findings as a whole, I conclude that the proposed development would not have a harmful effect and so would preserve the character and appearance of the Brunswick Conservation Area. Consequently, the proposal is not contrary to policies D3, D4, and HC1 of The London Plan (2021), and Policies 7.4, 7B and 7C of the Ealing Development Management Development Plan Document (2013). Taken together, these policies seek to conserve the significance of heritage assets and to secure quality design that respects local character. The proposal would also accord with the Framework aims to achieve well-designed places and to conserve and enhance the historic environment.

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

16. In finding an absence of harm to the identified special interest and significance of the designated heritage assets, it is not incumbent on me to consider any public benefits that would flow from the appeal.

Other Matters

17. There is no evidence before me that the development here results in loss of light, privacy or outlook. The effect on neighbouring living conditions did not form a reason for refusal for the Council, who concluded the proposal would not cause undue impacts on neighbouring amenity, and I see no reason to disagree, particularly due to the presence of the pitched roof garage alongside No 267. Nor is there any substantive evidence before me the development would be hazardous, damage property, adversely affect rain water drainage, surface water, increase flood risk, affect ecology or result in tree removal.
18. Matters in relation to discrepancies within the appellant's design and access statement, measurements referred to, reference to other development, absence of consultation and relevance of policies referred to, I have ultimately found the proposal to be acceptable on its own merits and the plans before me.
19. Although development has not been built in accordance with approved planning permissions this alongside any other unauthorised development, tree removals, or necessity for enforcement action is not material to, nor has any bearing on my assessment. It is not within my remit to consider any alternative designs such as a ramp, enforcement action, or if the development complies with Building Regulations. Whilst I appreciate that works have been undertaken without the benefit of planning permission, this does not set a precedent. Any other proposals that require planning permission would be able to be assessed on their own merits by the Council.
20. The conduct of the Council during the determination of the planning application is outside the scope of my assessment and there is no costs application before me.

Conditions

21. I have amended the Council's suggested conditions where necessary in the interests of clarity. The imposition of the condition which would involve the lapsing of the permission, would not be necessary as it would not be reasonable. However, a condition specifying the approved plans is necessary in the interests of certainty. I have imposed a condition specifying the submission of a timescale for the completion of the development to be agreed, which is necessary to ensure its construction. It is not necessary or reasonable to impose a condition requiring materials to match the existing building as part of the development has already been constructed.

Conclusion

22. I conclude that the development is in accordance with the development plan. I therefore allow the appeal.

K Williams

INSPECTOR