



Appeal Decision

Site visit made on 6 March 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal Ref: APP/T5150/W/23/3327005

1a Chestnut Avenue, Brent, Wembley, London HA0 2LU

- 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 Mr Chappell against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/0747.
 - The development proposed is the demolition of the existing garage. Hip to gable roof extension, dormer extension, part two, part single storey rear extension, part two, part single storey side extension of a 1930s detached property to create two semi-detached properties. New vehicular crossover. Associated bike and bin stores.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing garage. Hip to gable roof extension, dormer extension, part two, part single storey rear extension, part two, part single storey side extension of a 1930s detached property to create two semi-detached properties. New vehicular crossover. Associated bike and bin stores at 1a Chestnut Avenue, Brent, Wembley, London HA0 2LU in accordance with the terms of the application, Ref 23/0747, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal submission includes a revised plan which includes some amendments to the design of the rear dormer extensions. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. The changes would be minor in nature and does not amend the proposed development the subject of the appeal. Accordingly, under the principles established by the Courts in *Holborn Studios Ltd*¹ the amendment does not involve a substantive difference or a fundamental change. Furthermore, having regard to the procedural tests, I do not consider that any other party would be prejudiced by my acceptance of it. I have therefore determined the appeal based on the revised plan.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

Main Issue

4. The main issue of the appeal is the effect of the proposed development on the character and appearance of the host property and the surrounding area.

Reasons

5. The appeal site comprises a detached, two-storey, semicircular bay fronted dwelling, constructed of solid brick walls with a pitched concrete tiled roof. To the side, there is a single storey attached garage. The rear garden is broadly triangular shaped.
6. The immediate character of this part of Chestnut Avenue is mixed, containing some detached, modern buildings, a car park and methodist church. The remainder of Chestnut Avenue has a high degree of uniformity in the pattern of semi-detached, two storey dwellings. There is a vacant plot of land adjacent to the site which has recently been granted planning approval² for the erection of two semi-detached dwellings.
7. The proposed development would involve the demolition of an existing garage and the erection of part single, part two-storey extensions to the side and rear of the property, with a rear dormer, rooflights and new vehicle crossover. The overall property would be divided to create two semi-detached dwellings, each with their own parking and garden areas.
8. Policy BD1 of the Brent Local Plan 2019-2041, adopted February 2022 (BLP) states that all new development should be of the highest architectural and urban design quality. It also states that in delivering high quality design, development proposals will be expected to show how they positively address all the relevant criteria within London Plan design policies and the Brent Design Guide SPD1 2018 (SPD1). The SPD1 outlines that development should respond to the local context and respect the existing character.
9. The proposed two-storey rear extension would extend across the full-width of the property with a depth of approximately 2.2 metres. Although the flat roof design would not match the original pitched roof, it would not appear incongruous in this setting. A number of properties along Chestnut Avenue have been extended in this way, including 1 and 2 Chestnut Avenue. Furthermore, the flat roof element would not be highly visible within the street scene. For these reasons, I find that this element of the proposal would not cause harm to the character and appearance of the host property or surrounding area.
10. The proposed two storey side extension would follow the line of the side boundary which is at an angle to the front facade. It would have a first-floor window facing towards the adjoining property. The Council accepted that the side extension is broadly acceptable in design terms but raised concerns over the use of a hipped roof instead of a gable. However, the appellant strongly disputes the suggestion that the side extension would have a hipped roof. Based on the evidence before me, the submitted plans clearly show a gable roof to the side elevation and whilst the roof line would be angled to reflect the shape of the site, the roof pitch and form would match that of the main roof and comprise an acceptable form of design. Accordingly, it would not cause

² Planning Application Ref: 22/4225

harm to the character and appearance of the host property or surrounding area.

11. The Brent Residential Extensions and Alterations SPD2 2018 (SPD2) states that rear dormers, which can be the full width of the original roof plane will usually be permitted provided they are set down from the ridge by at least 0.3m and set up from the eaves by at least 0.5m. The proposed dormers adhere to this guidance. However, the design also incorporates a parapet wall finish, which would obscure the set up from the eaves. Accordingly, it would not be read as a clearly distinct dormer extension.
12. However, the appellant has supplied amended plans which would address this, without significantly altering the scheme. Subject to these changes, I find that the proposed dormer extensions would not cause harm to the character and appearance of the host property or surrounding area.
13. In terms of its scale, bulk and massing, the appeal proposal broadly reflects that of the recently approved scheme³. I find that the recent approval represents a fallback position, with a greater than theoretical probability of being built and therefore I afford this considerable weight. Consequently, although the two schemes differ slightly in terms of their design and appearance, the key components to which the Council raised concerns are comparable. Therefore, whilst I note the Council's assessment that the recently approved scheme would read successfully as one considered entity, with a deliberate and considered form, I do not find that the appeal proposal would appear incongruous within the street scene.
14. At my site visit I observed various examples of rear extensions, including dormers, two-storey flat roof extensions and rooflights. As such, although the extension would be large, it would create two self-contained dwellings, which would appear as a traditional semi-detached dwelling, which are common within the remainder of Chestnut Avenue. Overall, the proposed development would reflect the architectural character of the host building and surrounding area. Furthermore, the similar scale and massing of the recently approved scheme is a material consideration to which I attribute significant weight.
15. Consequently, I therefore conclude that the proposed development would not cause harm to the character and appearance of the host property and the surrounding area. It would thus comply with Policies DMP1 and BD1 of the BLP, which require amongst other things, development to deliver high quality design that complements the locality. There would also be no conflict with SPD2, which seeks to ensure, amongst other things, rear dormers are set down from the ridge by at least 0.3m and set up from the eaves by at least 0.5m

Conditions

16. I have had regard to the Council's suggested conditions and considered these against the statutory tests outlined in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have also had regard to the appellant's comments on the suggested conditions. I have made amendments as necessary to comply with these documents and for clarity, consistency, and reasonableness.

³ Planning Application Ref: 23/3002

17. I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2). It is necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
18. In addition to the condition relating to the approved plans, a further condition (3) is necessary to ensure that the materials used match those used in the existing house. A condition (4) requiring car and cycle parking, as well as refuse storage to be installed prior to first occupation of the development is necessary to ensure a satisfactory standard of development.
19. A condition (5) requiring the upper floor side window to be obscure glazed and non-opening is also required to protect the living conditions of neighbouring occupiers.
20. I have had regard to the appellants comments in relation to the submitted landscape proposals. However, notwithstanding the plan submitted with the appeal, I consider that further details of landscaping on the site is necessary to secure a satisfactory appearance and to ensure the approved scheme complies with Policies BT2 and BH4 of the BLP. Therefore, I have imposed further conditions (6 and 7) to ensure an adequate scheme of landscaping is provided and maintained. These conditions are required to protect the character and appearance of the area, to provide environmental and ecological benefits and to maximise the amount of open space within the development.
21. The Council suggested two further conditions which would have restricted permitted development rights for future extensions and outbuildings and prevent the change of use from Class C3 (dwellinghouses) to Class C4 (houses in multiple occupation). Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so, and the PPG advises that conditions restricting the future use of permitted development rights or changes of use "may not pass the test of reasonableness or necessity". I have not been presented with any substantive evidence to demonstrate that these conditions are necessary or reasonable. Therefore, I have not imposed them.

Conclusion

22. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed.

K Lancaster

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - B9 P 00 00 (Location Map - 1:1250)
 - B9 P 00 06 (Proposed Ground Floor and First-Floor Plans)
 - B9 P 00 07 (Proposed Second Floor and Roof Plans)
 - B9 P 00 10 (Proposed Elevations)
 - B9 P 00 12 (Existing and Proposed Sections)
 - B9 P 00 13 (Proposed Landscaping Plan)
 - B9 P 00 14 (Proposed Site Plan)
- 3) The materials to be used for the external surfaces of the development hereby permitted shall match those of the existing building.
- 4) Before the development hereby approved is first occupied, the car parking spaces, cycle storage and refuse storage shall be completed in accordance with the approved drawings and made available to residents of the development. They shall not be used other than for purposes ancillary to the dwellings hereby approved.
- 5) Any upper floor window located in a wall or roof slope forming a side elevation of the building must be obscure-glazed, and non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and shall be permanently maintained in that condition thereafter unless planning approval is first obtained from the Local Planning Authority.
- 6) Notwithstanding the details shown on the Proposed Landscaping Plan⁴, no above ground works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

⁴ Plan Ref: B9 P 00 13 – Proposed Landscaping Plan