



Appeal Decision

Site visit made on 17 April 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/T5150/W/23/3327260

10 Prout Grove, Brent, London NW10 1PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Prout Partnership Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/1053.
 - The application sought planning permission for a proposed lower ground and ground floor rear extension, loft conversion with rear dormer and front rooflights and conversion of the existing dwellinghouse into 4 x self-contained flats and erection of cycle and bin storage in front garden area without complying with a condition attached to planning permission Ref 20/2743, dated 9 November 2020.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out in accordance with the following approved drawings: 1.1, 2.0, 2.1, 2.2, 4.1, 4.2, 5.1, 10.1 Rev.2, 10.2 Rev.2, 10.3 Rev.2, 11.1 Rev.2, 11.2 Rev.2, 12.1 Rev.2, 12.2 Rev.2*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
3. A revised plan has been submitted as part of this appeal, which includes the provision of an electric vehicle charging point and a drainage channel, and clarification in respect of measurements. The Procedural Guide for Planning Appeals¹ is 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. Having regard to the principles established in *Holborn Studios Ltd*², while the modifications sought would not result in a substantive difference, procedurally

¹ Procedural Guide: Planning Appeals – England 2024

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

they could prejudice interested parties by depriving those who should have been consulted on the change the opportunity of such consultation. For this reason, I have determined the appeal using the plans that were considered by the Council and upon which the views of interested parties have been sought.

4. At the time of my site visit the whole of the appeal site frontage was laid to hardstanding, with a drainage channel along the site frontage. However, it appears that this layout does not reflect the existing or proposed plans submitted as part of the appeal. For clarity, I have considered the appeal based on the development applied for and the plans submitted with it.
5. As part of the appeal, the appellant has submitted a unilateral undertaking (UU) under section 106 of the Town and Country Planning Act 1990 (as amended). The merits of the obligation are considered later in this decision.

Main Issue

6. Planning permission has been granted, under reference 20/2743, to convert the appeal property, 10 Prout Grove, into four self-contained flats with no off-street parking provision (the approved scheme). The appeal scheme seeks permission to vary the approved plans condition to provide one off-street parking space.
7. Therefore, the main issue is the effect of varying the condition on the local highway network, the Controlled Parking Zone (CPZ), natural drainage and pedestrian safety.

Reasons

8. Policy BT2 of the Brent Local Plan 2019-2041 Adopted February 2022 (BLP) requires developments to provide parking consistent with the stipulated maximum parking standards. It states that car free development should be the starting point for all development proposals in places that are well connected by public transport and that additional parking provision should not have negative impacts on, among other things, existing parking. The supporting text to this policy advises that the emphasis is on only providing spaces where they are necessary.
9. BLP Policy BT4 states, among other things, that applications for the creation of an access to a highway will be acceptable where, on heavily parked streets, the proposal does not result in the loss of more than one on-street car parking space. The supporting text highlights that the priority to promote sustainable modes of transport will help to reduce pressure on the existing highway network.
10. In addition, the London Borough of Brent Highways and Infrastructure Domestic Vehicle Footway Crossover Policy (CP) highlights, among other things, that when considering crossovers, a major consideration is the maintenance of on-street parking, and that total capacity should not be compromised.
11. The appeal site lies within a Public Transport Accessibility Level of 4 and, as such, is well connected by public transport. It is also located within a CPZ, where on-street parking is restricted to permit holders only.

12. The appeal scheme proposes one off-street parking space that is comparable with neighbouring properties and below the maximum parking standards for the development it would serve. However, the approved scheme is car free, with condition 4 preventing residents from obtaining parking permits.
13. While the appeal property, prior to works commencing in respect of the approved scheme, would have been eligible for 1.2 spaces, the Google Maps image and the existing layout plan demonstrate that it had no off-street parking provision. The evidence indicates that the appeal site is car free, and this is the starting point in regard to this appeal.
14. While the appeal scheme would not affect the operation of condition 4 of the approved scheme and would provide adequate visibility splays, it would increase car ownership and use within the area. While this increase would not be severe, it would, nevertheless, add to the pressure on the existing highway network, in an area which is well connected by public transport.
15. The Appeal Statement by Crosby Transport Planning dated July 2023 confirms that the appeal scheme would result in the loss of one on-street parking space. While the appellant asserts that this loss would be negligible and Prout Grove is not heavily parked, it would, nevertheless, reduce the availability of on-street parking spaces for those residents eligible for a parking permit within the CPZ.
16. Therefore, the appeal scheme would have a negative impact upon the existing parking provision along Prout Grove, through the loss of one on-street parking space, which BLP Policy BT2 seeks to avoid. Moreover, there is no robust justification demonstrating that the proposed off-street parking space is necessary.
17. The appellant indicates they would be willing to provide an electric vehicle charging point, which could be secured by a condition. However, there is no substantive evidence to demonstrate that the space would be solely used by an electric vehicle. As such, this benefit carries limited weight in the determination of this appeal.
18. To allow for natural drainage, BLP Policy BT2 requires off-street parking to provide adequate soft landscaping, with 50% coverage in front gardens. However, the CP, as supported by the Residential Extensions and Alterations Supplementary Planning Document 2 January 2018 (SPD), sets a minimum requirement of 30% for properties with narrower, shorter front gardens.
19. In addition to the soft landscaping, the development also needs to provide four bins, four kerbside containers for organic waste and a minimum of six cycle spaces. The approved scheme's description of development states that cycle and bin storage would be provided in the front garden area.
20. The Council acknowledge that the appeal scheme would provide soft landscaping above the minimum stipulated by the CP. To provide this, the layout of the cycle parking and bin storage is to be amended.
21. While there is dispute between the parties in respect of the size of the cycle parking required and its location, the submitted plans show an under provision of bin storage, with only four bins annotated. In light of this and given the modest frontage to No 10, I cannot be certain in the absence of evidence to the contrary, that the CP compliant soft landscaping could be provided alongside the required cycle parking and bin storage.

22. When considering crossover proposals, the CP seeks, among other things, to ensure safe pedestrian passage is maintained. The SPD also requires compliance with the CP for accesses to the highway.
23. The depth of the appeal site frontage is relatively shallow. Consequently, while noting the reported road collision figures for the area, there is the potential for vehicles utilising this space to overhang the footpath, which would be detrimental to pedestrian safety. However, the CP advises that where a frontage is less than 4.8 metres deep, a crossover may be offered providing the frontage has an absolute minimum of 3.8 metres deep and the applicant is willing to enter into a legal agreement that restricts the size of vehicle that can be parked on the forecourt to fit within the available space.
24. The submitted plans demonstrate that the depth of the proposed off-street parking space is not less than 3.8 metres. In view of this, the appellant has submitted a signed UU, which seeks to mitigate the concerns raised by the Council in respect of parked cars overhanging the footpath.
25. Although the Council have raised concerns in respect of the UU, it is not dated and does not include details of each person's title to the land, in the form of an up to date copy entry or entries from the Land Registry. It is therefore incomplete and, as such, it carries limited weight. Even if the UU were complete and CP compliant, it would not overcome the other harms I have identified in the main issue.
26. For these reasons, the appeal scheme would result in an unacceptable impact on the local highway network, the CPZ, natural drainage and pedestrian safety. This is contrary to BLP Policies BT2 and BT4 and the guidance within the SPD and the CP, as set out above. It would also conflict with the Framework which promotes sustainable transport.

Conclusion

27. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR