



Appeal Decision

Site visit made on 30 July 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/T5150/W/24/3342686

34 Clifton Road, Brent, London NW10 4RB

- 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 Lucy Goldman against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/3939.
 - The development proposed is new 2 bedroom apartment on 2nd floor of existing mixed use warehouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the street scene; and
 - the effect of the proposed development on the living conditions of a) existing occupiers, with particular regard to privacy, outlook and daylight and sunlight; b) future occupiers, with particular regard to privacy and noise; and c) future occupiers, with particular regard to safe and secure access.

Reasons

Character and appearance

3. The appeal site (No 34) is a two-storey detached building set within the residential street of Clifton Road, and creates a vista stop when entering the street. It is located to the rear of High Street/A404, an imposing terrace comprising of four storeys including a basement, with three-storey outriggers to its rear. Its side elevation is bound by the sidings associated with the railway which provide unobstructed views from the south. Ground levels rise between Clifton Road and the rear, with the pavement and road to High Street/A404 set significantly higher than No 34. The height difference, and the wall to the railway bridge, largely obscures the building from this angle and provides clear views over the rooftops of Clifton Road and beyond.
4. The proposed development would increase the height of the building by one floor. It would also re-clad the existing upper floor of the outrigger to the east with the same materials, and provide a screened terrace to the west. The setting back of the additional storey behind the parapet wall would assist in

reducing the visibility when up close to the building. However, given the main body of No 34 is taller than the residential properties within Clifton Road, the additional storey and glazed screens to the terrace would do little to mask the overall increase in height when viewed further back. The proposed development would therefore result in an imposing feature, which would dominate the street scene.

5. The additional height would also be visible from the east on the A404 heading towards High Street, and from the south on the walkway with Willesden Junction. The scale of the development would visually compete with the rear outriggers of High Street, with the additional height and projection above the parapet wall at street level eroding the openness which currently exists to the rear.
6. With regard to the Council's concerns with the proposed fenestration, detailing and architectural form, given the harm previously identified, this would not be a determinative issue.
7. For those reasons, I find that the proposed development would have a detrimental impact on the character and appearance of the street scene, contrary to policy DMP1 of the Brent Local Plan 2019-2041 (Local Plan) which seeks to ensure, amongst other matters, that the siting, scale and design of development complements the locality. There would also be conflict with Brent Design Guide SPD1 2018 (SPD1) insofar as it seeks to ensure that building heights positively respond to the existing character, and that the massing relates positively to existing surroundings.

Living Conditions

a) Existing occupiers

8. Existing plans, submitted in support of the appeal, show workspaces to the ground and first floor and a jewellery studio to the rear. The rear elevations of properties on High Street, and the side elevation of No 34 A/B contain habitable room windows which overlook the rear and side elevation of No 34.
9. The council has drawn my attention to its SPD1 which contains a number of specific principles under which proposals will be assessed. This includes their 30-degree and 45-degree rule and spacing between habitable rooms.
10. The SPD1 builds upon Policies within the Local Plan, with Principle 5.1 linked to Policy DMP1 and seeks, amongst other matters, for development to ensure good levels of privacy and amenity for new and existing residents and includes assessment on daylight, sunlight and outlook.
11. Whilst the decision notice specifically refers to No 248, the Council is clear in its officer report, and second refusal reason, that there is insufficient information on the submitted plans to enable an assessment against the principles. Therefore, compliance with DMP1 of the Local Plan will be a matter of planning judgement.
12. Compliance with the 30-degree and 45-degree rule and ensuring good levels of privacy and daylight/sunlight are not mutually exclusive. Whilst the appellant has shown the proposed development to comply with the necessary sightlines with regard to Nos 240, 242 and 244, it does not show the whole body of the proposed development in relation to No 34A/B.

13. At the time of my site visit the ground floor of No 34 A/B was in shade, with shadowing cast by No 34. The orientation of No 34 and the proposed additional floor and subsequent increase in height is highly likely to extend the degree of shadowing on No 34 A/B to the upper floor. In the absence of any sunlight/daylight assessment, the evidence before me does little to persuade me that the proposed development would not materially affect the light levels which the existing occupants currently enjoy.
14. In order to ensure new development provides adequate living conditions in terms of privacy, Principle 5.1 of the SPD1 indicates that directly facing habitable room windows will normally require a minimum separation distance of 18 metres, except where the existing character of the area varies from this.
15. The evidence indicates that Nos 248 and 250 are a Bed & Breakfast (B&B). Windows within the proposed flat would be at an oblique angle to the B&B. Given the orientation and current use of the rooms within the B&B, there would be no loss of privacy to its occupiers.
16. Distances between Nos 34 and the rear of residential properties on High Street currently fall approximately 12.5 metres. Despite this being significantly below the 18 metres identified in SPD1, the appeal premises are currently workspaces. The proposed development would however create a residential unit with the habitable rooms of bedroom 2 directly overlooking the rear of High Street. The introduction of residential accommodation within the appeal premises and the close relationship with the habitable rooms in High Street would result in a loss of privacy to the existing residents and a perpetual sense of being overlooked, which would be harmful to their living conditions.

b) Future Occupiers

17. Distances between habitable rooms of High Street and the proposed development fall significantly below the 18 metres set out in SPD1. For the reasons set out above, this would also result in a loss of privacy and a perpetual sense of being overlooked for the future occupiers, which would be harmful to their living conditions.
18. Furthermore, the appeal site is located adjacent to the railway sidings of a busy rail network. The proposed roof terrace would be to the west with a glazed screen set in from the parapet wall. The Council contend that insufficient evidence has been provided with regard to the predicted noise levels to ensure acceptable living conditions for the future occupiers of the flat. The appellant's suggested mitigation measures in the form of an acoustic screen have been noted, however this does not constitute an acoustic report. I therefore do not have sufficient evidence regarding existing noise levels to assess whether the glazed screen as shown on the submitted plans, could provide adequate noise attenuation to protect the living conditions of future occupiers.
19. Paragraph 55 of the Framework indicates that decision-takers should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. I have therefore considered whether the use of a condition to request an acoustic assessment would meet the required tests. However, the submitted manufacturer's details only show acoustic screens with a higher proportion of solid-to-glass ratio than that proposed. As such, it is unclear as to whether such a condition would lead to the proposed

development resulting in harm to the character and appearance of the area. Therefore, the use of such a condition would not be reasonable in this case.

20. Whilst I saw that residential properties about the railway line, I have not been directed to any which have roof terraces. I did however see that No 34 A/B does have a roof terrace to its second floor, which projects over an existing single-storey outrigger to the side. This is set behind No 34 and is screened from the railway lines by the existing building. Its presence is therefore sufficiently different from the appeal before me.

c) Safety and security of access

21. The main access to No 34 is from the west via Clifton Road, a tarmac road which has a dedicated footway to one side and which terminates close to its front elevation. Vehicle access to its side and rear is controlled by removable bollards located immediately beyond 7 Clifton Road. The rear lane provides access to the rear of properties on High Street, as well as Nos 34 and 34A/B. The surface treatment to this area is uneven, with rough gravel and pipework projecting upwards from the ground. At the time of my site visit the area was bestrewn with bins and general detritus associated with surrounding properties, and with no formal streetlights.
22. Access to the proposed flat would be from the rear. I note the appellant's intention to resurface part of the rear lane directly behind No 34 and provide lighting. However, this land is shown to fall outside of the appeal boundary as identified on the appellant's submitted Site Plan. Given the surface treatment of this area, it is reasonable that this area is unadopted, with its ownership shared between properties which adjoin it.
23. My site visit was undertaken early morning on a weekday. Even though it was daylight, the area felt isolated with little natural surveillance or footfall. Whilst I acknowledge that existing buildings which bound the rear lane have access points, I did not observe any activity during my site visit. Despite No 34 having a doorway onto the rear lane, from observations on site this is an emergency exit only, with the main access set to the west via Clifton Road. Given these factors, it is unlikely that these access points are used as frequently as the appellant contends.
24. I did however see that No 34 A/B is accessed from behind the bollards to the side of No 34. The area immediately outside of No 34 A/B has a footway which connects to the pavement of Clifton Road and there is a streetlight located outside No 5. As such, while No 34 A/B is accessed from the rear lane, its circumstances are markedly different to the appeal before me.
25. Given that the only access and egress to/from the proposed flat would be from the rear, even if the area was resurfaced, and well-lit with improved drainage, there would still be little natural surveillance of the area. I, therefore, do not consider that this would result in a safe and quality entry point to the proposed flat for its future occupiers to ensure adequate living conditions.
26. I have considered the use of a condition to secure the resurfacing of this area. However, given the uncertainty with regard to land ownership, the use of a condition would not be reasonable in this case as there would be no real prospect of an agreement being reached.

27. In light of the above, the proposed development would result in habitable accommodation overlooking one another resulting in a loss of privacy, which would fail to provide satisfactory living conditions for existing and future occupiers. It would also have a harmful impact with regard to access for future occupiers, and insufficient evidence to conclude whether or not the proposed development would cause harm to the living conditions of future occupiers with regard to daylight and sunlight and noise. Accordingly, conflict therefore arises with Policy DMP1 of the Local Plan which seeks, amongst other matters, to ensure development creates a high-quality environment, which respects privacy, outlook and avoids impacting upon neighbouring occupiers, and Policy BT1 of the Local Plan which seeks to ensure the design of the public realm meets healthy streets principles and provide access for all. There would also be conflict with SPD1, insofar as it seeks to ensure that buildings and spaces are designed to minimise potential noise pollution and provide good levels of amenity for new residents.

Other Matters

28. The appeal scheme before me is a resubmission of a preceding application refused by the Council. I appreciate that the appellant has attempted to overcome the concerns previously raised. However, the amendments would still result in a proposal which would harm the character and appearance of the street scene and result in harm to the living conditions of existing and future occupiers.

Conclusion

29. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

L Clark

INSPECTOR