

Appeal Decision

Site visit made on 9 September 2024

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2024

Appeal Ref: APP/T5150/W/24/3341212

38 District Road, Wembley, Brent HA0 2LG

- 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 Lisa Onwu against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/3579.
 - The development proposed is for the Conversion of House in Multiple Occupation (HMO) into 3 self-contained flats and works to include single and two storey rear extension, provision for cycle and refuse storage, subdivision of rear garden and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development used in the decision notice which I note has also been used in the appeal form as this more accurately describes the development.
3. One of the reasons for refusal relates to discrepancies between the submitted plans. The appellant's statement of cases suggests that they have submitted amended plans as part of the appeal. I have been unable to locate any amended plans and I have sought comments from the appellant. They have confirmed that the plans are those listed on the decision notice. Accordingly, I have made my decision based on those which the Council cite on the decision notice.
4. On 30 July 2024 the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and "National Planning Policy Framework: draft text for consultation". Also, a Written Ministerial Statement (WMS) entitled "Building the homes we need" was published on the same date. Whilst a direction of travel has been outlined within the WMS, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The Council and the appellant were given the opportunity to comment on these publications. Where relevant, I have taken into account the comments in my determination of this appeal.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the host dwelling and area;
- whether the proposed development would provide acceptable living conditions for future occupants with regard to layout, privacy, outlook and light;
- the effect of the proposed development on the living conditions of the neighbouring occupiers at No 36 and No 40 District Road with regard to light and outlook;
- whether the proposal would secure adequate cycle parking spaces and provide sufficient soft landscaping;
- whether the proposed development would result in the loss of a family sized home, and;
- the effect of the proposed development on highway safety, with particular regard to parking.

Reasons

Character and appearance

6. District Road is a residential street, characterised by predominantly two storey semi-detached and detached properties, which due in part to alterations and extensions are varied in terms of their style, size and materials. I also observed a variety of single and two storey rear extensions from the rear garden of the appeal site which appeared to integrate well with their respective host properties.
7. The appeal property already has a rear dormer that has no set back from the first-floor and which spans the entire width of the roof. The proposed first-floor extension would incorporate a pitched roof reflective of the original roof form and would be set in from one of the side boundaries, appearing as a subservient addition, particularly when set against the dormer. However, the pitched roof of the first-floor extension would cut across the existing rear dormer and tile detailing which sits below the dormer windows. The ridge of the roof would also be offset from the fenestration arrangement in the dormer. Collectively these factors make the two storey extension appear as an awkward and discordant addition which would be detrimental to the character and appearance of the host property and surrounding area.
8. Whilst I note the appellant's contention that a pitched roof form is preferable over a flat roof, it does not justify the addition of an extension which poorly integrates with the existing dwelling.
9. There is a discrepancy between the elevation and layout plans in relation to the positioning of windows and doors in the ground floor flat. Therefore, as I cannot be sure of the exact positioning of the doors and size of the fenestration on the ground floor, I am unable to undertake a full assessment of the proposals effect on the character and appearance of the host property.

However, irrespective of this, even if amended plans had been submitted which corrected the discrepancies, this would not address the harm I have already found in relation to the design.

10. For the reasons above, the proposal would be detrimental to the character and appearance of the host property and surrounding area. Consequently, it would conflict with Policy DMP1 of the Brent Local Plan (2022) (BLP) which requires development, amongst other matters, to have a design which provides high levels of external amenity and complements the locality. It would also conflict with the guidance in the Residential Extensions and Alterations Supplementary Planning Document 2 (2018) (SPD2) which sets out that rear extensions should respect the character of the house.

Living conditions of future occupiers

11. The layout plan of the ground floor flat shows that access to the rear garden would be through bedroom 3. However, this conflicts with the elevation plan which shows that the access would be through bedroom 1. In either scenario access to the garden space would be via a bedroom. This is not an ideal layout, particularly if future occupiers are using the bedroom. This would impact on the privacy of the occupants of the bedroom and could also deter occupants in the property from accessing the outdoor space if the bedroom is in use.
12. The proposed layout plan of the ground floor¹ shows bedroom 2 as having two windows on the side elevation, located in close proximity to the side boundary with the neighbouring property. These windows are also directly adjacent to the alleyway which would provide access to the rear amenity space for the proposed flats.
13. Whilst I note a discrepancy between the floor plan and elevation plan, from reading the appellant's statement of case, it is evident that it is the elevation plan that is incorrect. Without a correct elevation plan it is not clear how high the side windows would be. However, even if the windows were high, due to the close proximity of the windows to the boundary and side elevation of No 36, the outlook from these would be significantly constrained. The close relationship with the neighbouring property would also significantly limit the amount of natural light coming into the windows, regardless of their height and the shallow depth of the bedroom. Moreover, as the alleyway adjacent to the windows would be used by the occupiers of all the proposed flats, the close proximity of the path to the windows of this bedroom would result in a loss of privacy for any future occupants. This would likely result in them closing curtains or blinds to ensure privacy, further reducing any levels of natural light.
14. No concerns or policy conflict have been raised with regards to space standards and size of the external amenity space for any of the proposed flats and the living conditions of future occupiers in relation to the first and second floor flats. From the information before me and based on the internal space and fenestration arrangement of the first and second floor flats, I have no reason to come to an alternative view.

¹ 2107-2 Rev C

15. For the reasons given, the proposal would not provide acceptable living conditions for future occupiers of the ground floor flat with regards to its layout which would have a detrimental impact on privacy, outlook and light. It would therefore conflict with Policy DMP1 of the BLP. This requires development, amongst other matters, to have a layout and design which provides high levels of internal amenity. It would also conflict with Policy D6 of the London Plan (2021). This requires high quality design, which provides privacy and adequate daylight for residents with comfortable and functional layouts which maximise useability of outdoor space. It would also fail to be in accordance with the Brent Design Guide: Supplementary Planning Document 1 (2018) which requires new development to provide adequate privacy and amenity for new residents.
16. Policy BH11 and Policy BH13 of the BLP have been cited on the decision notice in relation to this main issue. However, Policy BH11 requires a 3 bedroom property to provide direct access to a garden / amenity space. Whilst the layout is not ideal, it does meet the criteria of this policy. Policy BH13 sets out that for a 3 bedroom property, external amenity space of at least 50 square metres should be provided. The proposal would meet this requirement. Therefore, I see no conflict with the specific Policy requirements of BH11 and BH13 in this case.

Living conditions of neighbouring occupiers

17. SPD2 advises that the depth of any two-storey rear extension is restricted to half the distance between the side wall and the middle of any neighbours' nearest habitable room window up to a maximum depth of 3 metres. The reason given for this 1:2 rule is to ensure that the loss of amenity and light to the neighbouring properties is kept within reasonable limits.
18. The two storey extension at first floor would extend approximately 2.6 metres from the rear elevation of the appeal property, spanning approximately two thirds of the width of the rear elevation and stepped away from the shared boundary with No 40.
19. At No 40, the Council estimate that there would be a distance of 4.3 metres between the flank wall of the two-storey extension and the middle of the closest window at No 40 which appears to serve a habitable room. This has not been disputed by the appellant. It would therefore fail the 1:2 rule. However, the degree of conflict would be relatively minor and in conjunction with the stepped-in nature of the two-storey element, by approximately 2.5 metres from the shared boundary, I consider the two-storey extension would not detrimentally harm the living conditions of the neighbours at No 40 in relation to light and outlook.
20. The rear of the appeal property is positioned forward of the neighbouring property at No 36. This would increase further as a result of the proposed two-storey rear extension, to a difference of approximately 3.6 metres. The Council estimate that a distance of 4 metres would remain between the flank wall of the two storey extension and the closest first floor window at No 36. As such, it would significantly conflict with the 1:2 rule in SPD2.
21. Based on the proximity of the two-storey extension to the boundary with No 36, the degree of conflict with the 1:2 rule and the approximate 3.6 metre

length of the two storey elevation that would be visible from the nearest first floor window at No 36, I consider the two-storey extension would have a detrimental effect on the living conditions of the occupiers of No 36 in respect of light and outlook.

22. Turning to the single storey extension, whilst it would extend a total distance of approximately 4.6 metres from the rear elevation, owing to its stepped design, the depth is much lower immediately along the shared boundary with No 40 and incorporates a flat roof on the section immediately adjacent to the boundary. The height of the extension here would not be substantially taller than the existing boundary treatment. With regards to the relationship with No 36, this neighbour has an existing rear conservatory which extends to a similar depth as the proposed single storey element. Considering this and the mono-pitched roof design, set away from the boundary, I consider that the single storey element would not harm the living conditions of No 36 in relation to light and outlook. Due to the scale and design it would also not harm the living conditions of the occupiers of No 40.
23. For the reasons above, whilst I have found the proposal would not detrimentally harm the living conditions of the neighbouring occupiers at No 40 in respect of light and outlook, I consider that it would have an adverse effect on the living conditions of the neighbouring occupiers at No 36 in respect of the two-storey extension on light and outlook. It would therefore conflict with Policy DMP1 of the BLP which seeks to ensure development provides high levels of amenity and would not accord with the guidance contained in SPD2.

Cycle parking and soft landscaping

24. The submitted plans indicate provision for four wheeled bins at the front of the property, but an under provision of cycle parking. Only three 1 metre by 1 metre cycle parking bays are annotated, while Policy T5 of the London Plan requires six. Based on my site observations and given the size of the frontage to No 38, I am not satisfied that the required size and number of cycle parking bays, along with bin storage could be accommodated without causing an obstruction or compromising the outlook for future occupants. Given these concerns, even if I were minded to allow the appeal, I am not persuaded that a condition to secure the cycle parking would be appropriate.
25. The Council state that the BLP requires forecourts to have a minimum soft landscaping coverage of 50% in order to provide an attractive appearance and aid natural drainage. Policy BT2 part e of the BLP sets the above out. However, in the policy this is only relevant where off-street parking is being provided. As the appeal scheme is not providing off-street parking, I find that this requirement of the policy is not relevant nor is the Domestic Vehicle Crossover Policy (2018).
26. For the above reasons, whilst the proposal would not conflict with Policy BT2 part e of the BLP, the proposal would conflict with Policy T5 of the London Plan (2021) which requires that adequate cycle parking is provided for new dwellings in accordance with accompanying Table 10.2 that states 2 cycle parking spaces for each dwelling should be provided. It would also conflict with Policy DMP1 of the BLP. This, amongst other matters, requires development to be satisfactory in terms of parking.

Family size home

27. The appeal scheme is for the conversion of a family sized dwelling into 3 flats. Policy BH11 of the BLP seeks to resist the conversion of family sized dwellings to two or more other dwellings except where three criteria are met. The proposal would comply with the first criteria in that the property has a floor space in excess of 130 square metres.
28. The second criteria of the policy requires the conversion to provide at least a 3 bedroom dwelling, preferably with direct access to a garden or amenity space. The proposal would provide a 3 bedroom dwelling on the ground floor. Whilst access to the garden through a bedroom is not ideal, it nevertheless provides direct access to external amenity space which is what is required by the policy.
29. As the proposal is located in an area with a Public Transport Accessibility Level rating of 3 it also meets the third criteria. Therefore, based on the above, I conclude on this issue that the proposal would not result in the loss of a family size home and as such would not conflict with Policy BH11 of the BLP.

Highway safety

30. The existing property has no off-street parking available and none is proposed as part of the development. There is good accessibility to public transport but as the proposal would increase the number of dwellings at the site, there is a high likelihood that any demand for on street parking would increase. District Road is not currently within a controlled parking zone (CPZ), the only exception to this is event days at Wembley stadium.
31. District Road is noted as having limited on street parking availability. I observed this during my mid-morning site visit and whilst only a snapshot in time, the likelihood is the parking stress would get worse during the evening when most people are returning from work. This would likely result in inconsiderate parking that would unacceptably increase the risk of conflict between vehicles and pedestrians to the detriment of highway safety.
32. The proposal would therefore conflict with Policy DMP1 and Policy BT2 of the BLP which, when read together, requires development to not add to on-street parking demand and to not have an adverse impact on the movement network.
33. The Council have indicated that District Road in the future could become part of a year round CPZ which would require residents to apply for a parking permit. Currently such a zone is not in operation. The Council have suggested a condition restricting future residents from applying for a parking permit in the event that the area is covered by a CPZ. However, further work is required by the Council before such a zone comes into existence.
34. Reference has been made to a possible legal agreement to secure money towards a CPZ review. Based on the submitted information it is not clear whether the money would secure a review or if it would need to be pooled with other monies. Furthermore, it is not clear of the timings of the review. Given the uncertainties, I cannot be satisfied that the CPZ will come into existence and neither do I have a legal agreement before me. In any case,

as I am dismissing the appeal for other reasons, this is not a matter which has a significant bearing on the outcome of the appeal.

35. As there is no certainty as to what the outcome of such a CPZ review would be, it would not be appropriate to impose a condition restricting future residents from applying for a future parking permit. In any event, as I am dismissing the appeal for other reasons, whether or not the condition would meet the framework tests is not determinative to the appeal.

Conclusion

36. I have found that there would be no harm in respect of soft landscaping and the living conditions of neighbouring occupiers at No 40 in respect of light and outlook. Also, the proposed development would not represent the loss of a family size home. However, as I have already set out above, I have found that the proposal would result in an adverse effect on the character and appearance of the area, would not provide acceptable living conditions for future occupants, would fail to safeguard the living conditions of the neighbouring occupier at No 36 and would not make adequate provision for cycle parking. As a consequence, I have not found the proposed development to be in accordance with the Development Plan.
37. The proposal conflicts with the Development Plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR