



Appeal Decision

Site visit made on 7 March 2024

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2024

Appeal Ref: APP/T5150/W/23/3327028

19 Christchurch Avenue, Brent, LONDON, NW6 7QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Qasim Gulamhusein against the Council of the London Borough of Brent.
 - The application Ref is 23/0644.
 - The development proposed is the conversion of existing rear outbuilding to a self-contained 3 bedroom C3 residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been submitted against the failure of the Council to give notice of its decision on the planning application. The Council have not provided any statement of case in the appeal proceedings nor have they provided any details of their concerns over the development other than reference to a similar scheme which was dismissed at appeal¹. Given the similarities between the previous scheme and the current appeal, I have used this as a starting point for the consideration of this appeal.
3. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have made my decision on the basis of the revised Framework.

Main Issues

4. The main issues are the effect of the development on :
 - the character and appearance of the site and surrounding area, with particular regards to trees;
 - whether the proposal provides for suitable living conditions for the future occupiers of the dwelling with particular regard to access, privacy and the overall standard of accommodation; and
 - the living conditions of the occupiers of the existing dwellings.

¹ LPA Reference 22/3562 and appeal reference APP/T5150/W/23/3317504 dated 4 December 2023

Reasons

Character and appearance

5. The appeal proposal relates to an outbuilding located within the rear garden of 19 Christchurch Avenue, which I understand has been subdivided into flats. The surrounding area is characterised by semi-detached town houses with deep gardens at the rear. Dwellings are surrounded at both the front and back with mature vegetation and trees. These collectively make a positive contribution to the verdant character and appearance of the locality. There are also two properties to the rear of the main dwellings fronting Christchurch Avenue which are accessed off Chatsworth Road.
6. In addition to the mature trees in the surrounding gardens, including the ones adjacent to the appeal site and its access, there is a tree located within the appeal site to the rear which is protected by a Tree Preservation Order (TPO)². The appeal application drawings indicates that the tree is to be retained and the proposed conversion of the outbuilding would not involve any increase in its footprint. Access to the proposed dwelling would be via a narrow pedestrian path that would link with Chatsworth Road via the rear of the adjacent property.
7. From the submitted drawings, and what I observed on site, there are existing concrete slabs around two sides of the protected tree and these extend to the rear boundary of the appeal site in the broad location of the access path to Chatsworth Road. To my mind, it would be possible to create the path shown on the proposed plan without harming the health of this protected tree. Whilst further details of the construction of the path would be required, I am of the view that should I be minded to allow the appeal this could be controlled via a suitably worded planning condition.
8. However, as noted above, the proposal also includes a new pedestrian access to the appeal site across the adjoining property to Chatsworth Road, where there are also existing trees in proximity to this access. Policy BGI2 of the Brent Local Plan (2019-2041) (2022) (the LP) is clear that development with either existing trees on site or adjoining it that could affect trees will require a submission of a BS5837 or equivalent tree survey detailing all tree(s) that are on or adjoining the development site.
9. The appeal proposal is not supported by a tree survey and the details supplied with the application provide very little information in respect of these trees to the extent that it is not clear whether the proposed access to Chatsworth Road would have any impact on these other trees. In my view, the loss of trees on or adjoining the appeal site would have a detrimental impact on the character and appearance of the area, and without any evidence to demonstrate that these trees would not be harmed by the new access, I consider that it would not be appropriate to leave the matter to be controlled by the imposition of an Arboricultural Impact Assessment condition.
10. For the above reasons, it has not been demonstrated that the proposal would not harm trees on or adjoining the appeal site and the loss of such trees would have a detrimental impact on the character and appearance of the area. As such, the proposal conflicts with Policy BGI2 of the LP. There would also be

² Reference 08/00055

conflict with the Framework, notably insofar as it seeks to ensure that developments are visually attractive as a result of, amongst other matters, that existing trees are retained wherever possible.

Living conditions – future occupants

11. The access to the new dwelling would be via a narrow pedestrian path from Chatsworth Road and the only details provided with the proposal is the suggested route. Given the length and narrow nature of this path, and that it would be bound by boundary treatment each side of it, it would not be an attractive route to access the property, nor is it clear from the limited information before me that it would provide a safe and inclusive access for the future occupants of the new dwelling.
12. Turning to the dwelling itself, the proposal includes three bedrooms (which are habitable rooms), two of which have windows directly facing the rear of No. 19. The closest bedroom also includes full height glazed doors which face No.19. The proposal includes a 2-metre-high obscure glazed screen between the proposed dwelling and No.19.
13. No.19 has residential accommodation over four floors. Given the height and location of the proposed obscure glazed screen, there would not be any significant overlooking opportunities from the lower two floors of No.19. However, the same cannot be said from the upper floors of No.19 which would still have clear views into the bedrooms at the rear of the proposed dwelling as well as the rear garden area.
14. Principle 5.1 of the Brent Design Guide Supplementary Planning Document SPD1 (2018) (SPD1) indicates that directly facing habitable room windows will normally require a minimum separation distance of 18 metres. This separation distance is necessary to ensure that new development provides adequate living conditions in terms of privacy.
15. The distance between the main rear elevation of No.19 and the proposed dwelling would fall short of this distance. The combination of this distance and the overlooking opportunities lead me to the view that the future occupants of the dwelling would suffer from a lack of privacy and the sense of being overlooked to an unacceptable degree.
16. Whilst obscure glazing could be inserted into the doors in the closest bedroom to No 19, the privacy benefits of this would be lost when the doors are open. To that end, I consider that this would not be sufficient to mitigate the harm I have identified.
17. I have also considered the possible overlooking potential from Nos 17 and 21 Christchurch Avenue and the general layout and internal space of the proposed dwelling. However, I consider that any overlooking from these properties would not be so significant as to warrant the withholding of planning permission. From the dimensions on the submitted plan, and what I observed on site, I also consider that the level of internal space, including ceiling heights, would be acceptable.
18. Taking all of the above into account, the proposal would not provide suitable living conditions for its future occupants as a result of the lack of privacy at its rear aspect and in respect of its access to Chatsworth Road. Consequently, the proposal would conflict with Policy DMP1 of the LP which seeks, amongst other

matters, to ensure that development creates a high-quality environment including high levels of internal and external amenity such as privacy. There would also be conflict with SPD1, which seeks good levels of privacy inside buildings. Furthermore, there would also be conflict with the Framework insofar as it seeks to ensure development creates places with a high standard of amenity for future users.

Living conditions – occupants of existing dwellings

19. As noted above, the proposed dwelling would have a separation distance of less than 18 metres between it and the main rear elevation of No.19. However, the obscure glazed screen would prevent any overlooking potential to the basement and ground floor levels of Nos 17 – 21 Christchurch Avenue. Given the distances between the proposed dwelling and Nos 17 -21, and the angle of which views would be possible, there would be minimal opportunities for clear views into the upper floor rooms of these properties. To that end, I consider that there would not be an unacceptable loss of privacy to the occupiers of any of these properties.
20. I have also had regard to the potential impact of increased noise and disturbance as a result of the additional residential dwelling. However, I consider that any additional noise or domestic activity would not result in an unacceptable impact on the occupiers of any of the adjoining or nearby dwellings.
21. In summary, the proposal would not harm the living conditions of the occupiers of the adjoining residential properties. In this respect, the proposal would accord with Policy DMP1 of the LP.

Other matters

22. I have also had regard to the other matters raised in the representations on the proposal, including the overstressing of local facilities and services such as sewage, drains, water, refuse collection and GP services and the loss of back garden areas to new living accommodation at the expense of green space, trees, and loss of nature. However, none of these factors provide for a further compelling reason why planning permission should be withheld.

Planning Balance

23. The appeal proposal would provide a much-needed additional dwelling which is clearly a benefit of the scheme. However, this benefit is not sufficient to outweigh the harms I have identified, and I see no reason why planning permission should be granted for an otherwise unacceptable development.

Conclusion

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

Chris Forrett

INSPECTOR