



Appeal Decision

Site visit made on 7 March 2024

by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/T5150/W/23/3326106

19 The Avenue, London, NW6 7NR

- 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 Nadim Saad against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/0725.
 - The development proposed is a vehicular crossover, associated hardstanding and soft landscaping and new front boundary wall and gates to dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for a vehicular crossover, associated hardstanding and soft landscaping and new front boundary wall and gates to dwellinghouse at 19 The Avenue, London NW6 7NR in accordance with the terms of the application, Ref 23/0725, subject to the conditions in the attached schedule.

Preliminary Matters

2. As part of the appeal submissions, the appellant has suggested amendments to the proposal which seek to address the Council's concerns with the proposal, by introducing gaps between the horizontal wooden slats in the fencing above the boundary wall. However, I have not been provided with amended plans for this, with only a 'not to scale' extract being shown within the appellant's appeal statement. Furthermore, the extract for the suggested amendment appears to increase the height of the fencing element from around 1.2 metres in height to around 1.4 metres.
3. I am also conscious that the appeal process should not be used to evolve a proposal. In this case, I consider that it would not be appropriate to accept this suggested amendment at the appeal stage given the lack of a scaled drawing, the apparent increase in height of the fencing element, and that it is unclear whether any interested party has had the opportunity to consider this amendment. I have therefore determined the appeal on the basis of the plans considered by the Council.
4. 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.

Main Issues

5. The main issues are the effect of the proposal upon:

- the character and appearance of the surrounding area;
- pedestrian safety; and
- drainage at the site.

Reasons

Character and appearance

6. The appeal site is located within the Brondesbury Park area which is largely residential in character. Most properties in the vicinity of the site are detached dwellings which are set back from the road with front gardens that are enclosed with either low brick walls, mature hedges behind such walls or a combination of low brick walls with wrought iron railings. Properties generally benefit from dropped kerb accesses with the front garden areas being covered with different types of hardstanding to create off-street parking. As such, landscaped front garden areas have been eroded and hardstanding areas are a more dominant feature which forms an established part of the character of the area.
7. Taking this existing character into account, the appeal proposal would not be an alien feature to the character of the wider area. In any case, from the evidence before me, there is very limited landscaping to the frontage to the property. Whilst ongoing construction works may have contributed to this, the appellants photographic evidence indicates that before any works commenced there was little landscaping at the premises. In that sense, the proposal would present an improvement in the amount of soft landscaping when compared to the existing situation.
8. That said, the planning permissions granted for the redevelopment of the appeal site included a greater level of landscaping than the current situation. However, taking all of the above into account, I am of the view that the level of landscaping is adequate to maintain the overall character and appearance of the host property and the wider area in general.
9. In coming to that view, I acknowledge that the amount of front garden landscaping which is proposed would fall below the 50% required by Policy BT2 of the London Borough of Brent Local Plan 2019-2041 (2022) (LP) and the Residential Extensions and Alterations SPD2 (2018) (SPD2). However, SPD2 indicates that where the 50/50 balance between hard and soft landscaping is not possible a 30% soft landscaping may be acceptable where the design of the front garden is of high quality.
10. In this case, I consider that the proposed layout would be of a high landscaping standard and would respect the character and appearance of the local area. The proportion of front garden landscaping would be acceptable in the particular circumstances of this case. This is because the proposal would result in a sizable increase in the amount of landscaping when compared to the original dwelling. Overall, the proposal still represents a significant improvement over the original front garden area.
11. Turning to the proposed front boundary wall/fence, this would consist of rendered pillars with horizontal composite wood slats between the pillars to a

height of approximately 1.2 metres. The proposal would result in a solid boundary treatment.

12. Given the overall height and solid nature of the proposal, it would be at odds with the prevailing boundary treatments in the area. It would also dominate the streetscene and would be visually harmful to the overall character of the area. However, I note that the appellant has suggested that this issue could be overcome by means of a suitably worded planning condition, which would also ensure pedestrian visibility is restored which I will come to later.
13. Whilst I considered it was not possible to accept the appellants suggested amendment to the proposal, a key consideration was the apparent increase in the fence height. However, if the fence height remained broadly the same as that originally considered by the Council, the change in design of the fence and gate (so that there would be gaps between the slats) would not be so significant as to change the development to a degree that could not be controlled by a suitably worded planning condition. Furthermore, I note that the Council has not raised any objection to the principle of a fence design which includes gaps between the slats.
14. Taking this into account, I consider that subject to such a suitably worded planning condition to secure these details the proposal would not give rise to a level of harm to the character and appearance of the area which would warrant the withholding of planning permission.
15. In summary, subject to the suggested planning condition, the proposal would not harm the character and appearance of the host dwelling or the wider area in general and would accord with the principles of Policies D3, D4 and T6.1 of the London Plan (2021) and Policies DMP1, BD1 and BT2 of the Brent Local Plan (2019-2041), which, amongst other matters seek to ensure proposals are visually interesting and attractive and enhance local character.

Pedestrian safety

16. As originally proposed, the development would have resulted in a solid boundary treatment along the highway boundary. From the evidence before me, the pavement to the frontage of the appeal property is around 3 metres wide. However, there is a street tree almost outside the appeal site which restricts pedestrian movements with passers by being forced to an area closest to the appeal property.
17. The proposed fence/wall is not angled to include any pedestrian visibility splays and the pillars each side of the gate would be around 1.5 metres in height. These pillars, in combination with the solid timber panels between them, would undoubtedly restrict visibility for both vehicles emerging from the appeal site and for pedestrians walking past on the pavement. To my mind, this would result in an unacceptable impact on pedestrian safety.
18. However, as noted above, a planning condition which secured suitable gaps between the slats of the fence and gate would also have the benefit of providing visibility for pedestrians in respect of vehicles exiting the site. The Council have indicated that this amendment would overcome their concerns in this respect and I have no reason to disagree with that view.
19. Taking the above into account, I find that the proposal would not unacceptably impact on pedestrian safety and would accord with Policy D3 of the London

Plan (2021) and Policy DMP1 of the LP which amongst other matters seeks to ensure that development provides for safe secure and inclusive environments which do not have an adverse impact on the movement network.

Drainage

20. The proposed layout for the frontage to the appeal property includes permeable cobble blocks for the driveway and footpath, together with areas of planting. The proposal also increases the amount of soft landscaping when compared to the existing situation.
21. Given that the entirety of the front garden area would either be soft landscaping or permeable cobbles this would ensure that there would not be an unacceptable run-off from rainwater as this would either percolate through the cobbles or to the soft landscape areas. As such, the proposal would not increase the level of surface water run off or result in an increased flood risk.
22. Therefore, I find that the proposal would not result in any drainage issues and would therefore accord with Policies BSUI4 and DMP1 of the LP. These policies seek, amongst other matters, to ensure that developments should not unacceptably increase and where possible reduce exposure to flood risk.

Other matters

23. Although not forming part of any reason for refusal, the Council in their Officers report have raised concern over the impact of the proposal on the street tree within the pavement outside of the appeal site. However, as the suggested works within the highway boundary do not form part of the appeal proposal (being located outside of the red-line of the application) I consider that the works actually being considered would not have any impact on this tree.

Conditions

24. With the exception of a suggested condition relating to the gap between the slats in the fencing, the Council has not provided a suggested list of planning conditions should I allow the appeal. However, I have sought the views of both parties on landscaping and details of the fencing elements and have taken their views into account.
25. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty (with the exception of the originally submitted fence details). In the interests of the character and appearance of the area and pedestrian safety, a condition relating to details of the gaps between the fencing slats is also necessary. In addition to the above I consider it necessary for full details of the landscaping to the site frontage to be provided together with its implementation to preserve the character and appearance of the area.

Conclusion

26. For the reasons given above the appeal is allowed subject to conditions.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and drawing PL2301 (with the exception of the fence and gate design)
- 3) Prior to the installation of the gate or fence above the rendered wall, full details of their design (which shall include gaps between the proposed slats) shall be submitted to and approved in writing by the Local Planning Authority. The fencing and gate shall only be installed in accordance with the approved details.
- 4) No development shall commence until a scheme of hard and soft landscaping (which shall include the materials used in the hard landscaping and a planting schedule) has been submitted to and approved in writing by the local planning authority.
- 5) 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 substantial completion of the development 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.