



## Appeal Decision

Site visit made on 12 November 2024

**by Elaine Moulton BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> November 2024**

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**Appeal Ref: APP/T5150/W/24/3341266**

**27 Cranhurst Road, Brent, London NW2 4LJ**

- 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 Gaudiya Mission against the decision of the Council of the London Borough of Brent.
  - The application Ref is 23/2411.
  - The development proposed is described as 'loft conversion with rear dormer and front roof windows, single storey side and rear extension, basement conversion, rear outbuilding for storage and internal alterations'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - The effect of the proposal on the character and appearance of the existing property and the area, including its effect on trees;
  - Whether appropriate living conditions would be provided for the occupiers of the property, with particular regard to internal space and light to the basement area;
  - Whether the proposal would deliver the required level of urban greening and a biodiversity net gain;
  - Whether the proposal makes appropriate provision for parking and the storage of bicycles;
  - The effect of the proposal on the living conditions of the occupiers of 25 and 29 Cranhurst Road;
  - Whether the proposal would be acceptable in terms of flood risk; and
  - Whether the proposal would achieve a suitable standard of fire safety.

### Reasons

#### *Character and appearance*

3. Cranhurst Road is characterised by two-storey semi-detached dwellings with two storey outriggers. Many of the properties, including those either side of the appeal site, have single storey rear extensions resulting in a varied building line and variety in the built form within gardens.

4. The Council has raised no objections to the proposed rear dormer and roof lights. Based on the information before me, I agree that such elements would not be harmful to, or compromise, the character and appearance of the appeal property or the area.
5. The proposed single storey extension would infill the space between the outrigger and the boundary and would extend out into the rear garden. The extension would exceed 3 metres (m) in depth from the deepest part of the outrigger, contrary to the guidance set out in the Residential Extensions and Alterations Supplementary Planning Document (SPD2) and would project beyond the rear elevation of the single storey additions to the adjoining properties. Nonetheless, it would be of a similar depth to others within the row and, in that respect, it would not be uncharacteristic of the area. Whilst the details of the external facing materials of the rear extension have not been provided, there is nothing before me that would suggest that acceptable materials could not be secured through a planning condition.
6. The proposed low boundary wall around the void would offer partial views of a rear patio area at basement level from the upper floor windows of nearby property. However, cumulatively, the single storey rear extension and basement would not be of an unacceptable scale or design that would be detrimental to the character and appearance of the property or the area.
7. Overall, I consider that the proposed extensions and alterations would not harm the character and appearance of the existing property, or the area, even when taking into consideration that there would be no windows on the side elevations of the extension.
8. Two trees within the rear garden of a property on Blenheim Gardens overhang the appeal site. Although the trees are not the subject of any form of statutory protection, they are seen between the buildings and, together with the other trees within rear gardens, make a significant contribution to the character and appearance of the locality.
9. It is apparent from the evidence before me, that the proposed outbuilding, unlike the single storey extension and basement, would be under the tree canopies and within their root protection area. In the absence of relevant Arboricultural studies, there is nothing before me that demonstrates that the outbuilding would not affect the root area of such trees, thereby adversely affecting their health. For this reason, it is not certain that the development can be carried out whilst ensuring the protection and long-term retention of the trees. Furthermore, it has not been demonstrated that the effect on such trees would be minor or could be avoided through protection measures and suitable Arboricultural practices. As such, including a pre-commencement condition to secure a Tree Impact Report, would not be appropriate as it would not provide assurance that harm could be avoided or minimised and that the trees would continue to positively contribute to the character and appearance of the area.
10. Accordingly, I conclude that the proposal would harm the character and appearance of the area due to the effect of the outbuilding on trees. It would, therefore, conflict with Policies DMP1 and BD1 of the Brent Local Plan (BLP) which, amongst other things, seek to ensure that proposals respect and compliment the locality. The proposal would also conflict with Policy G7 of the London Plan (LP) and BLP Policy BGI2 which seek to ensure trees of value are

retained. However, as I have found the basement to be acceptable in its appearance there is no conflict with BLP Policy BD3.

*Living conditions of occupiers*

11. The Council indicates that two of the proposed bedrooms do not accord with the minimum standard set out in LP Policy D6. This has not been disputed by the appellant, and there is no compelling evidence before me to conclude otherwise.
12. I acknowledge that the bedrooms are for short term residents and are primarily for sleeping. Even so, that does not mean that they will not be used for long periods each day. Accordingly, it remains important to ensure that all of the proposed bedrooms have sufficient floorspace, that meets the minimum standard, so that adequate living conditions are provided for everyone whilst in occupation.
13. The basement kitchen window would be set back beneath a walkway at ground level that would provide access into the garden from the proposed community room. The dining room would have no source of natural light other than that which may be gained from the double doors into the kitchen. Consequently, the amount of daylight and sunlight that would reach the kitchen area and, more so, the dining room, would be severely, and unacceptably, limited creating dark and gloomy spaces. In addition, no outlook would be provided to the dining room to the detriment of the users of the premises and the occupants of the upper floor bedrooms who would have use of such accommodation.
14. I therefore find that the proposed development would not provide suitable living conditions for the future occupiers of the property due to substandard internal accommodation and inadequate light to the basement. It would therefore conflict with BLP Policy DMP1 which requires development to provide high levels of internal and external amenity, and the space standards set out in LP Policy D6.

*Urban greening and biodiversity*

15. BLP Policy BGI1 requires all development to achieve a net gain in biodiversity and in meeting the urban greening factor (UGF), place emphasis on solutions that support biodiversity. LP Policy G5 stipulates, amongst other things, that Boroughs should develop an UGF to identify the appropriate amount of urban greening required in new developments. In the absence of local targets, as in this case, LP Policy G5 indicates that the Mayor recommends a target score of 0.4 for developments that are predominantly residential, and a target score of 0.3 for predominantly commercial development
16. The proposal would reduce the extent of green cover within the site and there is no evidence that indicates that the appeal site's UGF would be improved by the proposal and that the recommended target score would, or could, be delivered on site. Additionally, no biodiversity measures have been provided to demonstrate that there would, or could, be a net gain in biodiversity arising from the proposal. Given such uncertainties, the imposition of a condition to secure urban greening and biodiversity net gain would not be appropriate in this case.

17. For the above reasons, I conclude that the proposal fails to demonstrate adequate urban greening and a biodiversity net gain. As such, there would be conflict with BLP Policy BGI1 and LP Policies G5 and G6, insofar as they require all development to enhance green cover within a site and achieve a net gain in biodiversity. It would also be contrary to the good urban design requirements of BLP Policy BD1.

*Highway safety*

18. The Council raises concern that details of cycle parking has not been provided. However, having regard to the evidence before me, I am satisfied that appropriate cycle parking provision could be accommodated within the site. I therefore consider that such provision could be secured by condition, were I minded to allow the appeal.
19. The intension is that the proposals will enhance the Mandir environment for its existing users and that an increase in visitors would not be actively sought. Therefore, to minimise the likelihood of increased demand for on-street parking, it would be appropriate, if I were minded to allow the appeal, to limit visitor numbers and hours of use of the premises through similar conditions to those imposed on previous planning permissions. In addition, on street parking is also discouraged during the day due to the site forming part of a Controlled Parking Zone. Accordingly, whilst the proposed increase in floorspace has the potential to lead to additional visitors to the premises and no on-site parking is available, controls are in place, or could be imposed through planning conditions, to ensure that additional on street parking would not lead to issues of highway safety.
20. Although not referred to in the reason for refusal, the Council has also raised concerns that the proposal is not accompanied by a Construction Logistics Plan to manage the vehicular movements associated with the removal of the materials excavated to form the proposed basement. Again, I see no reason why such a plan could not be secured through the imposition of a suitably worded condition.
21. Consequently, I find that the proposal does not have an unacceptable effect on highway safety as it makes appropriate provision for parking and the storage of bicycles. As such, the proposal accords with BLP Policy BT2 which seeks to ensure that the impact of parking is managed.

*Living conditions of adjoining occupiers*

22. The proposed rear extension would extend approximately 3.3m beyond the existing rear elevation of 25 Cranhurst Road (No 25) and would be about 3m in height where it adjoins that property. The height of the extension therefore accords with SPD2 guidance and would only marginally exceed such guidance in respect of the maximum projection from the rear elevation.
23. The extension, whilst directly adjoining the shared boundary with No 25, would extend along only a relatively small proportion of the long rear garden. Therefore, it would not appear unduly oppressive or create an unacceptable sense of enclosure when viewed from within No 25 or its garden. Furthermore, as the proposed extension would be sited to the north, it would not result in any significant shadowing effects or loss of light.

24. A passageway would be maintained between the proposed side and rear extension and 29 Cranhurst Road (No 29) and it would be only approximately 2m in height at its nearest point. The extension would not, therefore, appear obtrusive when viewed from that property. Furthermore, it would be positioned to the south of No 29 where the sun would be at its highest and, given its relatively low height, the extension would not result in an unacceptable loss of daylight or sunlight. Overall, the proposed scale and position of the extension would not have a harmful impact on the living conditions of the occupiers of No 29.
25. Any increase in the number of visitors to the Mandir could result in noise and disturbance. However, as I have indicated above, the visitor numbers and hours of use could be restricted through a planning condition. Therefore, I am satisfied that noise and disturbance arising from the development could be suitably addressed.
26. In conclusion, the proposed development would not have an unacceptable effect on the living conditions of the occupiers of 25 and 29 Cranhurst Road. It would therefore accord with BLP Policies DMP1 and BD1 which requires development to provide high levels of internal and external amenity and to be of a high-quality design. There is also no conflict with BLP Policy BD3 which addresses basement development.

#### *Flood risk*

27. BLP Policy BSUI4 indicates that proposals for minor developments, householder development, and conversion should make use of sustainable drainage measures wherever feasible and must ensure separation of surface and foul water systems. Whilst no drainage details have been provided, there is no compelling evidence before me that indicates that adequate provision for the control and reduction of surface water run-off, through a separate system to that of foul water, could not be achieved within the site. Moreover, there is no evidence that there is a risk of surface water flooding arising from the proposal. Therefore, were I minded to allow the appeal, a condition could secure sustainable drainage measures, if feasible, that would achieve greenfield run-off rates for surface water.
28. I therefore find, subject to conditions, that the development would be acceptable in terms of flood risk. The proposal therefore accords with BLP Policy BSUI4.

#### *Fire safety*

29. LP Policy D12A specifies, in the interests of fire safety and to ensure the safety of all building users, all development proposals must achieve the highest standards of fire safety. It sets out several aspects to which consideration needs to be given.
30. Fire safety information was not provided with the application. However, within the statement of case, the appellant has responded to each of the requirements set out in the policy. The Council has not disputed any of the information provided in this regard. As such, from the evidence before me and having regard to the nature and scale of the development, I can see no reason that submission, approval and implementation of a suitable fire safety and escape strategy could not be secured by means of planning condition.

31. Accordingly, I conclude that, subject to a condition, would achieve a suitable standard of fire safety and therefore I find no conflict with LP Policy D12A.

### **Conclusion and the Public Sector Equality Duty**

32. I have found that proposal would not harm the living conditions of occupiers of the adjoining dwellings or highway safety and would be acceptable in respect of flood risk and fire safety. I have, however, found harm in respect of the character and appearance of the proposals, the adequacy of the living conditions of the occupiers of the property, and in respect of urban greening and biodiversity net gain.

33. Since the appeal site is a Mandir, I shall take the appellants and the users of the property as having the protected characteristics of religion for the purposes of the Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010. The PSED sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.

34. The proposal would provide additional accommodation for the visitors to the Mandir and for those worshippers who stay on site. However, there is nothing before me that demonstrates that the appeal proposal represents the only option and that the provision of any necessary additional accommodation could not be achieved through a smaller and less harmful scheme. Consequently, the dismissal of the appeal is a proportionate response.

35. The proposed development, therefore, conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harms and associated development plan conflict.

36. Accordingly, I conclude that the appeal should be dismissed.

*Elaine Moulton*

INSPECTOR