



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: 29 November 2024

Appeal Ref: APP/T5150/W/24/3342427

Garages to the rear of 104 - 114 College Road, Kensal Rise NW10 5HD

- 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 Bluestone Properties Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref is 23/3725.
 - The development proposed is the demolition of the existing garages and the erection of 4 no. mews houses (Use Class C3), including private amenity space, cycle parking, waste/recycling storage, landscaping and other ancillary works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Bluestone Properties Ltd against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has provided a copy of the consultation letter that was sent to neighbours publicising the planning application, and a list of the addresses to which the letter was sent. The Council has also provided representations that were received in response to such publicity. I am therefore satisfied, on that basis, that the Council has discharged the publicity requirements of the Town and Country Planning (Development Management Procedure) Order 2015, despite the response in the questionnaire suggesting otherwise.

Main Issues

4. The main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to outlook and privacy;
 - the effect of the proposal on the living conditions of occupiers of 103 Whitmore Gardens in respect of loss of light;
 - whether the proposal would provide an appropriate mix of housing types having regard to the requirements of the development plan; and
 - Whether the proposal would achieve a suitable standard of fire safety.

Reasons

Living conditions – future occupiers

5. The appeal site comprises an area of land to the rear of a three-storey terrace building on College Road, containing commercial units at ground floor and flats above. The ground floor windows to the living space and one of the bedrooms of each unit would look onto a narrow passageway, to be used by the occupants of the proposal and to service the commercial units. The proposed small front gardens would provide some defensible space, nonetheless, those using the passageway would be able to see into main habitable rooms, at close range, thereby having an unacceptable impact on the privacy of future occupants.
6. The proposed dwellings would be very close to the upper two storeys of the terrace and even closer to its single storey rear element. Therefore, due to its height and proximity, the College Road terrace would have a significant enclosing and dominating effect on the outlook from the ground floor windows of the proposed dwellings. This would create an unacceptable visual intrusion to the detriment of the living conditions of the future occupiers.
7. The first-floor bedroom to each unit would be served by an angled oriel window which would be obscure glazed ensuring there would be no intervisibility between the development and the adjoining flats, and no consequent loss of privacy. Even so, obscure glazing of the only window to such rooms would result in there being no outlook, which would be harmful to living conditions of the future occupants.
8. Acceptable space standards and level of daylight and sunlight would be achieved within the proposed dwellings, and an appropriate level of privacy in the upper floor windows would be provided. Furthermore, acceptable external amenity space in accordance with Policy BH13 of the Brent Local Plan (BLP) are proposed. Nevertheless, this does not override the shortfalls in respect of living conditions that I have identified.
9. Consequently, I find that the proposal would not provide satisfactory living conditions for future occupiers due to unacceptable outlook and inadequate privacy. It would therefore conflict with BLP Policy DMP1 and Policy D6 of the London Plan (LP), which seek to ensure that development provides high levels of amenity.

Living conditions – occupiers of 103 Whitmore Gardens (No 103)

10. The appeal site adjoins the side boundary of No 103 and the proposed building would extend along the entirety its rear garden in a position directly abutting the shared boundary. No 103 has several primary windows at ground and first floor looking onto its rear garden.
11. The Council raised concerns that in the absence of a No Sky Line Assessment (NSLA), sufficient information in relation to the daylight and sunlight impact of the proposal on No 103 had not been provided. The appeal submission responds to this by including a revised Daylight, Sunlight and Overshadowing Assessment which includes a NSLA calculation based on available floor plans for that property. The calculation indicates that there will be no change to the area of the rear first floor bedrooms which would receive direct skylight if the development were to take place. In addition, it shows that there would be a

minimal reduction in direct skylight to the rear facing ground floor kitchen and living area. The proposal would, therefore, meet the Building Research Establishment criteria and would not have an unacceptable effect on the living conditions of the occupiers of No 103.

12. I therefore conclude that the effect of the proposal on the living conditions of occupiers of No 103 would be acceptable in respect of loss of light. It would accord with BLP Policy DMP1 in this regard as it would maintain appropriate internal and external amenity for neighbouring occupiers.

Housing mix

13. BLP Policy BH6 seeks to deliver a target of 25% of new homes as family sized (three bedrooms or more) dwellings and requires for every four dwellings including within the development, that at least one must be three bedrooms or more. Two-bedroom dwellings are proposed and, as such, a conflict with this policy requirement arises.
14. The policy goes on to state that exceptions to the provision of family sized dwellings will only be allowed where the applicant shows that the location or characteristics of the development are such that it would not provide a high-quality environment for families, or its inclusion would fundamentally undermine the developments delivery of other Local Plan Policies
15. There appears to be the potential to increase the size of one of the proposed flats to provide a third bedroom without reducing the floor area of the other units below the minimum space standards set out in LP Policy D6. However, unless the accommodation is provided on three, or more, floors, there would be insufficient space within the site to provide 50 square metres of external private amenity space for the family home as required by BLP Policy BH13. Any increase in the height of the proposed development is likely to adversely affect the living conditions of the occupiers of the adjoining dwellings, particularly 103 Whitmore Gardens. Accordingly, the site could not provide a high-quality environment for families without adversely affecting the living conditions of neighbours, and would, therefore, undermine the delivery of other policies.
16. In conclusion, given the nature of the site, the proposal would provide an appropriate mix of housing types as it would meet the exceptions to the provision of family sized dwellings as set out in BLP Policy BH6.

Fire safety

17. LP Policy D12 specifies that, 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. It goes on to state that for major development proposals a supporting Fire Statement should be submitted, having been undertaken by a suitably qualified assessor.
18. The proposal before me is not a major development, and, therefore, there is no policy requirement to provide a Fire Statement. Nevertheless, during the planning application process and within the Statement of Case, the appellant has set out the proposed fire safety measures. I consider that such information is sufficient to demonstrate that fire safety aspects have been considered in relation to the appeal proposal and that the scheme could

achieve the highest standards of fire safety as required by LP Policy D12A. On that basis and given the modest scale and nature of the proposed development, I have no reason to doubt that satisfactory fire safety measures could be secured by condition if permission were granted, providing that such a condition was worded to preclude the use of the dwellings until these matters were addressed.

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

Other Matters

20. The proposal would contribute towards the Frameworks aim to boost the supply of housing through the delivery of additional housing units. However, there is nothing before me to suggest that current policy is not providing enough housing to meet the requirements for the area. As such I attach limited weight to the provision of four dwellings as proposed. Benefits to the local economy would also be limited due to the small scale of the scheme.
21. I acknowledge that the Council considers the standard of accommodation, parking and cycle storage to be acceptable. Nonetheless, that does not provide justification for a development that would not offer satisfactory living conditions for its occupiers.
22. Reference has been made to the recently designated Kensal Rise Conservation Area (CA). However, having taken into consideration the conservation area map provided by the appellant, I am satisfied that the appeal site neither lies within the boundary of the CA nor within its setting.

Conclusion

23. I have found that the proposal would maintain appropriate living conditions for the occupiers of 103 Whitmore Gardens, would provide an appropriate mix of housing types and would achieve a suitable standard of fire safety. However, these factors together with the identified benefits of the scheme would not outweigh the harm that I have found by virtue of the inadequate living conditions that would be provided for future occupiers.
24. 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.
25. Accordingly, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR