



Appeal Decision

Site visit made on 18 November 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/T5150/W/24/3348506

37 Lydford Road, Brent, London NW2 5QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robert Lawee of Casehill Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/0878.
 - The application sought planning permission for 'Demolition of existing office to builders' yard and erection of a 3 bedroom, three storey (including basement) dwellinghouse, erection of a boundary treatment and associated hard and soft landscaping' without complying with a condition attached to planning permission Ref 14/2952, dated 14 November 2014.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved drawing(s) and/or document(s): D100 Rev C; D101 Rev C; D102 Rev C; D200 Rev C; D202 Rev C; D300 Rev C; D1301 Rev C; D302 Rev C; D303 Rev C; Petersesen TEG L D48 (proposed brick); Design and Access Statement (prepared by Christopher Campbell Architects).
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a plan (Site Plan Drawing No 814-24 550 P1 dated July 2024) showing a visibility splay, with the appeal. Further to this, the appellant submitted amended plans (Proposed Ground Floor Plan Drawing No Drawing No. D101 Rev E, an updated pack of All Formal Drawings and an updated Analysis Document dated October 2024) with their Final Comments. These show straightening and extension of the proposed car parking space, additional landscaping within the front garden, front boundary walls lowered to provide a pedestrian visibility splay and an electric vehicle charging point. I appreciate that the appellant did not receive the Council's highway comments until 3 weeks after the deadline for the local planning authority questionnaire. However, interested parties have not been given the opportunity to make representations on these changes giving rise to procedural unfairness. For that reason, I will not accept them.
3. The appeal site is within Mapesbury Conservation Area wherein I have a statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) to pay special attention to the

desirability of preserving or enhancing the character or appearance of the area.

Background and Main Issues

4. Planning permission¹ was granted for the construction of a new dwellinghouse (the approved scheme) at the appeal site. This has been constructed otherwise than in accordance with the approved plans. The appellant seeks to vary condition 2 (the approved plans condition) to reflect the changes which have been made and to include additional trees, a car parking space, bin store and water tank store.
5. The Council's first reason for refusal sets out that its concerns in respect of the 'as built' development, as shown on the amended plans, is the height and massing of the dwelling. Therefore, the main issues are:
 - the effect of the amendments to the approved dwelling on the street scene with particular regard to its height and massing including whether or not it would preserve or enhance the character or appearance of the Mapesbury Conservation Area.
 - the effect of the use of the car parking space on the safety of pedestrians using Lydford Road.

Reasons

Character and Appearance

6. The appeal relates to a site in Lydford Road, within a predominantly residential area. The site was previously occupied by a builder's yard and ancillary office. Mapesbury Conservation Area (the CA), within which the appeal site is situated derives its significance from its well-preserved late Victorian and Edwardian houses of high architectural quality and intricate detailing. The area is characterised by large semi-detached and detached houses set within wide mature tree lined streets.
7. The two-storey detached dwelling that now occupies the site is of a contemporary design that is broadly similar in terms of form, design and materials to the approved scheme. However, as built, the dwelling varies from the approved scheme. Most notably the dwelling is larger and higher.
8. An Enforcement Notice was served on the development and upheld at appeal in December 2021. The Inspector remarked that the appellant had not sought to demonstrate why the dwelling, as built, was appropriate to its context or explain how the context led to the design of the dwelling. The Council also reached a similar conclusion when it refused a Section 73 application for retrospective works in January 2024.
9. I am mindful that the previous Inspector concluded that a 0.22 metre reduction in height of the building would not overcome the harm that they identified to the CA. However, the lack of contextual analysis informed by robust evidence, such as that described by the Inspector, would have made it difficult to reasonably conclude otherwise than that the dwelling was not appropriate to its context. Having reviewed the submitted evidence, which was not before the previous Inspector, I am satisfied that it addresses their

¹ 14/2952.

concerns regarding dominance of the dwelling in the street scene by virtue of its height and massing, for the reasons below.

10. Evidence has been submitted with the proposal which demonstrates why the dwelling, as built, is appropriate to its context through detailed analyses. The Analysis Document prepared by Studio Kyson (dated March 2024) provides the results of a building height analysis which shows that despite the increased height of the dwelling, it is still significantly lower than neighbouring dwellings. The subordinate height of the building was readily observable at my site visit.
11. The Analysis Document also demonstrates that the increased volume is within the constraints envelope that has informed the scale and massing of the building. The house is positioned to the north of the site to maximise the distance between the closest neighbouring property at 88 Teignmouth Road (No 88). The gap between the properties maintains the spacious character of the area and the planting in the garden contributes positively to the street environment of Lydford Road.
12. The contextual analyses undertaken in relation to height and massing clearly demonstrate that the dwelling, as built, would remain subordinate within the street scene, addressing the main concern of the previous Inspector.
13. Furthermore, the Analysis Document demonstrates how the materiality, scale and massing of the dwelling has been influenced by the surrounding context and the 'Arts and Crafts' buildings of the period.
14. A Heritage Impact Assessment prepared by HCUK Group (March 2024) (HIA) has been submitted which assesses the impact of the built dwelling on the significance of the CA. The HIA indicates that even without the proposed additional tree planting and repainting of the boundary wall, "the building assumes a recessive appearance within the street scene". The HIA finds that the appeal building enhances the appearance of the site and contributes positively to the CA resulting in "townscape views of greater interest and variety along Lydford Road and in oblique views from Teignmouth Road and St Gabriel's Road."
15. I agree with the conclusion of the HIA and find that the significance of the CA would not be harmed due to the building's design, position, height and massing which respects the surrounding dwellings, including those along the principal streets of Teignmouth Road and St Gabriel's Road.
16. For the reasons given, I conclude that varying condition 2 would not harm the street scene and that the height and massing of the dwelling preserves or enhances the character or appearance of the CA. Consequently, it would comply with Policy DMP1 and BHC1 of the Brent Local Plan 2019-2041 (February 2022) (the LP) insofar as they seek to conserve or enhance the significance of heritage assets and require development to complement the locality and contribute to local distinctiveness.

Pedestrian safety

17. The proposal seeks to provide one car parking space within the appeal site using the pre-existing vehicular access to the highway. One car parking for the site is considered acceptable and would not generate a significant increase in traffic. However, the proposed parking space would be insufficiently sized, falling below the standard required of 4.8 metres deep by 2.4 metres wide, as

set out in the Officer Report. Furthermore, the parking space would not be perpendicular to the highway.

18. The parking arrangement of the appeal proposal and the former builder's yard is materially different. The smaller building that previously occupied the site when it was used as a builder's yard provided a larger amount of space within the site for vehicles to park and manoeuvre. This is not the case in the appeal proposal where the parking area is severely limited and positioned immediately adjacent to the front boundary wall.
19. As a result of the proximity of the proposed parking space to the front boundary wall, drivers would not have sufficient visibility of pedestrians on the footway when egressing from the site, thereby compromising the safety of pedestrians.
20. While the height of the wall to the south of the gate has been reduced, this would not be sufficient to provide adequate pedestrian visibility in accordance with Brent's Vehicle Crossing Policy.
21. The appellant has drawn my attention to 30 Lydford Road (No 30) which has a car parking space near its front boundary wall. However, the front boundary wall of No 30 is significantly lower than the front boundary wall of the appeal site. Furthermore, the parking space of No 30 is significantly larger than the one proposed for the appeal site. Therefore, the parking arrangement of No 30 is not directly comparable to the appeal site.
22. While the sliding gates mean that there is no risk of them opening onto the pavement and the speed limit of Lydford Road is 20 mph, these factors would not mitigate for the harm that would be caused to pedestrian safety due to the lack of sufficient pedestrian visibility when egressing from the site.
23. Overall, the siting, alignment and size of the proposed car parking space would not meet the Council's standards and would result in conditions prejudicial to the free and safe flow of traffic and pedestrians on the adjoining highway, including the footway.
24. For the reasons given, I conclude that varying condition 2 would harm pedestrian safety as a result of the proposed on-site car parking space. Hence, it would conflict with Policies DMP1 and BT2 of the LP insofar as they require development to provide satisfactory parking and not negatively impact other forms of movement.

Other Matters

25. Compliance with the development with regard to internal and external space standards weigh neither for or against the proposal and is considered neutral.
26. The appellant suggests that demolition of the appeal building would generate significant amounts of waste and embodied carbon, contributing negatively to climate change. However, demolition of the appeal building is not a certainty or would necessarily be a direct outcome of this appeal.

Conclusion

27. Whilst I have found that the amendments to the approved dwelling do not have a harmful effect on the street scene, the introduction of a car parking space as shown on the submitted plans is harmful to pedestrian safety.

Therefore, the development as a whole conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons give above the appeal should be dismissed.

U P Han

INSPECTOR