



Appeal Decision

Site visit made on 5 February 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 February 2025

Appeal Ref: APP/T5150/W/24/3352308

70 Aylestone Avenue, London NW6 7AB

- 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 Mrs Jamileh Jadali against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/1721.
 - The development proposed is demolition and redevelopment to provide a dwellinghouse, creation of basement floor level and habitable loft space with 2x side and 2x front rooflights and 2 x recessed terraces to main rear roofslope, lightwells to rear and front garden areas, front boundary treatment, 2x off road parking spaces, associated landscaping, cycle and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for demolition and redevelopment to provide a dwellinghouse, creation of basement floor level and habitable loft space with 2x side and 2x front rooflights and 2 x recessed terraces to main rear roofslope, lightwells to rear and front garden areas, front boundary treatment, 2x off road parking spaces, associated landscaping, cycle and refuse storage at 70 Aylestone Avenue, London, NW6 7AB, in accordance with the terms of the application, Ref 24/1721, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as it more accurately describes the proposal.
3. As part of the appeal, revised plans were submitted showing the change of door onto the flat roof for a fixed window, reducing the width of the gated vehicle accesses and addressing minor plan inconsistencies. Where amendments are proposed, regard should be had to the 'Wheatcroft'¹ principles - including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. As the plan details minor amendments, and the nature of concerns of those who would normally have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take the amended plans into account. I shall therefore determine the appeal on the basis of the relevant plans referred to on the decision notice, as well as the amended plans submitted as part of the appeal.

¹ Wheatcroft Ltd V SSE [1982]

4. A decision letter² relating to two previous schemes for the appeal site was issued on 19 November 2024 to which the appellant has drawn my attention. I have had regard to the decision letter as a material consideration of relevance to the proposal before me.

Main Issues

5. The main issues in the appeal are:
- the effects of the proposal on the character and appearance of the area;
 - the effects of the proposal on the living conditions of occupiers at No 72 Aylestone Avenue, with particular regard to outlook and privacy; and
 - the effects of the proposal on existing trees.

Reasons

Character and appearance

6. The proposal is to demolish the existing two storey, semi-detached dwelling and create a five bedroom dwellinghouse with accommodation over basement, ground, first and second floor levels. The dwellinghouse would appear as two storeys in height from Aylestone Avenue and would take reference from the design of the existing dwelling and those found in the immediate surroundings, which are predominately large, detached dwellings of varying styles that sit tightly within their frontages.
7. The appeal proposal includes some changes when compared with the most recently dismissed scheme to reduce the overall footprint with notable changes at the rear in terms of the depth of the projections from the rear wall and height of the single storey element and roof profile. Other amendments at the front include clarification about the intention to retain the existing protected tree and increase the amount of soft landscaping.
8. In view of its overall form and proportions relative to the size of the site and the overall design, the scheme would assimilate adequately into the street scene. The changes to the scheme at the rear, whilst modest, would make the difference between the rearward projections being overly bulky to being of an appropriate scale and form, when the scheme is taken as a whole. The changes to aspects such as the extent of flat roof and increase in soft landscaping, whilst subtle, tip the balance in favour of the scheme towards one of an acceptable standard of design relative to the surrounding context.
9. In view of the above, the scheme would preserve the character and appearance of the area, in compliance with Policy D3 of the *London Plan* (adopted 2021) and Policies DMP1 and BD1 of the *Brent Local Plan (2019 – 2041)* (adopted 2022) (Local Plan). These Policies seek to ensure that development reflects the highest quality of design in the context of its surroundings.

Living conditions of neighbouring occupiers

10. The current appeal proposals would have no discernible effects on the neighbouring occupiers at the rear of No 68 due to its own deep rear extensions.

² APP/T5150/W/24/3336252 (Appeal A) and APP/T5150/W/24/3341285 (Appeal B)

11. The current proposal does not include any side dormer windows to ensure the protection of privacy of adjoining neighbours and all side facing windows would be conditioned to be obscure glazed. Additionally, the door access onto the flat roof has been changed for a window in the current plans, but conditions would be used to prevent any access onto the flat roof other than strictly for maintenance and to ensure that the window were obscure glazed for privacy reasons.
12. In terms of outlook for the occupiers of No 72 Aylestone Avenue, the first floor projection has been reduced by 3 metres in length and the ground floor by a metre. This would mean that the rearward projection of the ground floor extension would be around 6 metres beyond the existing rear wall, inset around 1 metre from the shared boundary. When combined with a 3 metre reduction in the rearward projection of the first floor element and modest 500mm reduction in height of the ground floor element, the occupants of No 72 would not be affected by an undue sense of enclosure and would maintain an acceptable outlook from within their dwelling and generously sized garden. This degree of rearward projection and modest inset from the side boundary fails to strictly adhere to the guidance for rear extensions of more than 4 metres as detailed in the *Residential Extensions and Alterations Supplementary Planning Document* (2018), which whilst not directly applicable for a rebuild scheme, is useful as a guide. However, on balance, the additional built mass of the redeveloped dwelling would not appear overly dominant or obtrusive such that the living conditions of neighbouring occupiers would be materially harmed.
13. As such, the proposal is considered to comply with Policy D3 of the London Plan and Policy DMP1 of the Local Plan which collectively require developments to be appropriate both in terms of outlook and amenity. The Council has not drawn my attention to any particular aspect of the Brent Design Guide SPD1 (2018) that the proposal would fail to meet and nor have I independently identified any such shortcomings.

Effects on trees

14. The front of the site includes a large Weeping Willow tree which is protected by a Tree Preservation Order. Despite the tree being shown in some elevation plans and not others, it is clear from the evidence that the Weeping Willow tree is to be retained.
15. Whilst a tree protection plan and related arboricultural information were submitted, a pre-commencement planning condition can be used to secure further clarification on the tree protection measures to be employed to preserve the health of the tree. Therefore, subject to the imposition of a suitably worded condition, the proposal complies with Policy G7 of the London Plan and Policy BGI1 of the Local Plan which seek to ensure that, wherever possible, existing trees of value are retained, and that any loss of trees secures appropriate replacements on site.

Other Matters

16. The fourth reason for refusal (RfR) in the Council's decision letter refers to the width of the vehicle crossover over the footway. Similarly, the fourth RfR sets out that the percentage of proposed soft landscaping in the frontage would fall short of that required under Policy BT2 of the Local Plan to aid natural drainage. The former has been addressed by way of the submitted revised plans and the latter,

whilst detailed on the plans, can be addressed by way of planning condition requiring a revised landscaping plan.

Conditions

17. In the interests of certainty, conditions are needed to specify the time limit for commencement of development and the approved plans.
18. In order to maintain the character and appearance of the area, conditions are needed to secure appropriate materials of construction, suitable tree protection measures and a scheme of landscaping. The suggested condition in relation to materials matching the existing building is not of an acceptable format given that the existing building is to be demolished and the external wall materials are to be constructed from brick to complement the surrounding area rather than match the existing building.
19. Given that the current proposal achieves acceptable limits in relation to impacts on neighbouring occupiers, a condition is needed to limit any future use of permitted development rights under parts A, B and E to prevent further extensions, alterations or the construction of outbuildings that could be detrimental in this regard.
20. In order to protect the living conditions of neighbouring occupiers, a condition is needed to require obscure glazing in first floor side windows and prevent the installation of additional windows. Furthermore, even though a window leading to the flat roof is proposed instead of a door, a condition is needed to prevent access onto the flat roof other than for maintenance purposes.
21. In the interests of environmental sustainability, a condition is needed to secure water efficiency measures as part of the scheme. A condition is also necessary seeking details of measures to be employed during the construction period to limit dust, noise and other nuisances.
22. The Council has suggested the addition of informatives in relation to the need for approval for the vehicle crossover, Community Infrastructure Levy liability and requirements in relation to the Party Wall Act. It is not necessary to impose conditions in relation to these aspects that are covered by separate legislation and thus, the appellant is advised to ascertain their responsibilities in relation to such.

Conclusion

23. For the foregoing reasons, the appeal is allowed.

H Nicholls

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 drawing nos:
 - Location Plan, Ref 1089/020 Rev D
 - Proposed Basement Plan, Ref 1089/001 Rev D
 - Proposed Ground Floor Plan, Ref 1089/002 Rev F
 - Proposed First Floor Plan, Ref 1089/003 Rev F
 - Proposed Second Floor Plan, Ref 1089/004 F
 - Proposed Roof Plan, Ref 1089/005 Rev E
 - Proposed Front Elevation, Ref 1089/010 Rev F
 - Proposed Rear Elevation, Ref 1089/011 Rev E
 - Proposed Side Elevation, Ref 1089/012 Rev E
 - Proposed Side Elevation, Ref 1089/013 Rev F
- 3) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Any upper-floor window located in a wall or roof slope forming a side elevation of the building must be—
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed;and shall be permanently maintained in that condition thereafter.
- 5) Other than strictly for maintenance purposes, no access shall be provided to the flat roof of the single storey projection by way of window, door or stairway and the roof of the extension hereby approved shall not be used as a balcony, terrace or sitting out area.
- 6) No extensions shall be constructed or buildings shall be added within the curtilage of the dwellinghouse under the provisions of Classes A, B or E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any order revoking and re-enacting that Order with or without modification.
- 7) Prior to the commencement of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of retained trees in accordance with BS5837: 2012 including a Tree Protection Plan (TPP, at para. 5.5 BS 5837) and a revised Arboricultural Method Statement (AMS, at para. 6.1 BS 5837) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS include:

- a) Location and installation of services/utilities/drainage
- b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees.
- c) Details of construction within the RPA that may impact on the retained trees
- d) A full specification for the installation of boundary treatment works
- e) A full specification for the construction of any roads, parking areas and driveways to be constructed using a no-dig specification including the extent. Details shall include relevant sections through them.
- f) Detailed levels and cross sections to show that the raised levels or surfacing, where the installation of no-dig surfacing within the RPA is proposed, demonstrating that they can be accommodated where they meet with any adjacent building damp proof courses and adjacent highway.
- g) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- h) A specification for scaffolding and ground protection within tree protection zones.
- i) Tree protection during construction indicated on a TPP and construction activities in this area clearly identified as prohibited in this area.
- j) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well as concrete mixing and use of fires.
- k) Boundary treatments within the RPA
- l) Methodology and detailed assessment of root pruning
- m) Arboricultural supervision and inspection by a suitably qualified tree specialist.
- n) Reporting of inspection and supervision.
- o) Methods to improve the rooting environment for retained trees and landscaping

The development thereafter shall be implemented in strict accordance with the approved details.

- 8) A revised Construction and Demolition Environmental Management Plan, to include information pertaining to existing trees, shall be submitted to and approved in writing by the Local Planning Authority, prior to commencement of any construction works on site (including demolition). This shall outline measures that will be taken to control dust, noise and other environmental impacts of the development. The approved Plan shall be fully implemented thereafter throughout the demolition and construction of the development in accordance with the approved details.
- 9) Within six months of commencement of work on site, a revised landscaping plan detailing both hard and soft landscaping works shall be submitted to and

approved in writing by the Local Planning Authority through the submission of an application for approval of details reserved by condition.

The development shall thereafter be implemented in full accordance with the approved landscaping plan.

Any planting that is part of the approved scheme that within a period of five years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season. All planting shall be replaced with others of a similar size and species and in the same position, unless the Local Planning Authority first gives written consent to any variation.

- 10) The development shall be designed and constructed so as to limit the internal consumption of water to 105 litres or less per head per day, in line with part G, regulation 36 of the Building Regulations.

----- End of Schedule -----