



Appeal Decision

Site visit made on 3 June 2025

by Beverley Wilders BA (Hons) PgDURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2025

Appeal Ref: APP/T5150/W/25/3360909

3 Dawlish Road, Brent, London NW2 4EY

- 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 B Ioannou against the decision of the Council of the London Borough of Brent.
 - The application Ref is 24/1313.
 - The development proposed is Demolition of Outbuilding and Erection of Detached Two-storey 2-Bed Dwelling with Associated Hard/Soft Landscaping and Boundary Treatment Works.
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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 area including the Mapesbury Conservation Area having particular regard to the design and layout of the dwelling and loss of trees and landscaping;
 - the living conditions of the occupiers of 3 Dawlish Road and 29 & 31 Teignmouth Road having particular regard to outlook, privacy and light within gardens; and
 - the biodiversity of the area.

Reasons

Character and Appearance

3. The appeal site comprises a triangular shaped piece of land containing a single storey building. It was formerly part of the side garden of the adjacent property 3 Dawlish Road (No 3), with the building being constructed and used as a garage. It is now in separate ownership. A certificate of lawfulness was granted for the use of the building as a dwelling in 2020 and at the time of my visit, that appeared to be its last use. The site fronts Dawlish Road and is positioned between the side elevation and side garden of No 3 and the rear garden boundaries of 29 & 31 Teignmouth Road (Nos 29 & 31).
4. The site is located in a prominent roadside position in the Mapesbury Conservation Area (MCA). MCA covers a relatively large area, and its development largely took place between 1860 and 1920. It is characterised by large semi-detached and detached houses incorporating quality architecture and detailing set within wide

tree-lined streets. Rear gardens are often large and typically contain mature trees and other mature planting, establishing an open, verdant and spacious character. All of these characteristics combined contribute to the significance of MCA.

5. The proposal includes the demolition of the existing building, the removal of trees and landscaping and the erection of a two-storey detached dwelling. The Council's first reason for refusal does not make explicit reference to the loss of the existing building but instead focuses on the scale and design of the proposed dwelling. Conflicting evidence has been provided about the significance of the existing building and whether it ought to be considered as a non-designated heritage asset and the effect of the proposal on it assessed accordingly.
6. It appears from the submitted evidence that the garage was constructed sometime between 1912 and 1935/37 as an ancillary building to No 3. A driveway appears to have been added between 1935/37 and 1954.
7. The existing building is modest in scale and appearance. Its position, set back from the frontage and at a lower level than the road, together with its modest height and existing extensive landscaping means that it is not prominent or readily visible from beyond the site boundary. The proposed dwelling is larger, taller and wider than the existing building and would be set further forward, parallel with the road. The proposed dwelling would be much more prominent within MCA, particularly given that much of the existing landscaping and existing trees within the site would be removed. Notwithstanding that existing landscaping on the site is overgrown, the erection of the proposed larger dwelling would result in a significant loss of openness, spaciousness and verdancy in this part of MCA, factors which contribute to its significance.
8. The proposed dwelling incorporates some features which are similar to existing dwellings in MCA, including those at 1 & 3 Dawlish Road such as a hipped roof, projecting front gable and traditional brickwork. Its front building line would also be consistent with Nos 1 & 3. However, site constraints mean that it would have a much smaller footprint than the adjacent dwellings and would not be of such a substantial scale. It would also incorporate more modern design features such as a flat-roofed and partly glazed front porch together with dark fenestration. The more modest scale and part-contemporary features of the proposed dwelling would be at odds with surrounding development and the general character of MCA.
9. Though of a reduced scale, I do not consider that the dwelling would appear ancillary to No 3 and surrounding buildings as it would clearly appear as a dwelling and would also not appear as a contemporary interpretation of a coach house to complement the more traditional coach house on the opposite side of the road. The fact that a two-storey dwelling may be more in keeping with the residential character of the area does not mean that the two-storey dwelling proposed has an acceptable effect on the character and appearance of the area.
10. The proposal would result in the loss of the majority of trees within the site. These are protected by virtue of the site being within MCA. An Arboricultural Impact Assessment (AIA) was submitted with the application and a letter regarding arboricultural matters and updating the AIA was submitted with the appeal. The updated AIA surveys 9 existing trees, 4 outside the appeal site and 5 within. All trees outside are proposed to be retained with all but one within to be felled.

(However there is a discrepancy between the updated schedule at appendix 1 of the letter and the felling plan at appendix 2. The former shows T3 to be retained and the latter that it is to be felled).

11. All of the trees within the appeal site are identified as category C (low value) trees in the AIA. Three of the off-site trees are identified as category B (medium value) with the other identified as category C.
12. Whilst I acknowledge that none of the trees within the site are of high value individually, and that existing landscaping is overgrown, collectively the planting on the site, together with surrounding landscaping contributes to the verdant and open character of this part of MCA. T3 (Sycamore), though located at the rear of the site, is clearly visible from Dawlish Road due to its height. Notwithstanding that replacement planting is proposed as part of the proposal, this is limited due to the restricted space available given the larger footprint of the proposed dwelling when compared with the existing building. The replacement planting would not compensate for the loss that would result from the proposal.
13. Additionally, the proposed dwelling and associated development on the site would be within the root protection area (RPA) of all the off-site trees and the dwelling would be under the canopy spread of T9, a category B lime tree. The proposal requires works to T9 and the two lowest limbs of the tree to be removed, one of which appears to be significant in size. The updated AIA states that these works will return T9 to a more radial canopy and will remove future pressure for further work to provide clearance from the proposed dwelling. It also states that any works within RPAs will be carefully managed to minimise damage.
14. Though I note that the RPAs of T2 and T9 are already affected by existing development on site, the proposal would likely result in more development than existing within the RPA of T1 and T9. Moreover, whilst I note the comments in the updated AIA regarding the works to the canopy spread of T9, based on the evidence before me, I am not convinced that these works would not be harmful to the tree and the positive contribution that it currently makes to the character and appearance of MCA. These concerns are shared by the Council's Principal Tree Officer.
15. Given the proximity of the proposed dwelling to off-site trees, the amount of development proposed within RPAs and the extent of the canopy of T9, I consider it likely that there would be some damage to these trees and future pressure for further works to them. This is notwithstanding any existing and future shading resulting from the proposed dwelling. Under these circumstances, the imposition of suitably worded conditions relating to an arboricultural method statement would not adequately overcome the identified concerns and provide sufficient assurance that the proposal would not be harmful to trees over the medium to long-term.
16. My attention has been drawn by the appellant to examples of other developments within MCA that are said to provide precedents for the proposal. However, neither of these appear to be directly comparable to the proposal, with the building at 50A Dawlish Road being an existing former coach that is to be converted and 37 Lydford Road being a former office replaced by a contemporary building located in a very different setting to the appeal site. I therefore attach limited weight to these examples and in any event, I must determine the proposal before me on its own merits. In addition, the fact that Dawlish Road has a different feel

and character to the more densely developed and uniform streets elsewhere in MCA does not justify the proposal which does not adequately respect its context.

17. Having regard to all of the above, the proposal would have a significant harmful effect on the character and appearance of the area, including the character and appearance of MCA. Any visual benefits arising from the proposal such as the removal and replacement of existing boundary timber fencing with lower level boundary treatment, would not be significant enough to overcome this harm.
18. Even if I were to accept the appellant's position that the existing building is not a non-designated heritage asset, the proposal would in any event result in significant harm to the designated heritage asset (MCA).
19. Noting the scale and nature of the proposal and its effect on the wider conservation area, I consider that it would lead to less than substantial harm to MCA. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on MCA in accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Paragraph 215 of the Framework states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
20. A number of benefits have been put forward by the appellant including an improved housing standard and quality and improved landscape design. The replacement dwelling would provide improved living conditions, and I attach moderate weight to this public benefit. However, for the reasons set out above, I do not consider that the proposal would lead to an overall improvement in landscape design. I therefore attach no weight to this purported benefit or to any of the other alleged design benefits advanced by the appellant.
21. The moderate public benefit associated with the proposal would not outweigh the harm to the area and MCA identified. Taking the above matters into consideration, I conclude that the proposal would adversely affect the character and appearance of the area and fail to preserve the character or appearance of MCA. It would not therefore meet the requirements of section 72(1) of the Act. For the same reasons it would not accord with policies DMP1, BD1 and BHC1 of Brent Local Plan 2019-2041 adopted February 2022 (Brent LP) and Policy HC1 of the London Plan March 2021 (London Plan). These policies, amongst other things, require development to be well designed, complement the locality and conserve heritage assets.

Living Conditions

22. As stated, the proposed two-storey dwelling would replace an existing single-storey former garage building positioned near to and parallel with the rear garden boundaries of 29 & 31 Teignmouth Road. The proposal would bring built development nearer to and parallel with the side elevation and side garden of 3 Dawlish Road. The proposed dwelling would be at an angle to the rear garden boundaries of Nos 29 & 31. The side garden at No 3 and the rear gardens at Nos 29 & 31, currently have a very open and verdant outlook and are not affected by existing built development on the appeal site.

3 Dawlish Road

23. When determining the application the Council's concerns in respect of No 3 were the loss of sunlight and privacy within its garden, with the loss of privacy arising from the rear facing windows in the proposed dwelling.
24. No 3 has a modest sized rear garden and a larger, partly decked side garden area, adjacent to the appeal site. The proposed dwelling extends part way along the side of No 3, with a raised decking area beyond.
25. There are no windows in the side elevation of the proposed dwelling facing No 3 but ground and first floor windows to habitable rooms are proposed in the rear elevation, close to the common side boundary. Whilst overlooking from these windows towards the garden of No 3 would be at an oblique angle, the position of the first floor bedroom window in particular, relative to the side decking area of No 3 would be likely to lead to overlooking, an unacceptable loss of privacy and would breach the distance guidelines set out under Principle 5.2 of the Brent Design Guide SPD1 (SPD1). Whilst the status of this document is unknown, it nevertheless provides a useful benchmark for assessing the impact of development on nearby properties.
26. The submitted plans indicate that the proposal meets the Council's guidelines set out under Principle 5.1 of SPD1 in terms of the building envelope of the proposed dwelling. Noting this and the relative scale and position of the proposal and No 3 and its garden, I consider that any resultant loss of outlook from No 3 would not be materially harmful.
27. At the time of determining the application, the Council expressed concern regarding the effect of the proposal on the amount of sunlight to the side garden of No 3. However, following the submission of a Daylight and Sunlight Assessment¹ with the appeal, which demonstrates that the proposal meets BRE guidance in terms of sunlight to gardens, the Council does not appear to be maintaining its objection on this point. I have assessed the proposal accordingly.
28. Whilst the occupiers of No 3 have raised a number of concerns regarding the effect of the proposal on their living conditions not shared by the Council, I have not considered these in detail here as they would not be determinative and would not alter the outcome of the appeal given my findings in relation to the main issues identified.

29 & 31 Teignmouth Road

29. When determining the application, the Council's concerns in respect of Nos 29 & 31 were the loss of outlook and privacy within their gardens, with the loss of privacy arising from the rear facing windows in the proposed dwelling.
30. The side and rear elevations of the proposed dwelling would be set at an angle to the rear garden boundaries of Nos 29 & 31. Some screening is currently provided by an existing mature tree (T9) close to the boundary between No 29 and the appeal site, though as stated, I have some concerns regarding the medium to long-term health of this tree should the proposed development go ahead. The common boundary between the rear gardens and the appeal site is marked by a

¹ Daylight and Sunlight Assessment Job No: 5870 Issued: September, 2024 Issue No: 2

solid timber fence. At my site visit I noted evidence of a patio/seating area on the rear portion of one of the adjacent gardens.

31. The proposed dwelling would in places be very close to the rear garden boundaries of Nos 29 & 31. The Council states within 1.25m and 2.1m respectively. Also, unlike in relation to No 3, the appellant did not initially provide evidence to demonstrate compliance with the 45 degree angle from the garden boundaries set out in Principle 5.1 of SPD1. Whilst this has since been provided by the appellant and demonstrates compliance with the SPD1 guidance in relation to the garden boundaries, compliance has not been demonstrated for No 29 at the closest point between the proposed dwelling and the rear garden boundary.
32. In the absence of this and given the scale and position of the proposed dwelling in relation to the rear garden boundary of No 29, it seems likely that the proposal would reduce the outlook from the rear part of the rear garden of this property to a material and harmful extent. Whilst the proposed dwelling would be viewed against a backdrop of the larger dwelling at No 3, it would be much nearer to the garden boundary of No 29 thereby increasing its effect on the garden.
33. In addition, the position of the rear first floor bedroom window of the proposed dwelling relative to the rear garden of No 31 means that there would be the potential for overlooking of this garden resulting in a material loss of privacy. Given the relative position of rear facing windows in the proposed dwelling and No 29, I am satisfied that there would be no loss of privacy to that property, notwithstanding any breach of SPD1 guidance.
34. This likely harm to the outlook from the garden of No 29 and to the privacy of the garden of No 31 would not be adequately mitigated by the proposed planting of additional landscaping close to the appeal site boundary with No 31, noting the height of the planting.
35. Taking the above matters into consideration, whilst the Council no longer appears to be maintaining its concerns regarding a loss of light to the garden of No 3, the proposal would be likely to result in a material loss of outlook to the occupiers of No 29 and a material loss of privacy to the occupiers of No 3 and No 31. This would adversely affect their living conditions. The proposal is therefore contrary to Policy DMP1 of Brent LP and to relevant guidance within SPD1. This policy and this guidance seek, amongst other things, to ensure that development provides high levels of amenity and protects privacy and amenity for existing residents.

Biodiversity

36. Reason for refusal 3 refers to a loss of biodiversity resulting from the loss of trees and mature garden habitat as well as from the effect on the future development of retained trees. Policy BGI1 of Brent LP states that all development should achieve a net gain in biodiversity.
37. When determining the application, the Council considered that the submitted ecological assessment undervalued the habitat on site and that mature gardens are important habitat for wildlife. The Council also considered that the proposal would result in a net loss of biodiversity due to the removal of trees and garden vegetation to facilitate the proposed dwelling.

38. No additional information has been submitted by the appellant to address or counter the Council's concerns regarding biodiversity. In the absence of this, it appears to me that given the amount of site clearance works proposed, there would inevitably be a net loss of biodiversity and that this would be contrary to Policy BGI1 of Brent LP which requires biodiversity net gain.

Other Matters

39. The proposal would result in the provision of an enlarged dwelling when compared to the existing building. Whilst improved living conditions for future occupiers would be provided, I attach no more than moderate weight to this benefit of the proposal particularly as there would be no net increase in the number of dwellings. The appellant refers to bringing a disused site back into use. However, as stated, the existing building can already be lawfully used as a dwelling and therefore the proposal does not appear to be the only available option for a re-use of the site. This purported benefit therefore attracts only limited weight.
40. I note that the proposal was submitted following pre-application discussions and that it was amended following pre-application advice from the Council and following an earlier refusal of planning permission. However, I consider the revised proposal to be harmful for the reasons stated.

Conclusion

41. I conclude that the proposal would adversely affect the character and appearance of the area including the Mapesbury Conservation Area, would have an adverse effect on the living conditions of the occupiers of 3 Dawlish Road and 29 & 31 Teignmouth Road having regard to outlook and privacy and would result in a net loss of biodiversity.
42. The moderate benefits of the proposal would not outweigh the harm identified. There are no other material considerations that justify determining the appeal other than in accordance with the development plan.
43. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR