



Appeal Decision

Site visit made on 20 November 2025

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 December 2025

Appeal Ref: APP/T5150/W/25/3373364

1 to 6 The Drive, London NW10 3UB

- 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 Conestoga Ltd against the decision of the Council of the London Borough of Brent.
- The application Ref is 24/1783.
- The development proposed is demolition of existing buildings and garages and erection of 9 x new residential dwellinghouses with associated off street parking, garden space, bike storage and bin storage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's appeal submission includes the following documents which were not before the Council when it made its decision:
 - An amended tree report¹
 - Transport response notes²
 - A daylight and sunlight rebuttal note³
 - A fire safety rebuttal note⁴
3. The amended tree report proposes the retention of a tree group adjacent to the appeal site's southern boundary. The remaining documents add to the appellant's initial planning application and respond to concerns in relation to access, daylight and sunlight, and fire safety. Nevertheless, these documents do not substantially or fundamentally alter what is proposed. Furthermore, as part of the appeal proceedings, the Council and interested parties have had an opportunity to comment on these documents. I am therefore satisfied that it is procedurally fair to accept these documents, and I have had regard to them in reaching my decision.

Main Issues

4. The main issues are:
 - The effect of the development on the living conditions of the occupiers of neighbouring properties on Longstone Avenue, with particular regard to sunlight and outlook;

¹ BS5837 Tree Report, by Tree Ventures, dated 31 July 2025, referenced G887AIA R1

² Transport Response Note, dated 4 February 2025, referenced 22106/N02A and Transport Appeal Note, dated 12 September 2025, referenced 22106/N03, each by Pulsar

³ 1-6 The Drive, London, NW10 3UB - Planning Reference 24/1783 – Daylight and Sunlight, by DPR, dated 23 July 2025, referenced 25310

⁴ 1-6 The Drive, London, NW10 3UB, by CHPK Fire Engineering, dated 5 September 2025, referenced FE03276

- Whether the proposed access arrangements would be safe and suitable for future users, including emergency service vehicles;
- Whether the development would make adequate provision for affordable housing; and
- Whether the development would achieve sufficient biodiversity net gains.

Reasons

Living conditions

5. The development involves the demolition of an existing 2-storey building and a single storey garage block. This would be replaced with a curved building containing 9 houses with accommodation set across 4 floors. This would introduce a very different form and scale of development, bringing built form closer to some of the neighbouring properties on Longstone Avenue.
6. Due to the existing layout, the back gardens of Nos 86 and 92 Longstone Avenue (Nos 86 and 92) are well-separated from the buildings on site. As a result, they benefit from a largely open westerly aspect, and they will receive sunlight in the afternoon. The back garden at No 84 Longstone Avenue (No 84) is partly bounded by the appeal site's existing garage block. However, this is a low-slung single storey building and, consequently, it does not significantly infringe upon the outlook from No 84's garden.
7. The appellant's daylight and sunlight report⁵ and rebuttal note⁶ reference a sunlight test contained within a Building Research Establishment publication 'Site layout planning for daylight and sunlight: A guide to good practice' (the BRE Guide). It is important to note that whilst the BRE Guide is a well-established tool for assessing a range of sunlight and daylight effects, it is only guidance, and not an instrument of planning policy. This test advises that at least half of a garden should receive 2 or more hours of direct sunlight on 21 March. The appellant asserts that, in respect of the adjacent Longstone Avenue properties, this sunlight test would be passed.
8. However, no detailed analysis has been undertaken in respect of the Longstone Avenue properties. Consequently, the appellant's assertions that the test would be passed is not evidenced, and the magnitude of the proposal's effects on sunlight has not been presented.
9. Furthermore, given the proposed building's height, and since it would run so closely alongside so much of the gardens of Nos 86 and 92, the development would reduce the amount of sunlight reaching these gardens and create more shade within them during afternoon periods.
10. The Brent Design Guide SPD1 Supplementary Planning Document (the Design SPD) assists with the interpretation and application of design related policies within the Brent Local Plan 2019-2041 (the Brent LP). The Design SPD is supportive of the application of the BRE Guide, but it also contains a separate '45 degree rule'. It seems to me, unlike the aforementioned BRE Guide sunlight test, that the 45 degree rule is not

⁵ Daylight and Sunlight Report, by Avison Young, dated 31 May 2023

⁶ 1-6 The Drive, London, NW10 3UB - Planning Reference 24/1783 – Daylight and Sunlight, by DPR, dated 23 July 2025, referenced 25310

simply a sunlight test, but also has a broader purpose of assisting in the assessment of a proposal's effects on daylight and outlook.

11. Adherence to the 45 degree rule would ensure that the development is not positioned too close to neighbouring gardens and, in turn, that its effects on sunlight, daylight and outlook are appropriately moderated. Therefore, in these respects, the Design SPD's 45 degree rule is a useful tool to assess the effects of a development on the living conditions of neighbouring occupiers. However, the appellant's evidence presents no analysis against the 45 degree rule.
12. Moreover, the development would result in the side elevations of Units 1 and 9 being positioned close to the rear boundaries of Nos 84, 86 and 92. Although the proposed building would be flat-roofed and these side elevations would be stepped, with accommodation set across 4 floors, the flanking walls of Units 1 and 9 would form imposing features when viewed from these neighbouring gardens. The side elevations would loom over, and have a significant enclosing effect on these gardens, such that the development would significantly reduce the outlook which the occupiers of Nos 84, 86 and 92 presently benefit from.
13. For these reasons the development would have a harmful effect on the living conditions of the occupiers of neighbouring properties on Longstone Avenue, with particular regard to sunlight and outlook. This would particularly affect the occupiers of Nos 84, 86, and 92. As a result, the proposal conflicts with Policy DMP1 of the Brent LP which, amongst other matters, requires development proposals to provide high levels of amenity and to complement the locality. The proposal also conflicts with the Design SPD which, in part, seeks to ensure that new developments adequately protect the amenity of existing residents.

Access arrangements

14. The appeal site is accessed by a drive from Longstone Avenue of approximately 40 metres (m) in length. The drive is positioned between Nos 86 and 88 and is bound by parts of the side elevations of those properties and their plot boundaries. The drive mainly has a tarmac surface, but it has concrete strips to its edges which, in areas, protrude slightly above the tarmacked surface. The drive is not served by dedicated lighting or footpaths. I have been provided with various width dimensions in respect of the drive, but the appellant's most up-to-date transport submissions identify that its width varies between 3.55m to 4m⁷. The drive is therefore narrow and, coupled with its other characteristics, it provides limited access and capacity. In its current form and layout, the appeal site is, however, served by a spacious forecourt to its front.

Emergency service vehicles

15. As a result of the development, the existing forecourt would be replaced with a smaller courtyard, containing bin and cycle storage. The swept path analyses⁸ depict a fire engine manoeuvring within the proposed courtyard, but this is convoluted. The analyses show that, to turn within this area, the fire engine would have to perform several shunts back and forth, and, in doing so, would come extremely close to front doors of the dwellings and the cycle/bin stores. Furthermore, the first floor of the development protrudes forward of the ground floor, and it has not been demonstrated that this would not impede the turning manoeuvre further. Consequently, it has not

⁷ Transport Appeal Note, by Pulsar, dated 12 September 2025, referenced 22106/N03

⁸ Pulsar drawings TR006 and TR007

been satisfactorily demonstrated that a fire engine could safely and conveniently turn within the courtyard and exit in a forward gear.

16. As an alternative, it is suggested that the fire engine could park within the access drive, 20m from Longstone Avenue, and tend to any fire or other emergency from there. However, the London Fire Brigade safety guidance 'GN29', advises that a fire engine requires a 6m working area. At 20m from Longstone Avenue the space available around the fire engine would be severely restricted by the adjacent properties, and the 6m working area would not be achieved. Therefore, in order to gain sufficient working space, the fire engine would have to travel into the courtyard, where the turning area is constrained, thus necessitating a reversing manoeuvre being undertaken which would be well in excess of the recommended limit of 20m.
17. Policy D12 of the London Plan requires all development proposals to achieve the highest standards of fire safety, including through identifying suitably positioned unobstructed space for fire appliances and by providing suitable access for firefighting. In this case, the proposal would not meet the guidance set out in GN29 and, as such, I find that the access arrangements for fire engines to tend to the site would be inadequate and not meet the highest standards as required by Policy D12.

Other users

18. Despite the appellant's claims, the narrow width of the access drive would make it very difficult for oncoming vehicles to pass. This would result in vehicles having to reverse clear of the access, potentially onto the adjoining highway along Longstone Avenue. Such manoeuvres would compromise highway safety. In addition, pedestrians and cyclists would have to share the access with vehicles, in the absence of any dedicated footpath or streetlighting. The development would intensify the use of the access and thereby increasing the risk of conflict between oncoming vehicles and pedestrian users.
19. Representative of some delivery vehicles, the swept path analyses⁹ depict a box van manoeuvring within the proposed courtyard. However, these analyses show that such vehicles would come extremely close to the front doors of the dwellings and the cycle/bin store, and they do not demonstrate that the building's first floor protrusion would not impede the turning manoeuvre further. Furthermore, the swept path analyses depict a van of 2.1m in width yet the appellant's transport response note¹⁰ identifies that a typical supermarket delivery vehicle is wider, at 2.5m.
20. Therefore, I am not at all confident that delivery vehicles could safely turnaround within the site and exit in forward gear. The alternative would be for such delivery vehicles to park on the access drive and then reverse onto Longstone Avenue.
21. Reversing onto Longstone Avenue may already take place, including at neighbouring properties, but because of the restricted visibility it affords the driver, it is an undesirable manoeuvre, liable to give rise to conditions prejudicial to highway safety. The proposal would create the potential for more of these reversing manoeuvres onto Longstone Avenue, including by large delivery vehicles, and give rise to further safety risks.
22. Brent's Waste and Recycling Storage and Collection Guidance for Residential Properties (Brent's Waste Guidance) sets out that the maximum distance between the

⁹ Pulsar drawings TR004 (sheet 3 of 3) and TR009

¹⁰ Transport Appeal Note, by Pulsar, dated 12 September 2025, referenced 22106/N03

point of collection and the waste collection vehicle should be 20m. The proposed collection point on the access drive would be within 20m of Longstone Avenue. This would enable bins to be collected by waste collection operatives and taken to the collection vehicle on Longstone Avenue, and these arrangements comply with Brent's Waste Guidance.

23. However, the collection point's location means that more bins would be put out onto the drive on collection days. This would further constrain access along the driveway. Indeed, vehicular movement past the bins depends greatly on them being neatly stored at the drive's edge. This will not always be the case. At times, bins will be left blocking the route along the drive, further compromising the highway environment and increasing the potential for reversing manoeuvres onto Longstone Avenue.

Access arrangements conclusion

24. I appreciate that lighting could be installed along the access drive and the surface could be improved. However, detailed proposals in these regards are not before me, and such measures would not provide sufficient mitigation to overcome all of my concerns.
25. Therefore, the development would result in an undesirable intensification of a substandard access drive. Consequently, it has not been demonstrated that the proposed access arrangements would be safe and suitable for future users, including emergency service vehicles. The development conflicts with Policy D12 of the London Plan and Policy BT1 of the Brent LP as a result, the latter of which requires developments to provide access for all and meet healthy street principles, principles which promote safety and the avoidance of road dangers.
26. The Council's fourth reason for refusal refers to Policy BT3 of the Brent LP. Policy BT3 is entitled 'Freight and Servicing' and, when read in conjunction with its supportive text, I find that the Policy is geared toward commercial freight and commercial servicing arrangements. It is not relevant to residential waste collection or its implications on highway safety, and the proposal does not conflict with it as a result.

Affordable housing

27. Brent LP Policy BH5 requires developments of between 5-9 dwellings to make a financial contribution for the provision of affordable housing off-site, and it sets out a strategic affordable housing target of 50% of new homes being affordable up until 2041.
28. The Council's Planning Obligations Supplementary Planning Document 2022 (the Planning Obligations SPD) identifies the appeal site as being located within Zone A where a financial contribution of £50,000 per dwelling is required as a contribution towards the provision of off-site affordable housing. Therefore, the Council calculate the development is required to make a financial contribution of £450,000.
29. A draft Section 106 agreement has now been submitted with the appeal and seeks to secure the required financial contribution. However, it is undated and unexecuted, and therefore still in draft form. Therefore, it cannot be attributed any weight. As a result, there is nothing before me that would secure the required financial contribution towards the provision of off-site affordable housing. Consequently, the development would not make adequate provision for affordable housing and, therefore, it conflicts with Brent LP Policy BH5 and the requirements of the Planning Obligations SPD.

Biodiversity net gain

30. The appellant considers that the development would achieve a 22.29% habitat net gain and a 15.01% hedgerow net gain. However, these percentage uplifts are derived from an earlier version of the Biodiversity Net Gain (BNG) Report¹¹. This was subsequently superseded by a revised BNG Report prior to the Council's ultimate determination.
31. The updated version of the BNG Report¹² concludes that the area habitat net gain would only be 8.20%. This is below the 10% net gain objective introduced by Schedule 7A of the Town and Country Planning Act 1990 (the statutory BNG). In addition, the Council cite issues with certain detailed aspects of the development's landscaping and habitat creation proposals, and the accuracy of the post-development biodiversity values presented within the appellant's evidence.
32. However, the statutory BNG has been principally designed as a post-permission matter. The statutory BNG involves the discharge of the biodiversity gain condition following the grant of planning permission to ensure the objective of at least 10% net gain will be met by a development proposal. The determination of the Biodiversity Gain Plan under this condition is the mechanism to confirm whether the development meets the biodiversity gain objective, and the development may not commence until the Biodiversity Gain Plan is approved.
33. Given this, the Planning Practice Guidance¹³ makes clear that it is generally inappropriate for decision makers to refuse a proposal on the grounds that the biodiversity gain objective will not be met. Reflective of it being principally a post-permission matter, the statutory BNG's minimum information requirements do not necessitate that post-development biodiversity values accompany a planning application. Therefore, decision makers should consider more broadly whether the biodiversity gain condition is capable of being successfully discharged.
34. The open space proposed to the rear of the houses, together with the proposal to provide a form of green roof atop of them, provides further habitat creation opportunities. Given this, there is scope for further onsite habitat creation leading to greater biodiversity enhancements. That being the case, the biodiversity gain condition would likely be capable of being successfully discharged.
35. Therefore, any grant of planning permission for the development would be subject to the biodiversity gain condition which would require the achievement of a 10% biodiversity net gain. I have no firm basis on which to conclude that this requisite biodiversity net gain would not be achieved. Consequently, in respect of this main issue, I find that the proposed development complies with Policies DMP1 and BGI1 of the Brent LP as well as Policy G6 of the London Plan, which all aim to secure biodiversity net gains.

Other Matters

36. The development would add to local housing supply, increasing housing choice, and could be built-out relatively quickly. It would redevelop a brownfield site by removing dilapidated buildings and replacing them with a high quality, and energy efficient,

¹¹ Biodiversity Net Gain Assessment, by Tunley Environmental, dated 12 June 2024, referenced Robert_Wilson-BNG_24-2-A Revision A.

¹² Biodiversity Net Gain Assessment, by Tunley Environmental, dated 29 January 2025, referenced Robert_Wilson-BNG_24-2-A Revision B

¹³ Planning Practice Guidance Paragraph: 019 Reference ID: 74-019-20240214

development that would improve the character and appearance of the area. There would also be biodiversity enhancements.

37. I also acknowledge that future occupiers would be provided with adequate living conditions, and there would be no adverse effects on heritage assets. However, the absence of harm in these and other regards is of neutral consequence.
38. My attention has been drawn to several other permitted residential developments within Brent which have resulted in developments of increased density. Furthermore, the appellant cites examples of developments which utilise shared access drives. However, appeal decisions rely heavily on case-specific evidence and circumstances. While there are some broad similarities between the appeal proposal and the cited developments, this case has distinct features - its design, site context, and relationship with neighbouring properties - that make its impacts not fully comparable. I have therefore reached my conclusions based on the evidence before me, and the particular site-specific circumstances of this appeal.
39. Consequently, whilst I acknowledge that the development would bring some benefits that weigh in its favour, these other matters do not overcome the harms I have found.

Conclusion

40. I have found that the development would likely achieve the required biodiversity net gains. However, it would be harmful to the living conditions of neighbouring occupiers, and the access arrangements would not be safe or suitable for all users, including emergency service vehicles. Furthermore, the development would not make adequate provision for affordable housing. In these regards, the development conflicts with the development plan, and there are no material considerations of sufficient weight to indicate a decision other than in accordance with the development plan.
41. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR