



Appeal Decision

Site visit made on 19 June 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 December 2025

Appeal Ref: APP/T5150/W/25/3362587

19 Christchurch Avenue, London NW6 7QP

- 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 Qasim Gulamhusein of 19 NW6 A Ltd against the decision of the Council of the London Borough of Brent.
- The application reference is 25/0031.
- The development proposed is the change of use of an existing outbuilding to create a self-contained 3-bedroom C3 residential dwelling.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of an existing outbuilding to create a self-contained 3-bedroom C3 residential dwelling at 19 Christchurch Avenue, London NW6 7QP in accordance with the terms of the application, reference 25/0031, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Qasim Gulamhusein of 19 NW6 A Ltd against the Council of the London Borough of Brent. This application is the subject of a separate Decision.

Preliminary and Procedural Matters; Main Issue

3. The appeal relates to a large single-storey detached outbuilding in the rear garden of No 19 Christchurch Avenue, which is itself a large semi-detached property divided into five flats. The decision notice issued by the Council gave a single reason for which planning permission was refused:

“The application has failed to include sufficient details on the impact of the proposal on nearby mature trees in the form of an Arboricultural Impact Assessment and Method Statement, which would be required to assess if there would be any harm to these trees. As such, the proposal fails to comply with policies DMP1 and BGI2 of the Brent Local Plan.”

4. A Tree Preservation Order (“TPO”) protects five individual trees, and two groups of trees, at Nos 11 to 21 Christchurch Avenue¹. It is apparent from the submitted evidence that the Council’s concerns in respect of this appeal proposal relate specifically to a cedar at the rear of the outbuilding (“T2” in the TPO).
5. While this appeal was being determined, the appellant submitted to the Council an application to remove and replace the protected T2. This was approved on

¹ The Chatsworth Road/Christchurch Avenue Tree Preservation Order, 2008 (Ref: 08/00055).

8 October 2025 (LPA Ref: 25/2351). That permission (“the TPO consent”) is now a significant material consideration in my determination of this appeal, and I have taken it into account – as well as comments made by both main parties in respect of it – in reaching my decision.

6. After carrying out the site visit for this appeal, I was also appointed to determine another appeal at the same site (PINS Ref: APP/T5150/W/25/3368761). While there is some crossover in issues raised, overall the two appeal schemes are very different in their nature, and the other appeal is the subject of a separate Decision.
7. The main issue in this appeal is the effect of the proposed development on the health and viability of nearby mature trees, including the protected T2.

Reasons

8. The appeal site is within a primarily residential area, characterised by large properties set in generous and spacious rear gardens with mature vegetation, including many large trees. These give the neighbourhood a pleasant and verdant character, which would be harmed by damage to, or loss of, trees.
9. There is already some hard surfacing within the appeal site close to the protected T2. However, the proposed development would require the creation of a new pathway and patio close to the protected tree, and within its root protection area. Policy BGI2 of the 2022 Brent Local Plan (“the BLP”) states that for development proposals which could affect existing trees the submission of a tree survey complying with BS5837² or equivalent would be required. No tree survey was provided with the planning application or, indeed, as part of the initial appeal submissions.
10. The appellant drew my attention to a 2024 appeal decision relating to the site (PINS Ref: APP/T5150/W/23/3327028) in which the Inspector had been satisfied that the intended access path could be created without harming the health of the protected T2, though that appeal was dismissed because (among other things) it had not been demonstrated that there would be no adverse impact on other trees³. In this case, the pathway and patio would be in a different location much closer to T2, and with a greater area of hard surfacing than, was proposed in the 2024 appeal scheme. My colleague’s findings in that decision do not therefore weigh significantly in favour of this proposal.
11. During this appeal, the appellant largely relied on the 2024 appeal decision and their assertion that “no-dig” methods could be used for new hard surfaces. However, in the absence of a tree survey there was initially no substantive evidence before me to indicate that this development could be carried out without significant adverse effects on the protected T2.
12. The subsequent application for TPO consent was accompanied by an arboricultural impact assessment (“AIA”)⁴ prepared in accordance with BS5837:2012. This indicated that a large open wound on T2, presumed to be a consequence of wind damage in around 2018, presented a stress-notch failure point, and that it was “foreseeable that in a wet, windy weather event, the top tree (most of crown) could be blown-out”. The AIA therefore recommended the removal

² BS 5837:2012 – *Trees in relation to design, demolition and construction. Recommendations.*

³ Paragraphs 12 and 13 of that appeal decision.

⁴ *Phase II Arboricultural Impact Assessment*, Arbol Euro Consulting, 21 May 2025

and replacement of T2 within 12 months. Importantly, the AIA considered the impact of this appeal scheme going ahead, and it indicated that T2 could be successfully replaced in that context.

13. In order to ensure that the existing protected T2 would be adequately replaced, it would be necessary for a condition to be imposed requiring the appeal scheme to be carried out in accordance with the TPO consent and its accompanying AIA. However, subject to such a condition, I am satisfied that the proposed development would not cause unacceptable harm to the health or viability of nearby mature trees. It would therefore comply with Policies DMP1 and BGI2 of the BLP which, among other things, seek to ensure that development complements the locality and protects existing high-amenity trees and, where trees would be lost, appropriate replacement is made.

Other Matters

14. The outbuilding is presently accessed via the rear garden of No 19 Christchurch Avenue, via a narrow path at the side of that building. The appeal proposal has been made on the basis that access to the self-contained dwelling would be via a new pathway taken from the north, crossing land within the bounds of No 2 Chatsworth Road. I note the objection put forward during the appeal by the leaseholder-occupier of one of the flats within No 2, both as a point of principle and because, it is said, they were not notified about the proposed development. I note also that what is shown as an entrance path on the submitted “existing site plan” is not, and a shed currently occupies part of the area within No 2 across which access would be taken.
15. An applicant does not have to own a site to seek planning permission. The land required for the proposed access was included within the “red line” boundary shown on the planning application location plan, in line with the advice in the Planning Practice Guidance (“the PPG”) that this “should include all land necessary to carry out the proposed development”⁵. It was also stated on the planning application form that appropriate notice had been given to everyone else who was the owner of land to which the application related. Although there is no further information before me about leases within No 2, the appellant has stated that at the time the planning application was made the relevant interested party was not a registered leaseholder, and I note that the application was accepted as valid by the Council.
16. Ultimately the question of whether access can be provided as proposed, and whether the development could therefore be delivered, is a private legal matter for the relevant parties to resolve, or not as the case may be. Notwithstanding the neighbour’s objections, I have not been made aware of any substantive planning reasons why the proposed access would not be acceptable. On the other hand, based on what I saw during my site visit, I agree with the appellant that the existing access route at the side of No 19 would not be suitable to serve the proposed self-contained dwelling; as well as being very narrow it is “indirect and impractically long”⁶. For the avoidance of doubt, I have addressed the matter of access specifically within the condition relating to hard and soft landscaping.

⁵ Paragraph: 024 Reference ID: 14-024-20140306; Revision date: 06 03 2014

⁶ Paragraph 12.3 of the appellant’s final comments, 19 May 2025

17. I note comments made by interested parties, including about privacy and the reliance on additional trees being planted. The Council did not raise objections in respect of privacy, subject to a condition being imposed in relation to tree planting. Based on all the evidence before me, I do not reach a different view.

Conditions

18. I have considered the conditions suggested by the Council having regard to the tests in the National Planning Policy Framework (“the Framework”) and the advice in the PPG, as well as the comments submitted by the appellant during the appeal. Where necessary I have altered the proposed wording and ordering in the interests of clarity and effectiveness. In addition to the standard time limit condition (1) I have specified the approved plans and other documents so as to provide certainty (2).
19. The provision of further details of hard and soft landscaping (3) is necessary in order to protect and enhance the character of the area, to provide ecological, environmental and biodiversity benefits, to maximise the quality and usability of open spaces within the development, to protect living conditions for neighbouring residents and future occupiers, and to comply with Policies BGI1 and BGI2 of the BLP. For the reasons I have set out in paragraph 16 above, I have specified that pedestrian access to the dwelling is not to be provided via the existing pathway alongside No 19. I have also incorporated into this condition provisions relating to the specification of trees, lighting and boundary treatments for which the Council had suggested separate conditions.
20. For the reasons I have set out in paragraph 13, and to protect the character and appearance of the area, I have included a condition requiring that the landscaping scheme is prepared, and the development carried out, in accordance with the AIA and other details approved under the TPO consent granted on 8 October 2025 (4). A condition relating to materials (5) is also necessary to protect the character and appearance of the area.
21. The appeal site is within a controlled parking zone, and has good public transport accessibility. The proposed development was described in the submitted Planning Statement as being car-free. A condition is necessary to secure that status, and to ensure that the development does not lead to a potentially harmful increase in demand for parking (6). I have amended the wording from that suggested by the Council so that the condition accords with guidance set out in the Framework and the PPG. Finally, conditions relating to the provision of storage for cycles (7) and refuse and recycling (8) are necessary to ensure that satisfactory facilities are provided for future occupiers of the dwelling in accordance with development plan requirements.

Conclusion

22. For the reasons given above I conclude that planning permission should be granted, subject to conditions.

M Cryan

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 the following approved drawings and documents:
 - Location Plan
 - Proposed Site Plan – A107 Rev A
 - Proposed Site Block Plan – A108 Rev A
 - Proposed Floor Plans – A109 Rev A
 - Proposed Roof Plan – A110 Rev A
 - Proposed Elevations – A111 Rev A
 - Proposed Sections – A112 Rev A
 - Proposed 3D Site Plan – A113 Rev A
 - Proposed 3D Site Section – A114 Rev A
 - Proposed Floor Plans Area Information – A115 Rev A
- 3) Notwithstanding the details shown in the approved drawings A107, A108 and A109, no development shall commence until a revised scheme of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. This shall include details of:
 - i) Pedestrian access and circulation areas, including low-level lighting and the provision of a secure access gate;
 - ii) Proposed and existing functional services above and below ground (including, but not limited to, drainage, power, communications cables, and pipelines);
 - iii) Trees and soft landscaping, including planting plans, written specifications including cultivation and other operations associated with plant and grass establishment) schedules of plants, noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - iv) Hard surfacing materials including details of permeable paving, tree pit design, underground modular systems, sustainable urban drainage systems;
 - v) Any other lighting; and
 - vi) Boundary treatments.

The scheme submitted under this condition shall not make provision for pedestrian access to the dwelling by way of the existing path to the at the south-western side of No 19 Christchurch Avenue.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied or otherwise in accordance with an agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

If, within a period of five years from the date of planting, any plant or tree forming part of the approved landscaping scheme is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, shall be replaced with another of the same size and species as that originally planted. The replacement shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original

plant or tree, unless the local planning authority gives its written consent to any variation.

- 4) The landscaping scheme submitted under Condition 3 shall provide for the replacement of the existing cedar ("T2" in the Chatsworth Road/Christchurch Avenue Tree Preservation Order, 2008 Ref: 08/00055), and the protection of other trees on and around the site, in full accordance with the details approved under TPO Consent 25/2351 (dated 8 October 2025), unless otherwise agreed in writing by the local planning authority.
- 5) All new external work shall be carried out in materials that match in colour, texture and design detail those of the existing building.
- 6) The residential use hereby approved shall not commence until arrangements have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have first been submitted to and approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - i) no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii) any occupiers of the approved development shall surrender any such permit wrongly issued or held.

Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.

- 7) Prior to the occupation of the development hereby permitted, details of cycle parking spaces and storage shall be submitted to and approved in writing by the local planning authority. This should provide at least two secure bicycle parking spaces in a secure undercover lockable compound, in accordance with London Plan 2021 requirements. The cycle storage shall be completed in accordance with the approved details before the residential use is commenced, and retained as such thereafter.
- 8) Prior to the occupation of the development hereby permitted details of storage facilities for refuse and recycling (including the size and number of bins to be provided, and their location) shall be submitted to and approved in writing by the local planning authority. The refuse and recycling storage shall be completed in accordance with the approved details before the residential use is commenced, and retained as such thereafter.