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## Appeal Decision

Site visit made on 18 June 2013

by **Christopher Bowden MA (Oxon)**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 July 2013

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**Appeal Ref: APP/T5150/A/12/2185913**  
**49-51 Kilburn High Road, London NW6 5SB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Choice Hotels against the decision of the Council of the London Borough of Brent.
  - The application Ref. 12/1788, dated 24 June 2012, was refused by notice dated 25 September 2012.
  - The development proposed is: *change of use to Class C1 (Hotel) to form 40-bedroom annex to the existing hotel at Nos 53-59 Kilburn High Road and retention of the ground-floor commercial unit; including three-storey extension to the rear of Nos 49 and 51, excavation of the basement and addition of a mansard at No 49 and refurbishment and alterations to the mews properties at Manor Mews to provide servicing.*
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### Decision

1. The appeal is allowed and planning permission granted for *change of use to Class C1 (Hotel) to form 40-bedroom annex to the existing hotel at Nos 53-59 Kilburn High Road and retention of the ground-floor commercial unit; including three-storey extension to the rear of Nos 49 and 51, excavation of the basement and addition of a mansard at No 49 and refurbishment and alterations to the mews properties at Manor Mews to provide servicing at 49-51 Kilburn High Road, London NW6 5SB* in accordance with the terms of the application Ref. 12/1788, dated 24 June 2012, subject to the conditions set out in the attached schedule.

### Procedural matters

2. The decision notice cites Policies BE2, BE9, BE24, BE25, BE26, TRN4, TRN23, OS7 and PS11 of the London Borough of Brent Unitary Development Plan, adopted in 2004 (UDP), and Policy CP18 of the Council's Core Strategy<sup>1</sup>, adopted in 2010 (CS). These appear broadly consistent with the thrust of the National Planning Policy Framework, published in 2012, and I give them weight accordingly.<sup>2</sup>
3. The appellant submitted during the appeal process a signed unilateral undertaking, dated 20 February 2013, relating principally to provision of financial contributions and to the drawing up of a travel plan. This is considered further below.

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<sup>1</sup> London Borough of Brent Local Development Framework Core Strategy

<sup>2</sup> As advised by paragraph 215 of the Framework

4. Since the Council decided the appeal application, it has given permission for another scheme for a 37-bedroom extension to the hotel.<sup>3</sup> I have taken this into account in determining the appeal. I have also taken into account on an illustrative basis, as agreed at the site visit, two drawings submitted during the appeal process (Nos. 120330/P1/12 and P2/12) relating to the rear extensions proposed in the two schemes. As also agreed at the site visit, I have taken into account (as an approved plan) drawing No. 120330/P2/10 Rev A (location plan) not mentioned in the decision notice.

### **Main issues**

5. These are the effect of the proposed development on:
- the character and appearance of Nos 49-50 Kilburn High Road, the terrace of which they are part, and the South Kilburn Conservation Area;
  - the living conditions of the occupiers of No 47 Kilburn High Road, with particular reference to outlook; and
  - highway and pedestrian safety and local infrastructure and facilities.

### **Reasons**

#### *Character and appearance*

6. The appeal site forms part of a four-storey terrace in Kilburn High Road lying between its junctions with Oxford Road and Cambridge Avenue. Manor Mews (a narrow cul-de-sac that is effectively a service alley) runs from the latter behind the site. The terrace is locally listed (and, as such, an undesignated heritage asset) and lies in the South Kilburn Conservation Area (CA), a designated heritage asset.
7. The significance of the CA lies chiefly in its attractive and distinctive dwellings, many of architectural or historic interest. Despite some insensitive changes, and the condition of certain elements (including the appeal properties), the terrace itself makes a significant contribution to the CA through its imposing form and scale and the attractive and ornate fenestration on the upper floors of the front elevation.
8. As noted above, approval has been given to another scheme to enlarge the hotel. The essential difference between that scheme and the one before me (and the aspect that is in contention) relates to the height of the extension to the rear. The appeal extension, with an extra storey, would give a greater vertical emphasis consistent with that of the terrace. Its scale and bulk would be satisfactorily absorbed, the materials and detailing would be sympathetic, and it would not have a detrimental impact on the back of the appeal properties or the rest of the terrace. Its bulk would be less than the existing rear extensions to the terrace at Nos 53-59, which are prominent features as seen from Cambridge Avenue, for example. Indeed, the appeal extension would not be readily visible from Cambridge Avenue or Oxford Road, given the buildings intervening, and would have limited impact in Manor Mews, owing to existing buildings and angles of view. In any event, the rear of the terrace is of relatively plain and utilitarian appearance and, unlike the front, makes little contribution to its significance or that of the wider CA.
9. The extension would comprise a central section with a pitched roof flanked by shallower flat-roofed projections. The latter would rise to eaves level while the pitched roof would overlap the existing eaves and roof of the host properties

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<sup>3</sup> Ref. 12/1717 (decision notice dated 31 May 2013)

but not the mansards themselves, the ridge of the roof aligning with the wall separating the two. The degree of overlap would be slight and significantly less in any event than is already the case with the existing pitched-roof extensions at Nos 53-59 (and which have a high-level flat roof between them). The mansards in place or approved on the appeal properties already alter and largely obscure the original roof form. The variety of roof forms would not appear unduly confused or cluttered, given the position of the back of Nos 49-51 relative to other development.

10. Overall, the scheme would represent a sympathetic refurbishment of two neglected buildings and would thus be beneficial. The specific element in contention in this appeal – the rear extension – would not be detrimental, for the reasons given above. I therefore find no material harm to the significance of the terrace as an undesignated heritage asset or of the CA as a designated heritage asset.
11. I conclude that the proposed development would not have a materially harmful effect on the character and appearance of Nos 49-50 Kilburn High Road, the terrace of which they are part, and the South Kilburn Conservation Area. It would preserve, at least, the character and appearance of the CA as a whole. I therefore find no conflict with the objectives of UDP Policies BE2, BE9, BE24, BE25 or BE26 or of the related supplementary planning guidance<sup>4</sup>.

#### *Living conditions*

12. The flank wall (some 3m deep) of one of the flat-roofed elements of the rear extension would abut the boundary with No 47. This property has rear windows little more than 1m from the wall. However, these face directly ahead, while the wall would be to one side. It would be visible from the windows but not unacceptably overbearing and any sense of enclosure would be limited, given the degree of open aspect remaining. On this basis, and bearing in mind that the Council has already approved an extension one-storey lower in a similar position, I consider that the effect of the appeal proposal on outlook would not be materially harmful.
13. Although the decision notice also mentions “an overbearing impact on light”, the planning officers’ report indicates that the impact would be acceptable and the Council’s statement confirms that there would be “sufficient light”. Taking account of the submitted daylight and sunlight study, I share that view.
14. I conclude that the proposed development would not have a materially harmful effect on the living conditions of the occupiers of No 47 Kilburn High Road, with particular reference to outlook. As such, I find no conflict with the objectives of UDP Policy BE9 or of SPG17.

#### *Highway and pedestrian safety and local infrastructure and facilities*

15. In the absence of facilities on-site for the stopping or parking of coaches and other vehicles, arrivals at the (enlarged) hotel by coach etc would be likely to give rise to indiscriminate or otherwise inappropriate parking in the vicinity and obstruction of the public highway. This would be to the detriment of the safety of other road users and pedestrians. The unilateral undertaking mentioned above includes provision of a travel plan designed to address these concerns by means such as promoting the use of public transport in an area well served it.

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<sup>4</sup> SPG 17 *Design Guide for New Development* (adopted in 2001)

This is necessary to make the development acceptable in planning terms and I give that part of the undertaking significant weight.

16. The proposal would provide 40 additional bedrooms for the hotel. The Council is concerned that this would add to pressures on transport infrastructure and on public space and sports facilities in the area. The undertaking includes payment of financial contributions of £40,000 "to be utilised by the Council towards the provision and/or improvement of all or some of the following" ie (a) sustainable transport in the local area, (b) sport and/or open space in the area.
17. The contribution reflects an agreed rate of £1000 per bedroom (reduced from the charge set out in the relevant supplementary planning document: SPD).<sup>5</sup> The terms of the undertaking leave it unclear whether and to what extent the money would be spent on the various services identified or what specific facilities would be provided or improved so as to mitigate the impact of the development. That said, it seems reasonable to assume that expansion on the scale proposed would increase demand on transport infrastructure, particularly in relation to non-car modes of travel, and examples of mitigation measures (including improvements along the A5 Kilburn High Road corridor) are given in the Council's statement. Similarly, expansion has the potential to add to pressures on public open space and sports facilities, local deficiencies in both of which are mentioned by the Council and improvements identified. On the above basis, therefore, I consider that this part of the undertaking meets the relevant statutory and policy tests and I give it significant weight.
18. I conclude that the proposed development would not have a materially harmful effect on highway and pedestrian safety and local infrastructure and facilities. As such, I find no conflict with the objectives of UDP Policies TRN4, TRN23, OS7 or PS11 or of CS Policy CP 18 or of the SPD mentioned previously.

#### **Other matter**

19. The undertaking includes a provision relating to the "Considerate Constructors Scheme". While I note that the scheme is mentioned in the SPD, the provision does not appear to be necessary to make the development proposed in this case acceptable in planning terms. I have not therefore taken it into account.

#### **Conditions**

20. The Council suggested two conditions. I agree that conditions are needed on commencement (to comply with section 91 of the Town and Country Planning Act 1990) and on external materials (to ensure that the development has a satisfactory appearance). In addition, a condition is necessary to ensure (for the avoidance of doubt and in the interests of proper planning) that work is carried out in accordance with the approved plans, other than as set out in the related decision and conditions.

#### **Conclusion**

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Christopher Bowden*

INSPECTOR

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<sup>5</sup> S106 Planning Obligations SPD, adopted in 2007

### **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 plans: 120330/P1/03 Rev A, P1/04 Rev A, P1/05 Rev A, P1/06 Rev A, P1/07 Rev B, P1/08 Rev A, P1/09 Rev B, P2/01, P2/02, P2/10 Rev A, P2/11.
- 3) Notwithstanding condition 2, no development shall take place until details and samples 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. Development shall be carried out in accordance with the approved details and samples.





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## Appeal Decision

Site visit made on 20 June 2013

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 July 2013

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**Appeal Ref: APP/T5150/A/12/2185070**  
**1078 Harrow Road, London, NW10 5NL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr A Oraha against the decision of the Council of the London Borough of Brent.
  - The application ref: 12/1886, dated 11 July 2012, was refused by notice dated 12 September 2012.
  - The development proposed is conversion of rear extension area into studio flat by amending existing rear extension to profile of previously existing rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for conversion of rear extension area into studio flat by amending existing rear extension to profile of previously existing rear extension at 1078 Harrow Road, London, NW10 5NL, in accordance with the terms of the application ref: 12/1886, dated 11 July 2012, subject to the conditions set out in Annex A to this decision.

### Procedural Matter

2. Following the refusal of planning permission in September 2012 a Section 106 Agreement in the form of a Unilateral Obligation dated 17 December 2012 has been forwarded to me. This provides for infrastructure contributions and a car-free arrangement, which matters were the subject of the Council's Reasons for Refusal nos. 4 and 5.
  3. Whilst the Council has not specifically commented upon the Agreement it has raised concerns that the car-free arrangement only applies to the studio flat the subject of this appeal. However, my decision relates solely to the detailed scheme before me for a single person studio flat.
  4. Given the form of the development and its sustainable location, I conclude that the Council's concern as to the lack of kerbside car parking within the locality is addressed by this Agreement. The Agreement also secures contributions as required by the Council's policy relating to education, open space, sustainable transport and sports facilities.
  5. I shall refer to the Agreement in more detail subsequently in this decision.
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## **Main Issues**

6. The main issues in this case are:
  - a) Whether the re-configuration of the back addition as proposed will allow for an adequate level of accommodation which will not have an unacceptable impact upon the amenity of nearby residents.
  - b) The impact of the development upon the character and appearance of the surrounding area.

## **Reasons**

### Issue (a)

#### *(i) Level of accommodation*

7. No. 1078 Harrow Road is a three storey Victorian building, the ground floor of which is in business use. The scheme before me seeks to combine two small studio flats at first and second floor levels to create a single, one person flat with its own internal staircase. Such a re-arrangement of the accommodation would enable a reduction in the bulk of the rear two storey extension, which I understand was erected without the benefit of planning permission.
8. My attention has been directed to three appeal decisions, copies of which have been provided to me. That of 17 November 2003 (APP/T5150/C/03/1110423) upheld an Enforcement Notice requiring removal of the first and second floor rear extension. A second appeal (APP/T5150/A/11/2150762) for retention of two one bedroom flats on first and second floors was also unsuccessful.
9. Of particular relevance to my determination of this appeal is the most recent appeal decision dated 28 June 2012 (APP/T5150/ A/12/2170630). The scheme in that case proposed retention of the rear extension and conversion of the two studio flats at first and second floor levels into one studio flat. That appeal was dismissed for reasons relating to the harm that would accrue to the living conditions of adjacent residents, particularly those at no. 1080 Harrow Road.
10. The plans the subject of this appeal seek to overcome the previous Inspector's concerns by reducing the bulk of the rear extension to that which previously existed on site, but incorporating a dormer window to enable use of the upper floor of the studio flat as a separate bedroom and shower room.
11. The Council has criticised the standard of accommodation in terms of its lack of adequate internal floorspace, outlook, restricted daylight and the failure to provide amenity space or on-site car parking. My attention has been directed to the Council's adopted Supplementary Planning Guide No. 17<sup>1</sup> which amongst other matters sets out minimum floor areas for residential development.
12. The layout of the studio flat as illustrated on Drawing no. 6177/10.7.12/10A clearly indicates that the current proposal is for a one person flat, such that its floor area of 38.5m<sup>2</sup> would accord with the requirements of paragraph 3.5 of the SPG. This sets a minimum dwelling floor area of 33m<sup>2</sup> for single person flats.

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<sup>1</sup> Design Guide for New Development.



13. The principal outlook for the flat to the rear is similar to many of those in the adjacent buildings and elsewhere within dense residential areas such as this.
14. There is no opportunity on site for car parking or for the provision of amenity open space, another factor common to schemes involving the re-use of existing buildings within similar locations. The Section 106 Agreement addresses both issues by including a contribution towards sport infrastructure and open space and assurances that occupiers of the flat will not seek a car parking permit.
15. I therefore find on this element of the first main issue that the proposed unit is of adequate size, that it is capable of providing space for a satisfactory range of furniture and fittings and that it will receive adequate natural light. Provision has also been made for the storage of waste and, if necessary, an occupier of the flat could invest in a fold-up bicycle as suggested on behalf of the appellant. However, the site is on a main 'bus route in a generally sustainable location.
16. For all of these reasons, development as proposed would accord with the requirements of "saved" Policy H18 of the UDP<sup>2</sup>, the Council's adopted SPG No. 17 and paragraph 3.5 of The London Plan 2011.

*(ii) Amenity of nearby residents.*

17. The scheme has been designed in order to ensure that the residential amenity of persons occupying the upper floors at nos. 1076 and 1080 Harrow Road are protected.
18. Given the reduction in the bulk of the rear extension, the outlook and daylight to both of the adjacent properties would be enhanced. Furthermore, there will be no overlooking of the habitable room windows of the properties to either side, subject to the conditions I shall impose to ensure that the small flank windows serving the living room at first floor level and the shower room in the second floor are obscure glazed and non-opening below 1.6m above finished floor level.
19. I therefore find on this element of the first main issue that the scheme before me will meet the requirements of "saved" Policy BE9 of the UDP, together with guidance in SPG No. 17.

*b) Impact upon character and appearance.*

20. The site is not within a Conservation Area or Area of Special Character. I have noted that the rear elevations of many of the adjacent properties have been altered, a number of them possessing ground floor additions to the full depth of the curtilage, as in the subject case. There is one dormer window visible to the rear elevation of a property in Napier Road. This does not appear dominant or out of character.
21. The bulk of the rear extension would be considerably reduced by reverting to the original format with a sloping rear roof, while a dormer would be added to enable full use to be made of the accommodation at second floor level.

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<sup>2</sup> The London Borough of Brent Unitary Development Plan (2004).

22. Subject to the use of appropriate materials, I find on the second main issue that development as proposed would be in keeping with the mixed character of the area. As such, there will be no conflict with "saved" Policy BE9 of the UDP or the relevant sections of SPG No. 17.

### **Section 106 Agreement**

23. The signed and dated Section 106 Agreement will ensure contributions towards education, transport infrastructure, public open space and sports infrastructure provision.
24. To justify these contributions the Council has supplied me with a copy of its adopted Supplementary Planning Document entitled "*Section 106 Obligations.*" This document outlines the mechanisms by which the level of contributions is calculated and also the deficiencies that exist in the particular areas concerned.
25. I am satisfied that the requirements meet the statutory tests as contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the Agreement would therefore provide for the additional infrastructure needs generated by the development.

### **Conditions**

26. The Council has not put forward any suggested conditions given its opposition to the proposed development.
27. The scheme before me is a detailed proposal. I find it necessary to impose a total of four conditions, all of which meet the tests set out in Circular 11/95<sup>3</sup>. My reasons for doing so are given below.
28. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Condition 2 (matching materials) is necessary in the interests of the visual amenities of the area, while Condition 3 will safeguard the residential amenity of adjoining occupiers.
29. As to Condition 4, otherwise than as set out in this decision and conditions it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

*R. J. Maile*

INSPECTOR

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<sup>3</sup> Circular 11/95: The Use of Conditions in Planning Permissions.

**Schedule of Conditions**

**Annex A**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until details and samples 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. Development shall be carried out in accordance with the approved details.
- 3) Before first occupation of the development hereby permitted the flank facing window of the first floor accommodation and that to the shower room on the second floor shall be fitted with obscure glass, be non-opening below a height of 1.6m above finished floor level and thereafter permanently retained in that condition.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing no. 6177/10.7.12/01A: Site Plan – scale 1:500; Location Plan – scale 1:1250.
  - Drawing no. 6177/10.7.12/02A: Existing Site Plan – scale 1:100.
  - Drawing no. 6177/10.7.12/03A: Existing Floor Plans – scale 1:100.
  - Drawing no. 6177/10.7.12/04A: Existing Elevation and Section – scale 1:100.
  - Drawing no. 6177/10.7.12/05A: Existing Elevations – scale 1:100.
  - Drawing no. 6177/10.7.12/06A: Existing Photographs Front and Rear Elevations – scale 1:100.
  - Drawing no. 6177/10.7.12/07A: Previously Existing Floor Plans Pre Rear Addition Extension – scale 1:100.
  - Drawing no. 6177/10.7.12/08A: Previously Existing Elevation and Section Pre Rear Addition Extension – scale 1:100.
  - Drawing no. 6177/10.7.12/09A: Previously Existing Elevation Pre Rear Addition Extension – scale 1:100.
  - Drawing no. 6177/10.7.12/10A: Proposed Floor Plans – scale 1:100.
  - Drawing no. 6177/10.7.12/11A: Proposed Elevation and Section – scale 1:100.
  - Drawing no. 6177/10.7.12/12A: Proposed Elevation – scale 1:100.





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## Appeal Decision

Site visit made on 17 July 2013

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 August 2013

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**Appeal Ref: APP/T5150/A/13/2194758**

**10 Berkhamstead Avenue, Wembley, Middlesex, London, HA9 6DT.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Rajul Sonigara against the decision of the Council of the London Borough of Brent.
  - The application Ref. 12/2665, dated 15 October 2012, was refused by notice dated 11 December 2012.
  - The development proposed is the erection of a two storey side extension to existing semi-detached property to create a self contained one bedroom dwelling house.
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### Procedural matter

1. I have used the description of the development as formed by the Council as it better describes the nature of the proposal.

### Decision

2. The appeal is allowed and planning permission is granted for the erection of a two storey side extension to existing semi-detached property to create a self contained one bedroom dwelling house at 10 Berkhamstead Avenue, Wembley, Middlesex, London, HA9 6DT, in accordance with the terms of the application, Ref. 12/2665, dated 15 October 2012, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
  - 3) No development shall take place until full details of a landscaping scheme for the front garden have been submitted to and approved in writing by the local planning authority. These details shall also make provision for a single parking space for the development. All hard and soft landscape works shall be carried out in accordance with the approved details which shall include a maintenance and replacement period. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority, and retained thereafter.
  - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and

re-enacting that Order with or without modification), no additions, extensions or outbuildings as set out in Schedule 2, Part 1, Classes A, B, C, D and E of the Order shall be erected without the express grant of planning permission by the local planning authority.

### **Main Issues**

3. The main issues are:

- The effect of the new work on the character of the existing dwelling and the character and appearance of the area, including the local street scene;
- Whether the new dwelling would provide reasonable accommodation and living conditions for the occupiers;
- Whether the development makes provision for the mitigation of its impact on local infrastructure and services.

### **Reasons**

#### *Background*

4. The site is one 'half' of a semi-detached property which lies on the corner of Berkhamstead Avenue and Nettleden Avenue. The surrounding area is generally residential in character formed by two storey properties although the adjacent properties in the latter road are single storey, including a new 'bungalow' in the curtilage of the appeal site which has accommodation at basement level. I also understand that the existing property on the appeal site has been converted into two flats.
5. It is proposed to extend the building on the flank wall facing east. The new extension would have a 1.5 storey form with about half of the lower floor being below the ground level of the existing dwelling. The lower ground floor would provide a lounge and bedroom, both with light wells to the main windows, while the upper floor would provide a kitchen and bathroom with split level stairs giving access to the street. The extension would form a self-contained unit with a parking space in the forecourt.

#### *Character and appearance*

6. The properties that make up the local street scene have a similar basic form but there is considerable variety in materials and detailing and many properties have been extended. Although the space to the side of the appeal site is replicated on the other side of Berkhamstead Avenue outside number 8, I do not consider that this space makes a material contribution to establishing the character of the area. No. 10 has a wall and fence of different heights along the boundary with the highway at the moment. The wall would be increased in height in part, to accommodate the entrance way, but I do not consider that this architectural feature would be out of place given the present variety of styles locally.
7. Further, the overall bulk and proportion of the new work would have the physical and visual appearance of a 'subservient' extension set down below the eaves of the property and set in from the front and rear main external walls. In my judgement, this form would broadly accord with the guidance set out in the Council's Supplementary Planning Guidance – 17 – Design Guide for New Development.

8. Although the self contained unit would have a slightly contrived form, overall, I am satisfied that it would not appear incongruous and that it has been designed to fit in with the character and appearance of the original property even when taking into consideration the new dwelling that has been erected in the original curtilage and the alterations to the original 'semi' including side and rear facing dormer windows in the roof.
9. I conclude on this issue that the proposal is reasonably in accordance with requirements of policy CP 17 of the Council's Core Strategy and saved policies BE2, BE7 and BE9 of the UDP as the new work will make a positive contribution to the street scene and has been designed to take account of its context, including its scale, design and location. These design criteria are generally supported in the Framework<sup>1</sup>

#### *Living conditions*

10. The Council's concern under this issue is about the fact that the self contained unit would have habitable rooms in a semi-basement which it considers would result in poor aspects from the windows and a lack of day lighting and these living conditions would be sub-standard. However, no specific standards are put forward in national or local guidance and the scheme must be considered on its specific merits. The appellant's agent provides a cross-section through the rooms and the light wells and it appears to me that in both semi-basement rooms there is the potential for the occupiers to see the sky while sitting or standing in part of each room and have natural daylight enter the habitable space. Further, such use of basements is not uncommon in highly developed areas and at my site visit I noted the basement that has been built as part of the new dwelling.
11. In addition to the aspect out of the rooms, the Council are concerned that the occupier(s) would suffer from headlight glare from vehicles parking on the forecourt and would suffer from a lack of privacy from overlooking by people walking on the pavement. Although manoeuvring of the occupiers and the neighbour's cars on the forecourt outside the front light well could result in headlights shining into the room, the extent of this is likely to be limited and not dissimilar to where a ground floor room is used as a bedroom. Likewise any overlooking at the front from people on the pavement could be easily overcome by having blinds or curtains in the windows.
12. Bearing in mind the national guidance in the Framework to boost significantly the supply of homes, the restricted aspect or the degree of privacy that the occupiers of the self contained unit would have is not so poor or substandard as to outweigh an otherwise acceptable form of development.

#### *Mitigation of impact*

13. Since the refusal of the planning application and the lodging of the appeal, the Council advise that the Council's Community Infrastructure Levy took effect from the 1 July 2013. In effect, this supersedes the reason for refusal No.3 and the Council advises that a contribution made under section 106 of the Act in respect of the mitigation of the local impact of the development is no longer appropriate. The 'trigger' for the Levy would be the grant of planning permission for relevant development and the payment of this would be pursued

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<sup>1</sup> The National Planning Policy Framework as issued in March 2012.

by the Council as a separate matter. Therefore, I do not need to consider this issue further.

*Conclusions and conditions*

14. Bringing my conclusions on the main issues together, I have found that the proposed extension to form a self contained residential unit has been designed to fit in with the architecture and form of the original dwelling and it would not harm the appearance of the street scene or the character and appearance of the area. Further, the nature of the unit and its location on the corner and the proposed boundary wall and fences, would result in reasonable living conditions for the new occupiers.
15. The proposal therefore makes good use of land already developed without harming the local environment. As such the proposal accords with the provisions of the development plan as I have identified above, and this is not outweighed by other considerations. The proposal can be seen as a reasonable form of sustainable development which is broadly supported by the Framework. For these reasons I will allow the appeal.
16. In terms of conditions, in addition to the statutory time limit, the Council recommends a condition that the external materials match the existing dwelling. This is reasonable and necessary in the interests of the appearance of the area. I also agree that it is necessary for a landscaping scheme to be drawn up and implemented to 'soften' the area of hard surfacing at the front of the site and mellow the impact of additional parking in the street scene. However, I do not agree that the parking space at the front of the appeal site should be restricted as the Council suggest, but that the space can be reasonably integrated into the new landscaping. Finally, I agree that it is necessary to withdraw 'permitted development' rights for the new dwelling, as the proposal has been carefully crafted to fit in with the area, and further extensions and/or additions may result in too great an intensification on this prominent corner site. I will therefore impose these conditions, revised as I have described.

**Overall conclusion**

17. For the reasons given above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR





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# Appeal Decision

Site visit made on 13 May 2013

**by Paul Freer BA (Hons) LLM MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 6 August 2013**

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**Appeal Ref: APP/T5150/A/12/2189751**  
**384 Neasden Lane North, London NW10 0BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Sadeouah Ahmad against the decision of the Council of the London Borough of Brent.
  - The application Ref 12/2708, dated 9 October 2012, was refused by notice dated 30 November 2012.
  - The development is a single storey rear extension to internet cafe (Use Class A1).
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## Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension to internet cafe (Use Class A1) at 384 Neasden Lane North, London NW10 0BT in accordance with the terms of the application and the drawings submitted with it, Ref 12/2708, dated 9 October 2012, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. P-100.

## Procedural Matter

2. In the submitted evidence, reference is made to an application for a single-storey rear extension that was dismissed on appeal in 1992. I did request a copy of that appeal decision, but neither the appellant nor the local planning authority was able to provide me with a copy. I recognise the importance of consistency in decision making. However, in the absence of a copy of the previous appeal decision, I have determined this appeal on the basis of the development plan and current site circumstances as I observed them on my site visit.

## Main Issue

3. The main issue is the effect of the rear extension on the availability of rear parking & servicing arrangements, and whether there is any resultant effect on the free flow of traffic.
-

## **Reasons**

4. The appeal property is an internet cafe with a residential flat above, located within a parade of similar units fronting onto Neasden Lane North. The retail units are served by two loading bays and by a number of car parking spaces operating on a Pay & Display basis, all located on Neasden Lane North. The appeal property can also be accessed from Jackman Mews, which runs to the rear of the retail units and which is not subject to parking restrictions.
5. The Council are concerned that the extension, which is practically complete, results in the loss of a servicing space at the rear of the property that could be used for the loading and unloading of vehicles off-street, thereby leading to on-street parking and congestion in Jackman Mews and Neasden Lane North. For smaller A1 units such as the appeal property, Policy PS17 of the Brent Unitary Development Plan requires one lorry bay to be provided, although the policy also provides that existing servicing facilities in the vicinity may be taken into consideration. This policy is supported by Policy SH19, which seeks to retain facilities for rear servicing. Policy TRN3 provides that permission will be refused where a planning application would cause or worsen an unacceptable environmental impact from traffic generation, including where any resultant on-street car parking would cause unacceptable traffic management problems.
6. At the time of my site visit, there were several parking spaces available in Jackman Mews and I observed that vehicles servicing other retail units were able to access the entire length of that road without difficulty. The loading bays in Neasden Lane North provide additional servicing facilities, and I noted that at least one of the two loading bays remained unoccupied throughout the time that I was at the site. I also noted that not all of the Pay & Display car parking spaces were occupied. I have been provided with no evidence to indicate that the parking conditions that I observed on site were in any way atypical, or that the servicing arrangements for the units in this parade have given rise to on-street parking adversely affecting the free flow of traffic.
7. I am mindful that Policy PS17 indicates that existing servicing facilities in the vicinity may be taken into consideration in relation to on-site servicing requirements. In that context, the provision of adequate on-street parking in Jackman Mews and the loading bays in Neasden Lane North are relevant. In my view, these would together be sufficient to ensure that the loss of the service space at the rear of the appeal property would not itself result in unacceptable traffic management problems in the surrounding road network. Consequently, although I accept that the existing extension would conflict with Policy SH19, I do not consider that there would be any conflict with the objectives behind Policy TRN3.
8. I am mindful that the current use of the property falls within the A1 Use Class and that other A1 uses may require more intensive servicing than the current use as an internet cafe. However, the parking conditions at the time of my visit indicate to me that the servicing requirements for any A1 use of the appeal property could be accommodated in Jackman Mews and in the loading bays on Neasden Lane North. I also observed that other retail units in this parade can be successfully serviced from the on-street spaces in Jackman Mews. The absence of an on-site loading space would therefore not prejudice the functionality of an A1 use of the appeal property.

9. Of the policies cited in the Council's decision, Policies PS14 and TRN23 relate to parking standards for residential developments and Policy PS7 relates to parking standards for shops. In this case, it seems to me that Policies PS7, PS14 and TRN23 (as well as Policy SH19) are mutually exclusive, in that it would not be possible to provide a loading area to serve the retail unit and provide a parking space for the residential flat above in the limited area available. Given that the extension is considered by the Council to have resulted in the loss of a servicing space, it follows that this space can not previously have been available as a parking space for the residential flat above. The extension has therefore not altered the parking provision in relation to the residential flat and consequently is not contrary to Policies PS7, PS14 and TRN23.
10. Having regard to the above, I conclude that the development would not be contrary to the objectives of the relevant UDP policies and the appeal should be allowed. The Council has suggested only one condition, which is to require the provision of secure bicycle parking spaces. However, there is no external space in which cycle parking could be provided without impeding access to the property itself and in any event bicycles could be securely stored within the property. I therefore consider that a condition requiring secure bicycle parking spaces is not necessary in this case. For the avoidance of doubt, a condition requiring that the development is carried out in accordance with the approved plans is necessary.

*Paul Freer*

INSPECTOR





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## Appeal Decision

Site visit made on 2 July 2013

by **David Harrison BA DIPTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 July 2013

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**Appeal Ref: APP/T5150/D/13/2198252**  
**2 Liddell Gardens, London, NW10 3QD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Steve Photiou against the decision of the Council of the London Borough of Brent.
  - The application Ref 12/3124 was refused by notice dated 22 April 2013.
  - The development proposed is a 2 storey side extension to existing single dwelling house.
- 

### Summary of Decision

The appeal is allowed subject to conditions, as set out in the Formal Decision below.

#### *Description of the development*

1. The description of the proposed development on the application form is as set out above. This is an over-simplification as the proposal includes other elements. The Council's Decision Notice describes the proposal as "Demolition of existing front porch and garage, extension and conversion of detached rear store room to form habitable space, and new two-storey side, and single and two-storey rear extension *with hip to gable end roof extension to dwellinghouse*". This is a more accurate description but for the fact that the amended plan (2012/11-8AB) listed in the Notice indicates the substitution of a hipped roof for the gable originally proposed.

#### *Main issue*

2. The main issue is whether the proposed two-storey side extension element of the proposal would have a harmful overbearing effect upon the amenities of the occupiers of Nos. 160 and 162 Chamberlayne Road.

#### *Assessment*

3. The Council's reasons for refusal are that the proposed two-storey side extension, by reason of its length and height on the rear boundary of the gardens of Nos. 160 and 162 Chamberlayne Road would, particularly when considered along with other existing additions, have a detrimental impact on the amenity of residents of these properties in terms of its overbearing impact contrary to Policy BE9 of the UDP and the guidance in SPG 5 *Altering and Extending Your Home* (September 2004).
4. Although it is referred to in the reasons for refusal no specific conflict with any of the provisions of SPG 5 are cited by the Council. Policy BE9 *Architectural*

*Quality* of the Brent Unitary Development Plan 2004 (UDP) requires, among other things, that extensions should (a) be of a scale, massing and height that is appropriate to their setting, and (e) be laid out to ensure that buildings and spaces are of a scale, design and relationship to each other, which promotes the amenity of users, providing a satisfactory level of sunlighting, daylighting, privacy and outlook for existing and proposed residents.

5. Under the heading *Residential Amenity* the Council's report recommending refusal of the application states that the extension "will not result in a significant loss of daylight, sunlight or outlook for neighbouring residents" but goes on to refer to the "overbearing impact of having a 6 m high wall directly on the boundary of Nos. 160 and 162 (Chamberlayne Road)". The appellant argues that the report is inconsistent because if there is no harm to outlook there can be no overbearing effect.
6. An objection was made by the owner of No.162 Chamberlayne Road on 24 January 2013 referring, among other things, to "a change to a gabled roof 40ft high". This comment was made on the basis of the originally submitted plans, before the amendment of the proposed gable end to a hipped roof as shown on plan Ref: 2012/11-8AB. There is nothing to indicate whether the neighbour was notified about the amended plans, but no further representations were received. Although the objection relates to the original proposal I have taken account of it and I looked at the appeal site from the rear windows and the rear garden of No.162.
7. The proposed flank wall would be nearer to the Chamberlayne Road properties than the present wall. It would be immediately at the end of their gardens and its proximity would, in my opinion, have a somewhat overbearing effect. However, the effect would not be so significant as to amount to a reason for refusing the application.
8. I have taken into account the fact that planning permission was granted for a similar side extension in 2004 (now lapsed) and that an earlier version of the Council's report recommended approval to the current application. However, I have formed my own assessment of the proposal based upon my reading of the representations, including references to relevant planning policies and guidance, and my visit to the site. I conclude that there is no conflict with the aims of the National Planning Policy Framework (NPPF), Policy BE9, or the Council's Supplementary Planning Guidance relating to house extensions.
9. I will impose conditions requiring matching materials, as the cream colour render to the new side wall will "lighten" its appearance, and requiring obscure glass to the bathroom window to ensure privacy.
10. For the reasons given above, and having taken into account all the other matters raised I conclude that the appeal should be allowed.

### **Formal Decision**

11. The appeal is allowed and planning permission is granted for the demolition of existing front porch and garage, extension and conversion of detached rear store room to form habitable space, and new two-storey side, and single and two-storey rear extension with hipped roof extension to the dwellinghouse at 2 Liddell Gardens, London NW10 3QD in accordance with the terms of the application, Ref: 12/3124, dated 14 December 2012, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building, including the colour of the paintwork on the rendered surfaces.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 2012/11-1, 2012/11-3, 2012/11-4, 2012/11-5AB, 2012/11-6AB, 2012/11-7, 2012/11-8AB.
- 4) Before the first occupation of the extension hereby permitted the window on the flank wall facing Nos. 160 and 162 Chamberlayne Road shall be fitted with obscured glass and shall be permanently retained in that condition.

*David Harrison*

INSPECTOR







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## Appeal Decision

Site visit made on 8 July 2013

by **Anne Napier-Derere BA(Hons) MRTPI AIEMA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 July 2013

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**Appeal Ref: APP/T5150/D/13/2198957**

**37 Manor House Drive, Brondesbury Park, London NW6 7DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Adil against the decision of the Council of the London Borough of Brent.
  - The application Ref 13/0053, dated 8 January 2013, was refused by notice dated 14 March 2013.
  - The development proposed is single storey rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing rear conservatory and erection of a single storey rear extension to dwellinghouse at 37 Manor House Drive, Brondesbury Park, London NW6 7DE, in accordance with the terms of the application, Ref 13/0053, dated 8 January 2013, subject to the following 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 plans: 121222/P/01, 121222/P/02, 121222/P/03, 121222/P/04 and 121222/P/05.
  - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

### Preliminary Matter

2. The description of the development used in the formal decision above is that used by the Council in its decision, which the appeal form states was agreed by the appellant.

### Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the dwelling and the area.

### Reasons

4. The appeal site is located within a predominantly residential area which, in the immediate vicinity, is largely comprised of substantial detached dwellings, set back from the road, with sizeable gardens. Although there is a variety of different design approaches used within the street, the appeal dwelling is similar to its neighbours in its overall size and scale. It is not disputed that the overall cumulative depth of the existing and proposed extensions would be in excess of

50% of the depth of the original dwelling or that this depth would far exceed the recommended maximum distance included within the Council's *Supplementary Planning Guidance 5 'Altering and extending your home' 2002* (SPG). This guidance also indicates that extensions to extensions will not normally be acceptable, except where no material harm arises.

5. The considerable height and width of the host dwelling leads to it having a substantial overall scale. The proposal would be sited within the generous and largely enclosed back garden. The distance to and screening of the dwellings backing onto the site and the relatively close proximity to the neighbouring properties to either side would significantly limit wider views of the proposal. Accordingly, with the exception of limited views from the rear elevations of neighbouring dwellings, it would mainly be viewed from the large rear garden against the remainder of the sizeable rear elevation. Taking these particular circumstances into account, I consider that the depth and overall scale of the proposed single-storey extension would not be visually disproportionate to that of the main dwelling or lack subservience to it.
6. The staggered arrangement of the rear projections would be somewhat unconventional. However, taking into account the extent and variety of existing projections to the rear of the dwelling, including a first floor oriel and bay windows and dormer windows in the rear roof slope, I consider that this approach would complement its existing appearance. Whilst the overall depth of the proposed extension would be significant, its enlarged form would be set in from the side boundaries of the site and a crown roof would be provided, with roof tiles and rendered walls to match the existing. These aspects of its design would also reduce the visual scale of the proposal. Furthermore, I consider that the replacement of the existing disparate roof arrangements with a single cohesive roof design would have a noticeable improvement on the appearance of the rear elevation of the dwelling. This would be a benefit of the scheme that weighs in its favour.
7. Taking all these matters into account, I conclude that the design, scale and location of the proposal, including its cumulative depth, would not be harmful to the character or appearance of the dwelling or the local area. It would therefore meet the overlapping aims of the *London Borough of Brent Unitary Development Plan 2004* Policies BE2 and BE9, for development to have regard to local context and be of a scale and massing appropriate to its setting. The proposal would also accord with the underlying purpose of the guidance within the SPG, to ensure that extensions to dwellings complement the home and the neighbourhood and would meet the aims of paragraph 17 of the National Planning Policy Framework, to achieve high quality design.

#### **Conditions and conclusions**

8. The Council has suggested a condition requiring the use of matching external materials for the extensions which, in the interests of the character and appearance of the area, is necessary. In addition, for the avoidance of doubt, it is necessary that the development is carried out in accordance with the approved plans.
9. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Anne Napier-Derere*

INSPECTOR



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## Appeal Decision

Site visit made on 24 July 2013

by **D Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 August 2013

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**Appeal Ref: APP/T5150/D/13/2199655**  
**51 Hanover Road, LONDON, NW10 3DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms D Williams against the decision of the Council of the London Borough of Brent.
  - The application Ref 13/0223/FUL was refused by notice dated 23 March 2013.
  - The development proposed is ground floor, single storey side/rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground floor, single storey side/rear extension at 51 Hanover Road, London, NW10 3DL in accordance with the terms of the application, Ref. 13/0223/FUL , dated 23 March 2013 , and the plans submitted with it, subject to the following 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 plans: Nos. 1763AL02 and 1763AL03.

### Main issues

2. The main issues are the effect of the proposed extension on the living conditions of the occupiers of the neighbouring property and on the character and appearance of the host dwelling and its surroundings.

### Reasons

3. The site contains a two storey terraced property which lies in a residential area of similar properties. It is apparent that the original dwelling form included an attached two storey outrigger to the rear of the property where the roof was shared with the attached neighbouring property, in this case No. 49. This form resulted in each property having a narrow passageway along the side of the outrigger and adjoining a similar space on the other side of the party wall, i.e. No. 53. The existing rear facing living room/reception window of the appeal site property looks along this space which provides light into the interior rooms. The passageway also houses an attached brick shed.
4. It is proposed to erect a single storey extension to provide a new kitchen and dining area. This would enclose the passageway and wrap round the end of the outrigger to enclose the existing rear facing bay window. The new room

would be lit by roof lights over the previous passageway, and the external walls of the extension would be rendered and painted white.

*Living conditions*

5. The Council is concerned that the enclosure of the passageway and the erection of wall on the boundary of about 2.6m high would harm the living conditions of the occupiers of No. 53 by restricting outlook, light and privacy. Guidance on the need to protect light into an existing window to a habitable room is set out in the Council's Supplementary Planning Guidance 5 - 'Altering and Extending your Home'- and this guidance is a material consideration.
6. At my site visit, I paid particular regard to the relationship between Nos. 51 and 53 and considered the light available to the windows. The presence of the proposed extension would create a form of tunnel which would restrict some of the aspect of the main window and the kitchen window would face this wall less than 2m away. Nevertheless, the availability of light into these windows is already greatly affected by the presence of the two storey outrigger.
7. I have also taken into consideration that the occupiers of No. 53 have written in support of the proposal at appeal. They recognise that the passageway is 'dead' space and underutilised by both houses and consider that the new work would result in more light to the ground floor of both properties and that they may consider adding something similar themselves.
8. Given the local support for the proposal and the present juxtaposition of the buildings, I do consider that the presence of the new building work would have a harmful effect on the living conditions of the neighbours. Further, the use of a white painted render on the boundary wall would be likely to brighten up the aspect from the windows compared to the existing London stock brick. Although the Council also say that the privacy of the neighbours would be affected, there is little evidence to substantiate this and the enclosure of the passageway would be more likely to increase rather than decrease privacy. I conclude on this issue that the proposed would not be likely to harm the living conditions of the neighbours.

*Character and appearance*

9. This issue is concerned with the effect of the proposed work on its surroundings, including the character of the host property and the wider area. As the proposed work is at the rear of the property it would be away from the public realm, and would only be seen from the rear gardens of other properties in Hanover Road and, at a distance, from the gardens of properties in Chamberlayne Road.
10. At my site visit, I noted that many other properties locally have rear extensions of differing forms and styles. Although the rear elevations of the appeal site property are in a stock brick, the extension is proposed to be finished in white smooth render. Therefore, there would be an apparent conflict in styles, but the use of render is relatively common locally and I noted a similar rendered extension at No. 49 next door. Further, there is no compelling reason in architectural terms why the form of the extension should have the same materials to match the existing property. Given the presence of the extension would be fairly confined and limited to view, it is not inappropriate that the appellant's architect has chosen to use a contrasting finish, but with stock brick

detailing. Guidance in the national Framework<sup>1</sup> indicates that while good design in new development is encouraged, planning decisions should not attempt to impose architectural styles or particular tastes or stifle innovation.

11. Overall, I conclude that the proposed extension is of an appropriate form which would contribute to local distinctiveness without harming the character or appearance of the host property or its immediate surroundings. I therefore find no conflict with the requirements of saved policies BE2 and BE8 of the Council's Unitary Development Plan.

*Conclusions on planning merits*

12. Bringing my conclusions on the main issues together, I have found that it has not been demonstrated that the proposed single storey extension would harm the living conditions of the occupiers of neighbouring properties. Further, it has been well designed and would compliment rather than conflict with the character and appearance of the existing building and the wider context of this area of back gardens. Given these factors, I find that the proposal accords with the relevant provisions of the development plan and more recent national policy. For these reasons I will grant planning permission for the development.
13. In terms of conditions, in addition to the statutory time limit, the Council, request a condition that the materials match the existing dwelling but this would be at odds with the architectural scheme put forward with render instead of facing brickwork, and I will not impose this condition. It is reasonable and necessary to impose a condition requiring that the development is carried out in accordance with the approved plans and that these are specified in the interest of clarity.

**Conclusions**

14. For the reasons given above I conclude that the appeal should be allowed.

*David Murray*

INSPECTOR

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<sup>1</sup> The National Planning Policy Framework as Issued in March 2012.





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# Appeal Decision

Site visit made on 23 July 2013

by **Nick Fagan BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 August 2013

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**Appeal Ref: APP/T5150/D/13/2199816**  
**38 Park View Road, London, NW10 1AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Kurt Albright against the decision of the Council of the London Borough of Brent.
  - The application Ref 13/0508, dated 21 February 2013, was refused by notice dated 14 May 2013.
  - The development proposed is alterations including reduction in width and removal of two windows to be replaced with single window to existing detached outbuilding, and new hedging between outbuilding and fence at Clifford Way elevation to rear of dwellinghouse.
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## Decision

1. The appeal is allowed and planning permission is granted for alterations including reduction in width and removal of two windows to be replaced with single window to existing detached outbuilding, and new hedging between outbuilding and fence at Clifford Way elevation to rear of dwellinghouse at 38 Park View Road, London, NW10 1AL in accordance with the terms of the application, Ref 13/0508, dated 21 February 2013, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development shall be carried out in accordance with the following approved drawing: PVR PP 01 RevA dated February 2013.
  - 3) Within six months of the decision hereby granted the brick boundary wall facing Clifford Way from the end of the rear extension to the boundary with No.51 Clifford Way shall be reduced in height to no higher than 1.3 metres and shall not be heightened in the future unless such an increase in height is approved via the submission of an application to the Local Planning Authority.
  - 4) Within two months of the decision hereby granted details of the new hedge to be planted on the inside of the boundary wall facing Clifford Way shall be submitted in writing to the Local Planning Authority. The new hedge shall be planted within two months of its approval by the Local Planning Authority and thereafter be retained in perpetuity. Should it die or fail to grow in order to screen the outbuilding from the street within five years of such permission it shall be replaced with a new hedge of the same type.

- 5) The outbuilding hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No.38 Park View Road.

### **Procedural Matter**

2. The Council's description is more detailed in that it sets out the proposed reduction in width of the outbuilding to set it back from Clifford Way and plant a new hedge, and the alteration to its fenestration facing towards the house. The Council's description more accurately reflects the development sought and I have substituted it for the appellant's original description and determined the proposal on this basis.

### **Main issues**

3. The main issues are the effect, firstly, on the character and appearance of the area; and secondly, on the living conditions of the occupiers of nearby residential properties.

### **Reasons**

#### *Character and Appearance*

4. The current outbuilding and the single-storey rear extension appear contemporaneous and have clearly been completed relatively recently, as suggested by the planning history of this property.
5. The outbuilding is sited very close to the boundary walls, both the wall to No.51 Clifford Way and the wall facing Clifford Way itself. Both these walls also appear contemporaneous with the outbuilding. They are readily seen from the public realm and are generally higher than those on the frontages of the majority of the houses in this suburban area of Neasden. By virtue of their height they screen most of the outbuilding from public views. However, in doing so, these walls exhibit an unnecessarily hard urban edge to the site in this area dominated by low front boundary walls and front gardens.
6. The proposal involves reducing the width of the outbuilding in order to create a building of more reasonable size in its plot as well as to allow a hedge to be planted behind the boundary wall, albeit the submitted plans describe this boundary treatment as a fence.
7. From my observation the reduced size of this outbuilding, as envisaged in the proposal, is not uncommon in domestic gardens including gardens in the vicinity. It would be about the size of a typical single garage, albeit it would be used as a gym or games room and ancillary storage. Although the rear garden of this house is relatively small, especially with the extension, it is no smaller than many in the area with similar outbuildings or garages and I do not consider a building of the size proposed would be at odds with the area's character.
8. The building would be less than 2.5 metres high with a flat roof and be set down below the street level, as it is now. I consider that with natural screening in the form of the proposed hedge it would not harm the character or appearance of the area. However, the present wall to Clifford Way is at odds with the character of suburban gardens in the area and I consider it should be reduced in height within a reasonable period of time as set out in the condition above, and the hedge planted behind it and for the whole length of the rear



garden in order to help screen the outbuilding and restore some soft landscaping to the site.

9. There is insufficient room to introduce a hedge or other soft landscaping behind the building – between it and the boundary wall to No.51 Clifford Way – because the gap between the two walls is too small to do so. The boundary wall to No.51 Clifford Way abuts its garage, which is the same height, albeit this is set back from the road frontage. In this context I do not consider the height of this boundary wall or the outbuilding behind it, which it would continue to screen, would be detrimental to the character or appearance of the area.
10. The Council is concerned such an outbuilding would not be ancillary to the main residential use of the house. That this may have been the case with the existing building is suggested by the extant Enforcement Notice. However, I consider the Council's fears of the proposed outbuilding being used as a separate dwelling can be adequately overcome by a condition and this is set out above. The Council can enforce such a condition.
11. In this regard I have taken account of the court cases and recent appeal decisions in its area that the Council mentions in its delegated report. In respect of the court cases, I consider the proposed outbuilding would provide reasonable additional incidental accommodation – it would certainly not be 'over lavish', albeit it currently has a small separate shower room/toilet. Appeal decision Ref APP/T5150/D/12/2179241 concluded the outbuilding in that case would look out of place and would harm the outlook of neighbours; I am unaware of the full facts of that case and therefore cannot make a judgement as to whether the physical characteristics of the two schemes or the two areas are comparable, and I must in any case judge this case on its own merits. The other appeal decision, Ref APP/T5150/C/12/2175397, was an enforcement appeal that was dismissed purely on ground c (i.e. that the building did not constitute permitted development), a matter not in dispute in this case (because an application was submitted and this appeal lodged) and therefore irrelevant.

#### *Neighbours' Living Conditions*

10. The Council's concerns in this regard appear to be the lack of planting to the front of the outbuilding and the lack of specificity concerning the species of the hedge to be planted fronting Clifford Way. This latter point can be dealt with effectively by a condition, in the form I set out above.
11. In terms of the former point, I presume the Council is concerned that what it considers to be an overly large structure in this garden would be readily seen by the neighbours, particularly the adjoining neighbour at No.36 Park View Road and the neighbour to the rear at 51 Clifford Way.
12. There is no doubt there would be oblique views of the outbuilding from the rear first floor windows of No.36 and possibly No.34. There is a frosted (landing) window in the side elevation of No.51 and so any view of the outbuilding would only be a perceived one. The fact that the outbuilding can be seen by neighbours does not make it unacceptable. As set out above, outbuildings of this size are not uncommon including in the vicinity and I have concluded it would not harm the character and appearance of the area; I do not therefore consider that planting in front of this building, which would help screen views of

it, to be necessary. There is no other reason why such a building used for purposes ancillary to the main house should adversely affect neighbours' living conditions.

*Other Matters*

13. The appellant has suggested that the *current* outbuilding could be built as permitted development and has only presumably not tried to do so because the Council have refused to accept his Certificate of Lawful Use owing to the service of the Enforcement Notice. Be that as it may, he has appealed the Council's refusal and I must determine this appeal accordingly. Because the appeal succeeds on the main planning issues I do not need to consider such a fallback position.

**Conclusion and Conditions**

14. For the reasons set out above and taking into account all other matters raised, including the lack of objections to the proposal, I do not consider the proposal would cause unacceptable harm to the character and appearance of the area or the living conditions of the occupiers of nearby residential properties. It therefore complies with Policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan 2004 and Policy CS17 of the Brent Core Strategy. These policies seek to ensure that development has regard to its local context, does not cause harm to the character and appearance of an area, and safeguards residential amenity.
15. I have explained my reasoning for imposing Conditions 3, 4 & 5 above. I also consider Condition 2 is necessary in order to avoid doubt about the development proposed and in the interests of good planning, as well as the customary commencement condition. Subject to these I allow this appeal.

*Nick Fagan*

INSPECTOR



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## Appeal Decision

Site visit made on 8 July 2013

by **Anne Napier-Derere BA(Hons) MRTPI AIEMA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2013

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**Appeal Ref: APP/T5150/D/13/2198953**

**8 Rowdon Avenue, London NW10 2AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr I Mohammed against the decision of the Council of the London Borough of Brent.
  - The application Ref 13/0605, dated 6 March 2013, was refused by notice dated 26 April 2013.
  - The development proposed is demolition of detached outbuilding and part of existing garage, conversion of garage into habitable space including replacement of garage door with window, first floor side and rear extension, single storey side and rear extension, one side and one rear dormer windows with two front and two rear rooflights to dwellinghouse.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the demolition of detached outbuilding and part of existing garage, conversion of garage into habitable space including replacement of garage door with window, first floor side and rear extension, single storey side and rear extension, one side and one rear dormer windows with two front and two rear rooflights to dwellinghouse at 8 Rowdon Avenue, London NW10 2AL, in accordance with the terms of the application, Ref 13/0605, dated 6 March 2013, subject to the following 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 plans: Location Plan scale 1:1250, KS/2012/01/F, KS/2012/02/F, KS/2012/03/F, KS/2012/04/F, KS/2012/05/F, KS/2012/06/F and KS/2012/07/F.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Preliminary Matters

2. Although the name of the appellant in the header above does not match that of the applicant on the application form for planning permission, Mr Mohammed's agent has confirmed that this was due to a clerical error and I have considered the appeal on that basis.
3. The details of the proposed development were amended during the application process, prior to determination by the Council. I have considered the appeal

on the basis of the revised scheme formally considered by the Council. As such, for accuracy and the avoidance of doubt, the description used in the heading and formal decision above is that used by the Council in its decision and on the appeal form.

### **Main Issues**

4. The main issues in this appeal are the effect of the proposal on:
  - The character and appearance of the dwelling and the area; and
  - The living conditions of neighbouring occupiers at No 6 Rowdon Avenue, with particular reference to outlook and light.

### **Reasons**

#### *Character and appearance*

5. The appeal dwelling is located within a predominantly residential area, largely comprised of other houses of a similar scale, character and appearance, although with a variety of detailed designs. The special characteristics of the area have been recognised by its designation by the Council as an 'Area of Distinctive Residential Character' (ADRC). The width of the appeal site is greater than others in its immediate vicinity, with development across the full extent of the plot at ground floor level, but with more space about the dwelling at first floor level and above. The existing dwelling is an imposing two-storey house, larger than many others in the immediate vicinity, with twin front-facing two-storey bay windows separated by a central first floor flat-roof front projection and with a two-storey flat-roof projection to the side. From the details submitted, both these two-storey flat-roof projections formed part of the original design for the dwelling.
6. Despite meeting the advice of the Council's *Supplementary Planning Guidance 5 'Altering and Extending your Home'* in respect of the width of the first floor side extension, I consider that the limited visual distinction between the existing and proposed elements would lead to this part of the proposal being read as a single side projection. Furthermore, the increase in width at first floor level and change to the shape of the roof and its increased volume and height, would result in a significant change to the appearance of the dwelling when viewed from the road.
7. Nonetheless, the height of the roof over the side extension would be considerably lower than that of the main dwelling and its front elevation would follow that of the existing two-storey side projection and be set back from the main front elevation of the house. As a result, I consider that the scale of the proposal, including its mass, width and height, would not appear excessive or disproportionate in relation to the main dwelling. Furthermore, for similar reasons, the design of this element of the proposal would not unbalance the front elevation and would be complementary to its overall appearance.
8. In addition, although the separation between the proposal and the common boundary with the adjacent dwelling at No 6 would be limited, the demolition of part of the existing attached garage would increase the space about the dwelling in this location. Together with the substantial gap that would remain at first floor level to its other side, I consider that this space, although limited,

would be sufficient to prevent the proposal from resulting in an unacceptable terracing effect.

9. I am mindful of the *London Borough of Brent Unitary Development Plan 2004* (UDP) Policy BE29, which relates to the ADRC. This states that, in these areas, particular attention will be paid to the design, height and space between buildings in order to protect their individual qualities and character. The existing two-storey flat-roof projection is a feature which contributes to the dwelling's current distinctive design. However, whilst it has some importance as an individual design element, I consider that the prominent forward projections on the front elevation, together with the substantial scale of the dwelling, make more of a contribution in this respect. With the exception of two rooflights, the front elevation of the main part of the dwelling would not alter and, for the reasons above, I consider that this would continue to be the visually dominant element. Therefore, although the first floor side projection would result in a significant change to the appearance of the dwelling, I consider that it would not lead to an unacceptable loss of its individual quality or a harmful loss of its character.
10. To the other side of the dwelling, the proposed flat-roof single-storey extension would replace the existing range of outbuildings. These follow the other side boundary of the site and, although they are detached from the dwelling, this is not apparent when viewed from the front, as they are linked to the house by a wall and gate almost level with the front elevation. As a consequence, in public views, the replacement of the outbuildings with a wider structure in the form of an extension to the dwelling would only result in a minimal visual change to the appearance of this part of site.
11. Although the proposal would extend the footprint of the dwelling to the rear and side, the size of the existing dwelling and its garden is such that I consider that the scale of this element of the proposal would not be excessive or result in an overdevelopment of the site. Furthermore, although it would create a substantial flat-roof extension, it would be single-storey in height, with its wider visual impact largely restricted to limited views from neighbouring dwellings. As a consequence, I consider that this aspect of the overall scheme would not be unacceptable, either on its own or when considered cumulatively with the first floor side extension. I note too that the Council does not object to the revised designs for the side and rear dormer windows or to the rooflights and there is nothing before me that would lead me to a different conclusion in this respect.
12. Therefore, I conclude that the proposal would not have a harmful effect on the character and appearance of the dwelling or the wider area. It would meet the aims of UDP Policy BE7, to avoid the excessive infilling of space between buildings and it would accord with the overlapping aims of UDP Policies BE2, BE9 and BE29. These seek to encourage developments to have regard to local context, be of an appropriate specific design that is of a scale, massing and height that avoids unacceptable visual impacts and which protects the individual qualities and characters of buildings in the ADRC. It would also meet the aims of paragraph 17 of the National Planning Policy Framework (the Framework), to achieve high quality design that takes account of the different roles and character of different areas, and those of paragraph 60, to reinforce local distinctiveness.

*Living conditions*

13. The proposed first floor side extension would also extend to the rear of the dwelling, to the depth of the existing flat-roof extension, which projects a short distance beyond the main rear wall of the house. I understand that the neighbouring dwelling, No 6, has recently been extended to the rear and noted from my visit to the site that the rear elevation of this house is broadly in line with the rear elevation of the appeal dwelling's existing single-storey extension. In addition, no windows are visible to the side elevation of the neighbouring dwelling or its side roof slope.
14. In view of this relationship of the two dwellings and due to the design of the proposed first floor side and rear extension, including its height, scale and form, I conclude that the proposal would not result in any material loss of outlook or light for the neighbouring occupiers. In this respect the scheme would be acceptable and, thus, in accordance with UDP Policy BE9, where it seeks to ensure that the scale, design and relationship of development proposals with other buildings promotes the amenity of users, in relation to light and outlook. It would also meet the aims of paragraph 17 of the Framework, to achieve a good standard of amenity for all existing and future occupants of land and buildings.

**Conditions and conclusions**

15. The Council has suggested a condition requiring the use of matching external materials for the extensions which, in the interests of the character and appearance of the area, is necessary. In addition, for the avoidance of doubt, it is necessary that the development is carried out in accordance with the approved plans
16. For the above reasons and having regard to all other matters raised, I conclude that the proposal should be allowed.

*Anne Napier-Derere*

INSPECTOR



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## Appeal Decision

Site visit made on 23 July 2013

by **Nick Fagan BSc(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 August 2013

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**Appeal Ref: APP/T5150/D/13/2200108**  
**139 Purves Road, London NW10 5TH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Olivia Jack against the decision of the Council of the London Borough of Brent.
  - The application Ref 13/1032 dated 19 April 2013 was refused by notice dated 10 June 2013.
  - The development proposed is a single storey side return extension to existing terrace property.
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### Decision

1. The appeal is allowed and planning permission granted for a single storey side return extension to existing terrace property at 139 Purves Road, London NW10 5TH in accordance with the terms of the application, Ref 13/1032, dated 19 April 2013, subject to the following conditions:
  - 1) The development 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: Refs S001, A001, A002, A010 and A020.
  - 3) The materials to be used in the construction of the external surfaces of the extension shall match those used in the existing building and boundary walls (yellow stock bricks).

### Main issue

2. The effect of the proposal on the living conditions of the occupiers of 137 Purves Road with particular regard to outlook and light.

### Reasons

3. Purves Road and the neighbouring roads are characterised by long Victorian terraces of two-storey houses with identical two-storey 'outrigger' rear projections in pairs, giving each property an L-shaped footprint. The proposal is to infill the external gap between No.139's two-storey projection and No.137's boundary. The boundary wall would be raised to 2.5 metres high and the extension would comprise a mono-pitch roof sloping up to 3 metres high where it would attach to the wall of No.139's projection. This roof would largely

comprise a long rooflight designed to illuminate a large extended kitchen/dining room.

4. The Council consider this extension would adversely affect the living conditions of occupiers of No.137 through loss of light and outlook and as such is contrary to policy BE9 of the Brent Unitary Development Plan 2004 [UDP] and the guidance in Supplementary Planning Guidance 5: *Altering and Extending Your Home* [SPG5]. This SPG specifies that single-storey extensions on terraced houses should only be 2.5 metres in depth and 3 metres high, whereas the proposed extension would be the whole depth of the gap, about 7.5 metres.
5. There are a number of windows in No.137 facing this gap at ground floor level; a large window to a habitable room in the main rear elevation, two frosted glass windows in the projection's elevation near the main rear elevation (one small, one large) and two other non-frosted glass windows further down the projection, which appear to light a kitchen. The boundary wall between the two houses, which runs centrally down the gap, is about 1.8 metres high for approximately 3 metres nearest to the houses' rear wall, then about 1.5 metres high for most of the remainder of the rear area before dropping down to about 1.2 metres half way down the rear gardens. There is a marginal change in level between the two houses; No.137 appears to be about 250mm higher than No.139, although the ground levels externally seem to be the same and I do not attach any significance to such a marginal change in level.
6. There is already a 'tunnelling effect' to the windows of both properties facing the joint gap, especially at ground floor level, in the sense that the adjacent two-storey pitched roof rear projections on both houses gives the gap in between them a feeling of looking down a 'tunnel' – albeit one with no roof. The proposed extension, in raising the height of the boundary wall would increase such a tunnelling effect for the ground floor habitable room window in No.137's main rear elevation. However, the main outlook of this window towards the rear garden would not be substantially affected because the boundary wall would only be increased in height by a maximum of a metre, which would not be significant given the tunnelling effect of the existing walls. It would continue to be framed by brick walls on either side, albeit there would also be a view of the sloping roof of the extension.
7. The frosted glass windows do not, because of their obscurity, have any direct outlook but any perceived outlook would not be significantly affected by the increased height of the wall; an increase in height of about 0.7 metre would hardly be perceived through a frosted glass window.
8. The kitchen window in No.137's projection would look onto the new wall of the extension and its sloping roof, but because of its position near the end of the projection it would still benefit from an oblique outlook onto No.139's garden. The other window is in the side elevation of No.137's single-storey extension but because this extension projects beyond the rear line of the common depth rear projections its outlook would be unaffected.
9. The outlook of No.137's first floor rear windows would not be adversely affected by the proposal because the proposed extension would only be at ground floor level, albeit there would be views of its new mono-pitch roof the design of which would be functional and unobtrusive. In conclusion, although there would be some effect on the outlook from some of No.137's windows I do not consider it would be significantly compromised.



10. The Council considers there would be a loss of light to No.137's windows. The evidence submitted by the appellant disputes this. The Council states in its delegated report that the extension would project beyond No.137's single-storey extension. However this is not the case. It would simply infill the gap next to the rear projection, whereas No.137's single-storey element extends that property beyond the rear of its projection.
11. The light to these windows is already constrained by the existing 'tunnelling effect'. The rear of these houses faces south and consequently benefit from a reasonable level of both sunlight and daylight, as I observed during my site visit. Given the existing height of the boundary wall and its proximity to No.137's windows as well as the projections themselves, which already affect the amount of light reaching these windows, I do not consider the proposed extension would result in a significant further loss of light.
12. For these reasons I conclude the proposal would not significantly harm the living conditions of the occupiers of No.137. It therefore complies with UDP Policy BE9 and SPG5, which seek, amongst other things, to safeguard residential amenity.

### **Conclusion and Conditions**

13. Having regard to all other matters raised, including the lack of objection from neighbouring residents and the recent appeal decision at the nearby 10 Langler Road [APP/T550/D/12/2181162] raised by the appellant, I conclude that the appeal should succeed.
14. The Council has suggested a condition listing the relevant drawings and I agree such a condition should be imposed for the avoidance of doubt and in the interests of proper planning. I also agree that a matching materials condition is necessary to ensure that the extended wall is constructed in yellow stock bricks to match those on the existing wall and house in order to protect the character and appearance of the area.

*Nick Fagan*

INSPECTOR





## Appeal Decision

Site visit made on 05 August 2013

by **Ian Currie BA MPhil MRICS MRTPI** (Retired)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 August 2013

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### Appeal ref: **APP/T5150/C/13/2195559**

#### **23B Bryan Avenue, Brondesbury Park, London NW10 2AH**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by the London Borough of Brent Council.
- The appeal is made by Mr M Hussain.
- The Council's reference is E/09/0536.
- The notice was issued on 22 February 2013.
- The breach of planning control as alleged in the notice is the erection of a building in rear garden of the premises ("the unauthorised development").
- The requirements of the notice are to demolish the building in the rear garden of the premises, to remove all items and debris arising from that demolition and to remove all materials associated with the unauthorised development from the premises.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of decision:-** The appeal succeeds on ground (a) and I shall grant planning permission in accordance with the application, deemed to have been made under section 177(5) of the 1990 Act as amended, subject to conditions.

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### **The appeal on ground (a) and the deemed planning application**

#### **The appeal site and its surroundings**

1. The appeal site is situated on the east side of Bryan Avenue to the north of its junction with Dobree Road in a wholly residential area comprising for the most part a mixture of detached and semi-detached houses laid out in the period between the two World Wars. It lies between the Willesden Green shopping centre some ½km to the north and the Kensal Rise district centre about 1km to the south and comprises the northern half of a pair of semi-detached houses.
2. The premises have been extended with the benefit of planning permission by a two-storey side extension in red brickwork with a matching pitched tiled roof on its northern flank, and by a single-storey rear addition, also in red brickwork with a sloping tiled roof, across the full width of the rear of the house. The building, which is the subject of this appeal, is at the bottom of the rear garden and is built in materials matching the rear addition. The attached house to the south also has a single-storey rear extension erected

3. after the one at the appeal premises. There is also a free-standing rendered blockwork building with a gable-ended tiled roof in the rear garden of the attached dwelling adjoining the appeal building, for which the local planning authority issued a lawful development certificate, prior to the enactment of amendments to the Town and Country Planning (General Permitted Development) Order 1995 made in 2008.

**Main issue**

4. From my inspection of the site and its surroundings, and from the written representations made, I consider that the main issue in this appeal is whether the scale, bulk and proximity of the unauthorised building to the boundaries of the plot cumulatively cause unacceptable harm to the character, appearance and amenities of the surrounding residential area.

**Reasons**

5. Adopted Unitary Development Plan Policy BE2 states that proposals should have respect to the local context and make a positive contribution to the area's character by having regard to existing natural features, maintaining existing urban spaces, materials and townscape, and improving, where possible, areas of poor and/or dull appearance. Policy BE9 requires new buildings, including extensions and alterations, to incorporate appropriate design solutions and be in scale with their setting, respect their surroundings, including the principles of any chosen style, ensure that buildings and intervening spaces are in scale and harmonise with each other and employ high quality materials.
6. Applying the principles of these two statutory policies to this building, in my professional opinion I can find little if anything to fault it. The pitched roof brick-built building matches the predominant materials and style to the rear of the main house. From what I saw at the site inspection, by far the greater part of the garden remains open. Indeed, most of it is still devoted to soft landscaping so that to my mind the balance between the built environment and open space remains reasonable.
7. The local authority contends that the building is an overbearing structure whose visual appearance is not to be expected in a typical garden setting. If this stems from its brick and tile construction then it must not be forgotten that this matches with the predominant materials employed in the main building. Although it is closer to the boundary than the revised permitted development limits of the 2008 amendments to the 1995 General Permitted Development Order, the building still maintains what I consider to be reasonably generous gaps of about 1m with the northern and southern boundaries of the plot and it is clearly subordinate to the principal dwellinghouse on the site, especially as the latter has been extended substantially. Overall, I do not find that the Council's case that this structure dominates the rear gardens of dwellings in an attractive suburban neighbourhood has been made out.
8. It must not be forgotten that the building is in a rear garden where its effect on the public realm is minimal and I could not discern any harm to neighbours in terms of loss of amenity, such as perceptible adverse impact on daylight and sunlight previously enjoyed by neighbours. This is reflected

in the lack of any objections from third parties on the file before me. For these reasons, I am firmly of the opinion that the appeal on ground (a) should succeed.

**Conditions**

9. I could not find any suggested conditions to be attached, in the event of the appeal being allowed on its planning merits, in the statements of either the local planning authority or the appellant's agent. Moreover, I appreciate that it is no part of the local authority's case that the building has ever been used for purposes other than those incidental to the enjoyment of the dwellinghouse at 24B Bryan Avenue.
10. However, I am mindful that there is a widespread problem in Brent of outbuildings in rear garden areas being used as unauthorised living accommodation. Whilst such an activity at these premises is likely, in any event, to constitute a material change of use in its own right and there is no intention on the part of the present owners to introduce a use of this type, I consider it important to bring to the attention of any future occupiers of the main house the ancillary nature of the outbuilding, by attaching conditions, adapted from the model conditions to be found in Circular 11/95, that re-affirm this situation.

**Other matters**

11. Since the appeal succeeds on ground (a), the appeal made on grounds (f) and (g) does not fall to be considered.

**Formal decision**

**Appeal ref:- APP/T5150/C/13/2195559**

12. I allow the appeal and I direct that the enforcement notice be quashed. I grant planning permission on the application, deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the erection of a building in the rear garden of the premises at 24B Bryan Avenue, Brondesbury Park, London NW10 2AH, as shown on the plan attached to the notice, subject to the following conditions:-

- 1) the building hereby permitted shall only be used for purposes incidental to the enjoyment of the dwellinghouse at 24B Bryan Avenue, London NW10 2AH as such and for no other purpose, including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, without the prior permission in writing of the local planning authority;
- 2) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification), no enlargement or external or internal alterations, including the installation of cooking, heating and washing/sanitary facilities, to the building hereby permitted, shall be carried out without the prior permission in writing of the local planning authority.

*Ian Currie*

**INSPECTOR**



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## Appeal Decisions

Site visit made on the 23 July 2013

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 August 2013**

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**Appeal A - Ref: APP/T5150/C/13/2190549**

**Appeal B - Ref: APP/T5150/C/13/2190550**

**57 Berkhamstead Avenue, Wembley, London, HA9 6DU.**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr A Z Butt (Appeal A) and Mrs H S Butt (Appeal B) against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/12/0382.
- The notice was issued on the 5 December 2012.
- The breach of planning control as alleged in the notice is the erection of a building to the rear of the premises.
- The requirements of the notice are to demolish the rear building and remove all items, debris and materials arising from the demolition from the site.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) (Appeal A only), (f) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: Appeal A is allowed, the notice is quashed and planning permission is granted.**

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### The notice

1. It is said on behalf of the appellant that the allegation in the notice is not clear or precise as it is alleged that there has been the erection of a building to the rear of the premises whereas there are three outbuildings in the rear garden of the property, which I observed at my site visit. However, the appellant's grounds of appeal and further statement make it clear that the appellant is aware that the Council's action relates to the brick structure with a low pitched roof covered in tiles (as shown on the appellants drawing 13/001/4) and not either of the two much smaller timber sheds (annotated as 'Shed 2' and 'Shed 3' on the appellants drawing 13/001/3). If I was minded to uphold the notice I could correct it and make reference to the brick building in the allegation. I am satisfied that such a correction would not cause the appellant injustice.
2. The appellant's agent also disputes that the notice lacks proper reasons why planning permission should not be granted for the building nor specifies the purpose of the enforcement action. However, as well as specifying that the work is not 'permitted development' (PD) by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995, as amended, the Council refers to the scale and massing of the building detracting from the amenity of the area and refers to the relevant development plan policies. Further, the notice specifies in Schedule 4 that its purpose is to remedy a breach of control under s173(4)(A) of the Act. Overall, I am satisfied that the terms of the notice satisfy the provisions of s173 of the Act.

## **Appeal A - Appeal on ground (a)**

### *Main Issue*

3. The main issue is the effect of the rear building on the character and appearance of the area.

### *Reasons*

#### *Background*

4. The appeal site contains a two storey end of terrace property situated in a residential area of similar properties. Like its neighbours, the property has a long rear garden which abuts the rear gardens of properties in Jesmond Avenue. The appeal site garden contains two small timber sheds and the building the subject of the notice. The building is constructed with the ridge of the low pitched roof running at right angles to the length of the garden. Further the flank walls of the building are set in from the boundaries of the site and the elevation facing east contains two windows while the elevation facing the host dwelling contains the access door. At the time of my visit, the building was not sub-divided internally and contained general household and garden items.
5. The Council say that the building measures 6.5m deep and 5.2m wide with the eaves about 2.3m high and about 3.56m to the top of the pitch. Because of the height of the roof the Council says that the erection of the building was not 'permitted development'. Further, the Council contends that the building was constructed for primary residential purposes and has not been used for purposes incidental to the enjoyment of the dwelling house, but does not provide evidence to support this.
6. Alternatively, the appellant's agent says that the building is used for domestic storage and occasionally as a gym and these purposes are incidental to the use of the house. Moreover, the appellant's agent stresses that if the height of the building had not exceeded 2.5m, its erection would have fallen within the provisions of PD. While accepting that the building cannot be made to now comply with the GPDO, the appellant's agent proposes to reduce the height of the building to not exceed 2.5m as a 'fallback' position in order to remedy the breach, bearing in mind the guidance in Circular 11/95 that enforcement action should be remedial rather than punitive.

#### *Character and appearance*

7. The character of the area is formed by the main residential properties fronting the streets and their rear domestic gardens which produce a relatively open 'hinterland'. However, I observed at my site visit that in the immediate surroundings of the appeal site rear garden there are many other domestic outbuildings, which appear to be long standing, together with other high timber structures, fences and enclosures. There are also some mature evergreen and deciduous trees close to but outside the site boundaries. Therefore, although the garden space between the main frontage buildings is relatively open, there exists a fair degree of ancillary structures and landscaping which provide visual enclosure.



8. In this setting, I found at my site visit that although the appeal building's pitched roof projects above the height of the adjacent fencing, the mass, form and materials of the building mean that it is not prominent or imposing on its surroundings. Further, the siting of the building away from the flank boundaries of the plot gives a degree of space around the building. I have also taken into consideration that the existing trees around the site help reduce the visual impact of the building. While these trees are not within the control of the appellant, and therefore it cannot be assumed that they will remain, they do provide some screening at the moment and there is no evidence to establish that the trees, and in particular the Cyprus, would be harmed by the siting of the building or that the tree's future growth would be restricted.
9. The Council is concerned that the building has resulted in the loss of part of the garden for the house, but I have not been advised of any planning policy requirement of the size of a residual garden and it appeared to me at my site visit that a reasonable degree of soft landscaped and useable garden remained at the property. The Council also expresses concern about the building affecting the outlook from neighbouring properties, but I considered the separation distances at my site visit, and I am satisfied that the building does not impose on the outlook of neighbours.
10. Overall, I consider that the size, massing and spread of the building, and its external materials, are such that it does not have a harmful effect on the character and appearance of the area. It has been designed to fit into its context and in physical and visual terms is not inappropriate development, nor does it result in an out-of-scale building. I find that the erection of the building accords with the relevant requirements of saved policies BE2 and BE9 of the Council's Unitary Development Plan (2004) (UDP). These policies requiring an appropriate design and scale consistent with the context of a site are broadly in accordance with the National Planning Policy Framework and I should give them due weight. The Council also refer to policy CP 17 of the Council's Core Strategy (2010) but the preamble to it says it relates to particular built areas, such as conservation areas and other distinctive residential areas, and I consider that it does not generally apply to the appeal site.

#### *Other considerations*

11. The Council submits that the appellant has failed to demonstrate that a building of this floor space would be incidental to the enjoyment of the dwelling, but the appellant says that it is so used. Given that I have found that the visual impact of the building is not harmful, the use of the building can be controlled by condition to be for purposes incidental to the residential use of the dwellinghouse at No. 57.

#### *Conclusions and conditions*

12. Bringing together my findings, I conclude that the form, mass and location of the building do not result in development which harms the character and appearance of the area or the residential garden of the host dwelling and the building reasonably fits in with its surroundings. On this basis, the erection of the building accords with the relevant development plan policies. Further, this positive conclusion on the planning merits of the case is not outweighed by any other material consideration. I will therefore grant planning permission for the work.

13. In terms of conditions, the Council recommends that a condition is imposed to ensure that the building is not used for primary accommodation, including sleeping accommodation, and that it is only used for purposes incidental to the enjoyment of the dwelling house. This is reasonable and necessary and reflects how the appellant says that the building is so used. Further, the creation of separate residential accommodation at the far end of the garden would be at odds with the established pattern of development and the residential character of the area. I will therefore impose such a condition. The Council also requests that a condition is imposed to restrict the installation of facilities, like a water and gas supply, in the building. But such a restriction is not necessary in addition to the one above and may prevent reasonable usage that is incidental to the domestic use of the dwellinghouse.
14. Finally, given my conclusions above, I do not need to consider the appellant's proposal to reduce the height of the building. Nor do I need to consider the appeals under grounds (f) and (G) in either appeal. Since I will grant planning permission and quash the notice under Appeal A, no further action will be taken in connection with Appeal B.

### **Decisions**

#### **Appeal A - Ref: APP/T5150/C/13/2190549**

15. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a building to the rear of the premises on land at 57 Berkhamstead Avenue, Wembley, London, HA9 6DU as referred to in the notice, subject to the following conditions:
- 1) The building hereby permitted shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling known as 57 Berkhamstead Avenue, and shall not be used for primary residential purposes, including sleeping accommodation.

#### **Appeal B ref. f: APP/T5150/C/13/2190550**

16. I take no further action in this appeal.

*David Murray*

INSPECTOR