

Appeal Decision

Site visit made on 13 February 2014

by **R J Maile BSc FRICS**

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

Decision date: 4 March 2014

Appeal Ref: APP/T5150/W/13/2210159
51 Anson Road, London, NW2 3UY.

- 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 Michael Kenton against the decision of the Council of the London Borough of Brent.
 - The application ref: 13/1639, dated 13 June 2013, was refused by notice dated 16 October 2013.
 - The development proposed is the retention of part of the front brick hardstanding and removal of part to create a planted area.
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Application for Costs

1. An application for costs was made by Mr Michael Kenton against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Procedural Matters

2. There are no powers under the Town and Country Planning Act 1990 (as amended) for granting planning permission for retention, since this does not constitute an act of development as defined under section 55 of the Act. I have framed my decision accordingly.
3. At the time of my site visit the whole of the front garden had been surfaced with brick paviors without the benefit of planning permission. The scheme before me seeks to overcome the Council's objections by the removal of a portion of the brick hardstanding and the provision of soft landscaping.

Decision

4. The appeal is allowed and planning permission is granted for "retention of" part of the front brick hardstanding and removal of part to create a planted area at 51 Anson Road, London, NW2 3UY, in accordance with the terms of the application, ref: 13/1639, dated 13 June 2013, subject to the conditions set out in Annex A to this decision.
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Main Issues

5. The main issues in this case are:

- a) The effect of the development upon the character and appearance of the Mapesbury Conservation Area.
- b) Whether the proposed layout provides adequate access to the front door of the property.

Reasons

a) *Effect upon conservation area.*

6. The property comprises a detached Victorian house that has been converted to provide ten flats. It is located within an area of similar properties forming part of the Mapesbury Conservation Area.
7. The appellant states that the brick paviors have replaced a previous concreted hardstanding that covered the whole of the front garden area. I am satisfied from the observations made during my site visit that the dropped kerb has been in place for some years, which lends support to the assertions made on behalf of the appellant as to the existence of this earlier hardstanding.
8. It is now proposed to create a landscaped area in front of the bay window and to provide a single disabled parking space within the remainder of the front garden.
9. The Council has referred to the Mapesbury Design Guide, which states that any new hardstanding should be for one car only and should not cover more than 50 per cent of the front garden. Original boundary walls should be retained, or replaced, where possible.
10. Whilst the erection of a front boundary wall would deliver further benefits to the character and appearance of the conservation area, no such structure has been present at the appeal site for some years. The proposed hedge will provide an appropriate alternative boundary treatment as it matures.
11. The appeal proposal contains approximately 40 per cent of the front garden as landscaping. This is slightly below the figure of 50 per cent as required under "saved" Policy BE7 of the UDP¹ and by the Mapesbury Design Guide. It would nevertheless represent a considerable enhancement, in visual terms, over the pre-existing situation, which comprised entirely of concrete hardstanding.
12. For these reasons I have found on the first issue that the development, which incorporates a significant area of landscaping and a boundary hedge, would enhance the character and appearance of the Mapesbury Conservation Area as required by "saved" Policy BE7 of the UDP.

b) *Access to property.*

13. The layout provides for a single disabled parking bay. I note that the Council's Highway Officer objects to the lack of a clear means of access to the front door of no. 51.

¹ The Brent Unitary Development Plan 2004.

14. I am nevertheless satisfied that this can be achieved as demonstrated by the submitted layout drawing (no. 13/2740/102), which indicates a cross-hatched area between the back edge of pavement and the entrance doorway.
15. I therefore find on the second main issue that the proposed layout provides adequate access to the front door of the property, as required by "saved" Policies BE5 and TRN3 of the UDP.

Conditions

16. The Council has put forward a single condition should I be minded to allow the appeal. I have considered this against the tests of Circular 11/95² and find it to be reasonable and necessary in the circumstances of this case. I have also imposed two further conditions (nos. 1 and 3) for the reasons given below.
17. 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 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area.
18. As to Condition 3, 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, both for the avoidance of doubt and in the interests of proper planning.

Conclusion

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

R. J. Maile

INSPECTOR

² 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 full details of a scheme of soft landscape works has been submitted to and approved in writing by the Local Planning Authority. All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the date of such approval; and any plants which within a period of five years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written approval to any variation.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. 13/2740/100: Site Plan – scale 1:200; Existing Layout and North West Elevation – scale 1:100.

Drawing no. 13/2740/102 Rev B: Proposed Site Plan – scale 1:200; Proposed Plan and North West Elevation – scale 1:100.



Costs Decision

Site visit made on 13 February 2014

by **R J Maile BSc FRICS**

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

Decision date: 4 March 2014

Costs application in relation to Appeal Ref: APP/T5150/W/13/2210159 51 Anson Road, London, NW2 3UY.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Michael Kenton for a full award of costs against the Council of the London Borough of Brent.
 - The appeal was made against the refusal of planning permission for the retention of part of the front brick hardstanding and removal of part to create a planted area.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009¹ advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It is suggested by the appellant that the Council refused the application because it wished a front boundary wall to be erected. There has been no pre-existing front boundary wall at the property for many years, such that this requirement is considered to be unreasonable. Planning permission should therefore have been granted.
4. The appellant also refers to a recent planning permission at 14 Anson Road for the installation of new soft landscaping to front forecourt and the replacement of timber entrance doors. However, the informatives to the planning permission require the submission of a further planning application for the hard surfaced element of the front garden and for front boundary treatment.
5. For this reason, the detailed wording of that permission does not support the appellant's contention as to the Council's stance in respect of the provision of a front boundary wall at the subject property.

¹ Circular 03/2009: Costs Awards in Appeals and Other Planning Proceedings.

6. Given the location of the appeal site within the Mapesbury Conservation Area, the Council was justified in seeking further benefits to the appearance of the area by requiring the erection of a dwarf or low brick wall. Such features were noted on many of the dwellings nearby and are obviously an original feature.
7. My decision was finely balanced. Although the proposal did not include a dwarf or low brick boundary wall, I have nevertheless been influenced by the benefits of providing an area of landscaping to the existing large expanse of unrelieved brick paviers.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

R. J. Maile

INSPECTOR



Appeal Decision

Site visit made on 6 March 2014

by **R J Maile BSc FRICS**

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

Decision date: 17 March 2014

Appeal Ref: APP/T5150/A/13/2210921

1-7 Vishnu Court, May Lane, Harrow, Middlesex, HA3 9DG.

- 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 Bharat Kerai against the decision of the Council of the London Borough of Brent.
 - The application ref: 13/2561, dated 4 September 2013, was refused by notice dated 28 October 2013.
 - The development proposed is retrospective application for the installation of steel railings and gates for pedestrian and vehicular access to block of flats – resubmission within 12 months.
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Procedural Matter

1. I have considered this appeal having regard to the recently issued Planning Practice Guidance, which came into force on 6 March 2014. However, in the light of the facts in this case its content does not alter my conclusions.

Decision

2. The appeal is allowed and planning permission is granted for retrospective application for the installation of steel railings and gates for pedestrian and vehicular access to block of flats – resubmission within 12 months at 1-7 Vishnu Court, May Lane, Harrow, Middlesex, HA3 9DG, in accordance with the terms of the application ref: 13/2561, dated 4 September 2013 and the plans submitted with it, subject to the following condition:
 - 1) Within a period of 8 weeks from the date of this decision the steel railings and gates shall be painted to provide a matt black finish and permanently retained in that condition.

Main Issue

3. The main issue here is the impact of the gates and railings upon the character and appearance of the surrounding area.

Reasons

4. The property comprises a modern, two storey block of flats located within a mixed residential area. The flats are set back from the main road (The Mall)
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and have frontage to May Lane, a narrow carriageway that serves a community centre to the rear.

5. The gates that have been erected are of galvanised steel and allow access to the flats for both vehicles and pedestrians. The railings to the flank boundary fronting May Lane are largely screened by an existing mature hawthorn hedge.
6. The metal gates and railings are an appropriate form of enclosure to the hard surfaced area in front of the flats. Furthermore, they are marginally lower than the close boarded fence that provides the adjacent boundary to the rear gardens of Magnolia Court. I nevertheless agree with the Council that it would be preferable for them to be painted in a matt black finish, which would render them less prominent in the street scene. I have included a condition to give effect to this.
7. In addition to their appropriate design and appearance the gates and railings also provide increased security. This is a matter referred to in a letter from a local resident. That same resident has provided two further letters of support in her capacity as Vice Chair of the Kenton Homeowners Association and as Secretary of the adjacent Preston & Mall Youth and Community Centre in May Lane.
8. I therefore find on the main issue that subject to the condition I have imposed the metal gates and railings will not have a harmful impact upon the character and appearance of the surrounding area, as required by "saved" Policies BE2, BE6 (f) and BE7 of the UDP¹.

R. J. Maile

INSPECTOR

¹ The London Borough of Brent Unitary Development Plan 2004.

Appeal Decision

Site visit made on 3 March 2014

by **A U Ghafoor BSc (Hons) MA MRTPI**

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

Decision date: 17 March 2014

Appeal Ref: APP/T5150/D/14/2213284

6 Chapman Crescent, Harrow HA3 0TE

- 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 Dr Roheet Mehta against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/3314, dated 30 October 2013, was refused by notice dated 24 December 2013.
 - The development proposed is single-storey front extension and garage conversion to create additional bedroom at ground floor for ambulant disabled person, together with internal alterations and redecoration.
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Decision

1. The appeal is allowed and planning permission is granted for single-storey front extension and garage conversion to create additional bedroom at ground floor for ambulant disabled person, together with internal alterations and redecoration at 6 Chapman Crescent Harrow HA3 0TE in accordance with the terms of the application, Ref 13/3314, dated 30 October 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: 201222.P.301 Rev 0, 201222.P.002 Rev A, 201222.P.101 Rev 0 and 201222.P.001 Rev 0 all dated 24 September 2012.
 - 3) 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.

Reasons

2. The main issue to consider is the impact of the proposed development upon character and appearance of the host dwelling and that of the locality. No. 6 is a semi-detached dwelling located within a mainly residential area. The property includes a two-storey side element with integral garage. The garage is flush with the front bay feature. The development would involve the conversion of the garage into residential accommodation, the replacement of the front garage door with two windows, and the erection of a single-storey front extension to include a porch.

3. The Council's supplementary planning guidance 5: *Altering and Extending your Home*, adopted 2002, advises that front extensions will not normally be permitted unless these are the predominant character of the area. However, for the following reasons, I consider that a pragmatic approach can be taken in this particular case.
4. The recessed front entrance has already been in filled with a door and glazing. The front extension to the garage and entrance would project from the street-facing elevation and it would include a pitched roof. However, its overall height and scale would be limited. Given the architectural merits of the proposal, in my view the development would improve the external appearance of the host dwelling. The arrangement, size and layout of the new openings would be similar to the existing windows. In addition, the proposal would retain the distinctive brick parapets and domestic Dutch-style architecture.
5. I acknowledge that the front extension to the adjoining property predates the Council's SPG5. However, when considered in combination, the proposed extensions would not materially harm the external appearance of the host dwelling or the pair of semi-detached dwellings, because of the limited bulk, mass and volume.
6. The quality of the street scene is defined by a variety of dwelling types. The architectural styles are also different and front projecting extensions are not that uncommon. In this location, I take the view that the development would not be visually intrusive or out-of-keeping with the character of the street scene, because of the front extension's design and layout.
7. Next, the imposition of conditions in the light of guidance¹. In addition to the standard commencement condition, it would be reasonable to require the development to be carried out in accordance with the submitted plans in order to avoid any doubt. In the interests of safeguarding the character and appearance of the host dwelling and locality, it would be reasonable to require the development to be carried out in matching materials.
8. Taking all of the above points together, I find that the proposed front extension to the garage and front pitched roof entrance design would not materially detract from the appearance of the host dwelling or harm the character of the street scene. The development would not conflict with the main aims and objectives of SPG5.
9. Accordingly, the development would comply with the main aims and objectives of Policy BE9 of the London Borough of Brent Unitary Development Plan 2004, which seeks architectural quality in all developments. This local planning policy is broadly consistent with advice contained within paragraphs 17, 56, 61 and 64 of the National Planning Policy Framework.
10. For all of the above reasons and having considered all other matters, I conclude that the proposed development would not have a detrimental impact upon the character and appearance of the host dwelling and that of the street scene.

A U Ghafoor

INSPECTOR

¹ On 6 March 2014, the Planning Practice Guidance was issued by the Government. Apart from Annex A (model conditions), the rest of Circular 11/95: *The use of conditions in planning permissions* is cancelled.