



Appeal Decision

Site visit made on 19 February 2014

by **Susan Wraith DipURP MRTPI**

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

Decision date: 8 April 2014

Appeal Ref: APP/T5150/C/13/2204990

91 Neasden Lane, London, NW10 2UE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr S Chana against an enforcement notice issued by the London Borough of Brent.
- The notice was issued on 30 July 2013.
- The breach of planning control as alleged in the notice is:
Without planning permission, the erection of a two storey extension to the side of the premises AND Without planning permission, the change of use of the premises into 4 self contained flats.
- The requirements of the notice are:
STEP 1 Cease the use of the premises as 4 flats, remove all kitchens/cooking facilities, except ONE, remove all associated materials and debris associated with the unauthorised use from the premises and restore the premises back into a single flat.
STEP 2 Demolish the two storey extension to the side of the premises, remove all materials arising from that demolition and remove all materials associated with the unauthorised development.
- The period for compliance with the requirements is 6 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 in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice as corrected is upheld as set out below in the Formal Decision.

The enforcement notice

1. In Schedule 2 the Council has framed the allegation in two parts. Firstly the erection of a two storey side extension is alleged and, secondly, the allegation identifies a change of use of the premises to 4 self contained flats. From the evidence of both parties and the appellant's response to the planning contravention notice it appears the works to erect the extension and convert the property to flats were undertaken at the same time as a single development. However, the two elements are identified separately and I shall consider each accordingly.
2. At Schedule 4 Step 1 the enforcement notice requires cessation of the use of the premises as "4 flats". However, under s173(11) of the Act where a notice could have required activities to cease but does not do so planning permission shall be treated as having been granted for the remainder once the requirements of the notice have been complied with. In other words, by

specifying the cessation of "4 flats", 3 or 2 flats could continue. Clearly this is not what the Council intended or what the appellant has understood. I shall correct the notice by removing reference to the number of flats. I can do so without injustice to either of the main parties under the powers of s176(1)(a) of the Act.

3. I also intend, at Schedule 4 Step 1, to correct the notice by deleting the words "and restore the premises back into a single flat". An enforcement notice cannot require a former use to be reinstated or introduce a new use. This is an excessive requirement which goes further than is necessary to remedy the breach. I shall, however, include a requirement that the property and land is returned to its condition prior to the breach. It would be more appropriate for this to follow the requirements at Step 2. These are also corrections I can make without injustice to either of the parties under the powers of s176(1)(a).

The appeal on ground (a)

Main issues

4. In respect of the two storey extension, the main issue is the effect upon the character and appearance of the area.
5. In respect of the use as 4 flats, the main issues are:
 - i. Whether the development provides for acceptable living conditions for the occupiers; and
 - ii. The effect upon neighbouring residents in terms of accessibility to on street parking.

The extension – effect upon the character and appearance of the area

6. The Council considers that the two storey extension alters the character of the building, is an excessive addition to the original roof plane and adds significant bulk. However, the Council granted planning permission in 2005 for a two storey extension (application number 05/1715) (the 2005 permission) which in terms of its external appearance, size and design was the same (in all material respects) as that which has been built. I am not aware of any material change in circumstances since the time of that earlier decision.
7. The area has a mixed residential and commercial character with a variety of building styles. There is a prevalence of terraced properties fronting Neasden Lane in the vicinity of the site, the appeal property itself being at the end of a terrace of similar properties.
8. The two storey side extension continues in the same front plane as the rest of the terrace and to the same ridge height and eaves level. It appears as a natural part of the terrace. Whilst built to the boundary, a visual gap is maintained between it and the differently designed flat roofed building of the adjacent petrol filling station.
9. I note that the Council's design guidance generally encourages that extensions to residential properties are set back from the frontage and down from the ridge. However, in this particular case the extension is seen as part

of the terrace and is not unduly dominant. It forms an acceptable addition to the property within the street scene.

10. The extension is of appropriate design and fits well within its context. It does not cause harm to the character and appearance of the area. There is no conflict with the aims of policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan.

Use as 4 flats - occupiers living conditions

11. The appellant has not taken issue with the requirement to cease the use as 4 flats. At the time of my visit I saw that all but one of the kitchens had been removed and that works were in progress to discontinue the use as flats.
12. The Council is broadly supportive of conversions as a means of increasing the overall housing stock within the Borough. However, this is only where acceptable living standards for the occupiers can be met. In this case the room size and floor space of the residential units does not meet the standards set out in the Council's supplementary planning guidance and the London Plan. The units are cramped and do not provide for comfortable living. There is very little outside space which lacks bin storage and cycle storage facilities.
13. The development does not provide adequate living standards for the occupiers of the 4 flats. The development is thus contrary to policy H18 of the London Borough of Brent Unitary Development Plan, policy 3.5 of the London Plan and Supplementary Planning Guidance No.17, Design Guide for New Development.

Use as 4 flats - effect upon on street car parking

14. The property has no off street parking. The development cannot meet the parking standards which are set out in the Unitary Development Plan.
15. The area is well served by public transport. The occupiers of the property have a choice of transport modes. Even so, it is likely that the use as 4 flats will place some additional demands for on street car parking.
16. The surrounding streets are heavily parked. Even a small increase in the demand for on street parking is likely to give rise to inconvenience to other residents in the area and the use will add to the already high demand for parking in the locality.
17. For these reasons the change of use to 4 flats is unacceptable because of its lack of car parking. It is thus contrary to policies H19 and PS14 of the London Borough of Brent Unitary Development Plan.

Conclusions on ground (a)

18. Although there is no harm to the character and appearance of the area arising from the extension there is substantial harm arising from the use as 4 flats in terms of the substandard living conditions for occupants and inconvenience to local residents arising from additional on street parking demands. As the two elements of the allegation (the extension and the change of use to 4 flats) are severable one from the other it is possible for me to issue a split decision. Therefore, I conclude that the appeal on ground (a) should succeed in relation to the two storey side extension. However, in

relation to the change of use to 4 flats, I conclude that the appeal on ground (a) should fail.

19. In respect of the two storey extension, I consider that to protect the privacy of the occupiers of the adjacent property a condition restricting the construction of windows in the flank elevation is necessary (similar to that imposed by the Council on the 2005 permission). It is also necessary to impose a condition limiting the use of the extension to living accommodation associated with the main dwellinghouse, that being the use intended by the 2005 permission. I shall grant planning permission with conditions for that part of the application deemed to have been made under s177(5) of the Act as amended. I shall refuse to grant permission for the remainder, that is the change of use to 4 flats.
20. In making this decision I am mindful that, under the provisions at s180 of the Act, the requirements of the upheld notice will cease to have effect so far as they are inconsistent with the planning permission granted.
21. As I am granting permission for the extension there is no need for me to consider the appeal on grounds (f) and (g) so far as it relates to the extension. I shall proceed to consider the appeal on grounds (f) and (g) with particular regard to the change of use to 4 flats.

The appeal on ground (f)

22. S173 of the Act states that there are two purposes which the requirements of an enforcement notice can seek to achieve. The first (s173(4)(a)) is to remedy the breach of planning control which has occurred. The second (s173(4)(b)) is to remedy any injury to amenity which has been caused by the breach. An appeal on ground (f) is constrained by the Council's purpose in issuing the notice.
23. It is clear from the requirements of the notice that the Council is seeking a complete remedy of the breach. Its purpose in issuing the notice thus falls within (s173(4)(a)). It follows, therefore, that the appeal under ground (f) is confined to the consideration of whether the requirements exceed what is necessary to achieve that purpose.
24. The requirements of Schedule 4 Step 1 (as I intend to correct them), to cease the use and remove the kitchens except one, do no more than is necessary to secure the cessation in the use of the premises as flats. They are not excessive for the purpose of remedying the breach.
25. The appellant has drawn attention to the requirement to restore the premises back to a single flat. As stated in paragraph 3 above this is a matter which I intend to deal with as a correction to the notice. I will remove this part of the requirement.
26. The appellant has requested a requirement that the former dwellinghouse use is reinstated. Under s57(4) of the Act, where an enforcement notice has been issued in respect of development of land planning permission is not required for its use for the purpose for which it could lawfully have been used if that development had not been carried out. In other words, any previous lawful rights to use the property as a dwellinghouse have not been taken away by the enforcement notice. It is not necessary, and would be excessive

in any event, to include a requirement to reinstate the former use within the notice.

27. For the reasons given above I conclude that there are no lesser steps for remedying the unauthorised change of use to 4 flats than those set out in the notice. The appeal on ground (f) fails.

The appeal on ground (g)

28. The appellant considers that a period of 6 months for compliance is too short, taking into account the obligations under the Housing Act 2004 and the need to serve notice on tenants. At my site visit I saw that works were already in progress towards discontinuing the use as flats and all but one of the kitchens had already been removed. Whilst a longer period might be helpful to the appellant and the occupiers this has to be balanced with the public interests of remedying the harm which has been identified in the enforcement notice. A period of 6 months is a reasonable time period to discontinue the use and carry out the works required by the notice bearing in mind that works are already in progress towards compliance. The appeal on ground (g) fails.

Other matters

29. Planning Guidance was published on 6 March 2014. A number of guidance notes and circulars (including Circular 10/95 referred to by the appellant) have been cancelled. I have considered the content of the Planning Guidance. In the light of the facts in this case the guidance does not alter my conclusions on any of the issues in this appeal.
30. The appellant has requested confirmation that the appeal fee is correct. I have seen correspondence between the parties and the Planning Inspectorate on this matter. The terms of the deemed application (and thus the fee) are derived from the allegation in the enforcement notice. The allegation relates to the formation of 4 flats. I have no reason to believe that the fee asked for was incorrect.

Conclusion

31. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with corrections and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant, by virtue of s180 of the Act.

Formal Decision

32. The enforcement notice is corrected by:
- (a) Deleting the wording of Schedule 4 Step 1 in its entirety and substituting the words "Cease the use of the premises as flats, remove all kitchens/cooking facilities, except ONE and remove all associated materials and debris associated with the unauthorised use from the premises."

- (b) Deleting the wording of Schedule 4 Step 2 in its entirety and substituting the words "Demolish the two storey extension to the side of the premises, remove all materials arising from that demolition and restore the premises to its condition before the unauthorised development took place".

The appeal is allowed insofar as it relates to the erection of the two storey extension to the side of the premises, and planning permission is granted on the application deemed to have been made under s177(5) of the 1990 Act as amended for the erection of the two storey extension to the side of the premises subject to the following conditions:

- (i) The use of the extension shall be limited to use as living accommodation associated with the dwellinghouse at 91 Neasden Lane.
- (ii) No windows or glazed doors shall be constructed in the flank elevation of the extension.

The appeal is dismissed and the enforcement notice is upheld as corrected for the change of use of the premises into 4 self contained flats, and planning permission is refused in respect of the change of use of the premises into 4 self contained flats, on the application deemed to have been made under s177(5) of the 1990 Act as amended.

Susan Wraith

Inspector

Appeal Decision

Site visit made on 19 February 2014

by **Susan Wraith DipURP MRTPI**

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

Decision date: 25 April 2014

Appeal Ref: APP/T5150/C/13/2203468 25 Limesdale Gardens, Edgware, HA8 5JD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr V H Khetani against an enforcement notice issued by the London Borough of Brent.
- The notice was issued on 29 July 2013.
- The breach of planning control as alleged in the notice is:
 - The unauthorised erection of a building in the rear garden of the premises.
 - The unauthorised erection of a raised terrace in the rear garden of the premises.
- The requirements of the notice are:
 - STEP 1 Demolish the building in the rear garden and remove all items and debris arising from that demolition and remove all materials associated with the unauthorised development from the premises.
 - STEP 2 Remove the raised platform/terrace in the rear garden and remove all materials associated with the unauthorised development from the premises.
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary matter

1. Appeals were lodged by Mr V H Khetani and N V Khetani. In respect of the appeal by N V Khetani the prescribed fee was not paid within the specified period. The appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended do not fall to be considered. No further action is taken in respect of the appeal by N V Khetani.

The deemed planning application

2. The deemed planning application under s177(5) takes its terms from the wording of the allegation.
3. The first allegation of the enforcement notice (at Schedule 2) concerns the erection of a building in the rear garden of the premises. The Council has not stated the intended use of the building in its description of the breach.

4. In its reasons for issuing the notice (at Schedule 3) the Council says that the building is not permitted development under Class E¹ because of its size and scale. Another reason given by the Council is that it suspects the creation of a separate residential unit of accommodation which is not incidental to the enjoyment of the dwellinghouse. The Council develops this argument in its statement and introduces another alternative, that the building could have been built with the intention of use for primary living accommodation (e.g. bedroom, bathroom, kitchen).
5. Irrespective of what the Council says it suspects, there doesn't appear to be any evidence of the building being used as a dwelling or being used for any other purpose at the present time. At my site visit I saw that the interior of the building was unfinished.
6. The allegation is the erection of a building. The deemed planning application is simply for that. I shall deal with the appeal accordingly.
7. The second allegation is the erection of a raised terrace. Again I shall deal with the deemed planning application and appeal accordingly.

Main issues

8. The main issue in respect of the building is the effect upon the living conditions of the occupiers of 23 and 27 Limesdale Gardens and 2 Birchwood Court with particular regard to outlook and daylight and sunlight.
9. The main issue in respect of the raised terrace is the effect upon the living conditions of the occupiers of 27 Limesdale Gardens with particular regard to privacy.

Reasons

Effect upon outlook, daylight and sunlight (the building)

10. The building is located at the end of the rear garden of the property. Because of the length of the rear gardens on Limesdale Gardens and 2 Birchwood Court, the building is some distance from neighbouring properties. The ground level slopes shallowly downwards in a south westerly direction from the main dwelling to the appeal building, and also downwards in a south easterly direction with the garden at number 27 being slightly higher and the garden at 23 being slightly lower than the appeal land.
11. The building is of single storey hipped roof design and set in from the boundaries. The roof rises from its eaves inwards so that its highest part, at the ridge, is some distance away from the neighbouring boundaries.
12. Taking into account the distance of the building from neighbouring dwellings, the slope of the land and the hipped roof design sloping inwards from the boundaries I do not consider that the building has an unreasonable effect upon the living conditions of neighbours in terms of outlook.
13. Bearing in mind the path of the sun the building is unlikely to result in unacceptable shadowing of the gardens of 23 Limeswood Gardens and 2

¹ Class E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 sets out permitted development rights for the erection of buildings within a dwelling curtilage required for a purpose incidental to the enjoyment of the dwellinghouse as such.

Birchwood Court. Although sited south of the boundary with number 27, taking into account its lower ground level and hipped roof design the building is not likely to unreasonably affect sunlight and daylight within the garden area of that property either.

14. The Council has expressed concern about the size of the building which spans much of the width of the garden, and its proximity to the boundaries. Similar concerns have been expressed by a neighbour. However, a building of this size and in this position could be erected without the need for planning permission, subject to a limitation on its height.
15. Under Class E the height limitation for a building within 2 metres of the boundary is 2.5 metres. I am told the appeal building is 2.5 metres at its eaves, rising to 3.9 metres at its ridge. At its eaves the building is at the permitted height. The extent to which works could have been undertaken under Class E and the extent of any additional impacts arising would have been matters for me to consider, had I not already found the building to be acceptable on its individual merits.
16. I acknowledge the Council's concerns about how the building may be used in the future. I note that the building has been constructed with electric and water supplies. The Council should be in a position to control future uses that are not incidental to the enjoyment of the dwellinghouse. I will ensure that this is possible through the imposition of a condition which limits the use.
17. The Council is concerned that such a condition would be onerous and difficult to monitor. However, all buildings constructed under permitted development rights are subject to such a limitation under the Town and Country Planning (General Permitted Development) Order 1995. It therefore follows that a similar restriction for development requiring planning permission would not be unreasonable.
18. I conclude that the building does not unreasonably affect the living conditions of neighbours in terms of outlook, daylight and sunlight. I find no conflict with policy BE9 of the Brent Unitary Development Plan, nor with policy CP1 of the Adopted Core Strategy.

Effect upon privacy (the raised terrace)

19. The terrace abuts the boundary with number 27. There is a fence to the boundary already which substantially screens views into the neighbouring garden. I find that there will be no unacceptable loss of privacy so long as a fence of 1.7 metre height measured from the surface of the terrace is in place. This can be required by a condition.
20. The Council have expressed concern that such a condition would give rise to an increased sense of enclosure for the occupants of the neighbouring property and would result in loss of light and amenity. However, taking the terrace and fence together, the overall height would not be unreasonable on a boundary between properties in a residential area. Having regard to the path of the sun, the daylight and sunlight enjoyed by the occupiers of number 27 would not be unduly affected.
21. Because of its distance to the boundary with number 23, and the existing boundary screening, there is no unreasonable effect upon the privacy of the occupiers of that property.

22. The Council has raised concerns about the terrace facilitating a more intense use. However, it is not unreasonable that a residential property has outside space which the occupiers can use for recreational purposes. This is not a consideration which alters my view on the acceptability of the terrace.
23. I conclude that there is no unreasonable effect upon the privacy of number 27 arising from the raised terrace that cannot be overcome by a condition. I find no conflict with policy BE9 of the Brent Unitary Development Plan, policy CP1 of the Adopted Core Strategy or Supplementary Planning Guidance no.5 "Altering and Extending Your Home".

Other matters

24. It has been suggested that the building is out of keeping with the character and appearance of the area. However, its materials are similar to those of the main dwelling and other nearby properties and there are other similar garden buildings in the locality. I do not find harm to the character and appearance of the area or any conflict with policy BE2 of Brent Unitary Development Plan.
25. The deemed application does not concern use of the building as a dwelling. I find no conflict with Policy H15 which relates to backland development.
26. The Council is concerned that, if allowed, the developments will set undesirable precedents. However, I have only found the developments acceptable in the particular circumstances of this case. Any other cases would need to be determined on their individual merits.

Conclusion

27. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

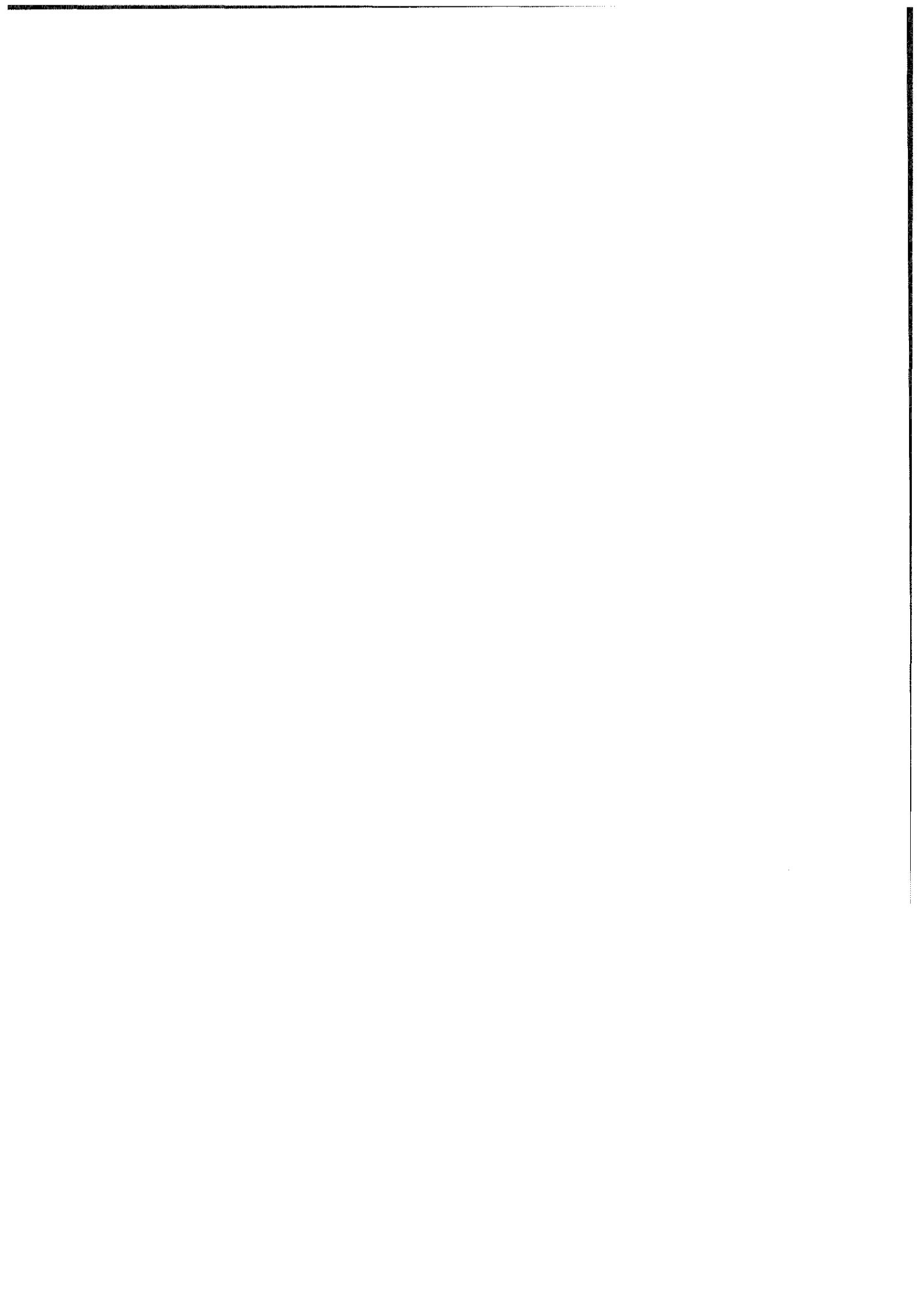
Formal decision

28. 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 in the rear garden of the premises and the erection of a raised terrace in the rear garden of the premises on the land at 25 Limesdale Gardens, Edgware, HA8 5JD referred to in the notice, subject to the following conditions:
- (i) The use of the building shall be limited to use for purposes incidental to the enjoyment of the dwellinghouse as such.
 - (ii) Unless within 1 month of the date of this decision a scheme for a screen fence of 1.7 metre height positioned to the boundary between the raised terrace and 27 Limesdale Gardens, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the raised terrace shall be removed and all debris arising from that demolition shall be removed from the site; and if no scheme is approved within 12 months of the date of this letter, the raised terrace shall be removed and all debris arising from that demolition shall be removed from the site.

- (iii) Following implementation of any scheme approved pursuant to condition (ii) above, the fence shall thereafter be retained.

Susan Wraith

Inspector





Appeal Decision

Site visit made on 8 January 2014

by Miss A Morgan BSc (Hons) MSc UP MRTPI

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

Decision date: 2 April 2014

Appeal Ref: APP/T5150/C/13/2206778

9 Whitby Gardens, London, NW9 9TU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr M Ali against an enforcement notice issued by the London Borough of Brent.
 - The notice was issued on 30 August 2013.
 - The breach of planning control as alleged in the notice is *without planning permission, the erection of a rear dormer window, roof extension and the increase in height of the ridge of the roof.*
 - The requirements of the notice are to *demolish the unauthorised rear dormer and roof extension, and return the ridgeline of the roof and the remaining (sic) of the roof to its original condition before the unauthorised development took place and to remove all materials and debris associated with that demolition from the premises.*
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is corrected by deletion of the word "remaining" in Schedule 4 and substitution with the word "remainder" and the insertion of "Step 2" before the second paragraph in Schedule 4. Subject to these corrections the appeal is allowed insofar as it relates to the rear dormer and roof extension 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 erection of a rear dormer window and roof extension at 9 Whitby Gardens, London, NW9 9TU subject to the following condition:
 - 1) Within 6 months from the date of this permission, the rear dormer window and roof extension shall be reduced in height in accordance with the drawing submitted, number WG9-1001, so as not to exceed the ridge height of the original dwellinghouse.
2. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the increase in the height of the ridge of the roof, and planning permission is refused in respect of the increase in height of the ridge of the roof on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. It is apparent that the requirements of the enforcement notice contain a typing mistake and some missing text. I can correct the notice without injustice by deleting the word "remaining" and its substitution with the word "remainder" and inserting "Step 2" before the second paragraph in Schedule 4.
4. Planning Practice Guidance was published on 6 March 2014 and the content of the guidance has been considered but in light of the facts in this case the Planning Practice Guidance does not alter my conclusions.

Ground (a) and deemed application

Main Issue

5. The main issue is the effect of the development on the character and appearance of the dwelling and the surrounding area.

Reasons

6. No.9 Whitby Gardens is a semi-detached house on an estate of similar houses. The road, Whitby Gardens, consists of hipped semi-detached houses. The unauthorised development has been built off the side and rear walls of the dwelling and takes up nearly the whole width of the roof and the ridge has been raised. The roof was originally hipped and has been 'gabled' as part of the development. The Council have argued that the development is neither appropriately designed nor sensitive to the character of the host dwelling or the locality, giving the dwelling a top heavy, incongruous appearance.
7. The rear dormer, particularly because of the increase in overall height above the original ridge, results in a large and bulky addition to the roof which appears too dominant on the host building and too visually disruptive to the rhythm of the roofscape and built form in the immediate neighbourhood of the appeal property. It unacceptably harms the character and appearance of the area. In so doing there is conflict with the relevant policies of the development plan and in particular with those which seek to achieve a high standard of design such as Unitary Development Plan Policy BE9 and the design advice set out in Supplementary Planning Guidance 5 – Altering and Extending your Home (SPG 5).
8. In its reasons for issuing the notice the Council says that the development is not permitted development because of the increase in the height of the roof. It is acknowledged that it is not possible to claim permitted development rights retrospectively. The time to determine whether an extension was permitted is at the time it was built. Nonetheless, the Appellant has offered to reduce the height so that it is commensurate with what might have been built as permitted development. Bearing in mind that the intention of the enforcement regime is remedial rather than punitive, it is considered that the appropriate response in this case would be to require the removal of that part of the development which, the Council says, took the whole beyond what could have been built without express permission.
9. Section 177(1) (a) of the Act enables the grant of planning permission for the matters alleged in the notice, whether in relation to the whole or any part. It is my intention to grant planning permission for the dormer window and roof

extension subject to a condition requiring a reduction in height in accordance with the drawing submitted, within the 6 months as suggested, and to refuse the increase in the height of the ridge of the roof.

10. To avoid the possibility of an inconsistent permission being granted by way of s173 (11), I will leave the enforcement notice as it is since, by virtue of s180 it would cease to have effect insofar as it is inconsistent with the planning permission being granted.
11. The appellant has referred me to a number of other similar developments in the surrounding area, in particular to a recent appeal decision, at Brinkburn Gardens. However these do not assist since I have considered this development in the specific context of the Whitby Gardens street scene.

Other Matters

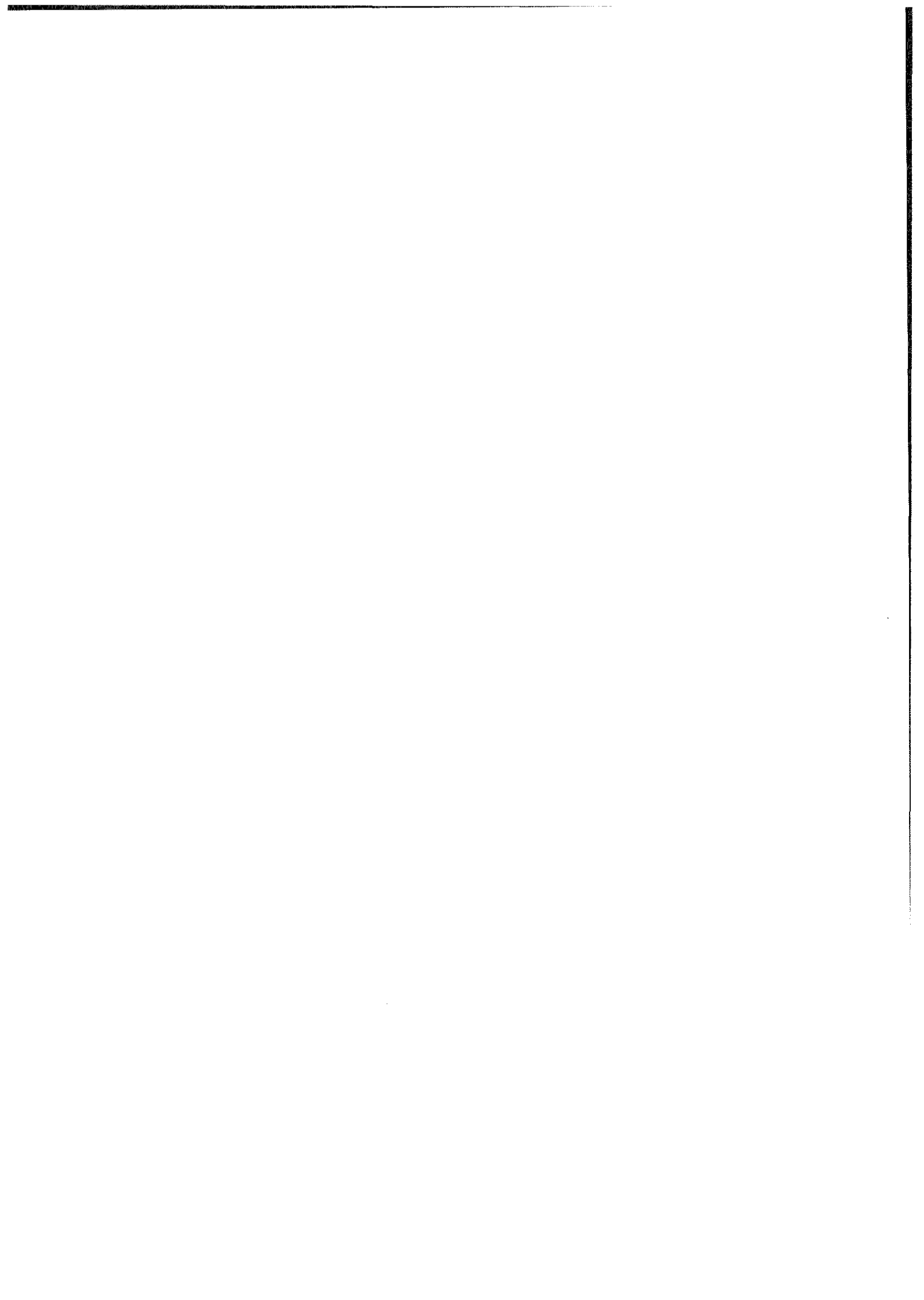
12. I have also considered a letter and petition, signed by several neighbours, which have been submitted in support of the development, but these do not outweigh my conclusion on the main issue.

Conclusion on ground (a) and deemed application

13. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with corrections and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of S180 of the Act.

Miss A Morgan

Inspector



Appeal Decision

Site visit made on 8 January 2014

by **Miss A Morgan BSc (Hons) MSc UP MRTPI**

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

Decision date: 2 April 2014

Appeal Ref: APP/T5150/C/13/2206782
12 Whitby Gardens, London, NW9 9TT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr N Yadev against an enforcement notice issued by the London Borough of Brent.
 - The notice was issued on 30 August 2013.
 - The breach of planning control as alleged in the notice is *without planning permission, the erection of a rear dormer window, roof extension and the increase in height of the ridge of the roof.*
 - The requirements of the notice are to *demolish the unauthorised rear dormer and roof extension, and return the ridge line of the roof and reinstate the rear part of the roof to its original condition before the unauthorised development took place and to remove all materials and debris associated with that demolition from the premises.*
 - The period for compliance with the requirements is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed insofar as it relates to the rear dormer and roof extension 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 erection of a rear dormer window and roof extension at 12 Whitby Gardens, London, NW9 9TT subject to the following condition:
 - 1) Within 6 months from the date of this permission, the rear dormer window and roof extension shall be reduced in height in accordance with the drawing submitted, number WG12-1001, so as not to exceed the ridge height of the original dwellinghouse.
2. The appeal is dismissed and the enforcement notice is upheld as corrected insofar as it relates to the increase in the height of the ridge of the roof, and planning permission is refused in respect of the increase in height of the ridge of the roof on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Planning Practice Guidance was published on 6 March 2014 and the content of the guidance has been considered but in light of the facts in this case the Planning Practice Guidance does not alter my conclusions.

Ground (a) and deemed application

Main Issue

4. The main issue is the effect of the development on the character and appearance of the dwelling and the surrounding area.

Reasons

5. No.12 Whitby Gardens is a semi-detached house on an estate of similar houses. The road, Whitby Gardens, consists of hipped semi-detached houses. The unauthorised development has been built off the side and rear walls of the dwelling and takes up nearly the whole width of the roof and the ridge has been raised. The roof was originally hipped and has been 'gabled' as part of the development. The Council have argued that the development is neither appropriately designed nor sensitive to the character of the host dwelling or the locality, giving the dwelling a top heavy, incongruous appearance.
6. The rear dormer, particularly because of the increase in overall height above the original ridge, results in a large and bulky addition to the roof which appears too dominant on the host building and too visually disruptive to the rhythm of the roofscape and built form in the immediate neighbourhood of the appeal property. It unacceptably harms the character and appearance of the area. In so doing there is conflict with the relevant policies of the development plan and in particular with those which seek to achieve a high standard of design such as Unitary Development Plan Policy BE9 and the design advice set out in Supplementary Planning Guidance 5 – Altering and Extending your Home (SPG 5).
7. In its reasons for issuing the notice the Council says that the development is not permitted development because of the increase in the height of the roof. It is acknowledged that it is not possible to claim permitted development rights retrospectively. The time to determine whether an extension was permitted is at the time it was built. Nonetheless, the Appellant has offered to reduce the height so that it is commensurate with what might have been built as permitted development. Bearing in mind that the intention of the enforcement regime is remedial rather than punitive, it is considered that the appropriate response in this case would be to require the removal of that part of the development which, the Council says, took the whole beyond what could have been built without express permission.
8. Section 177(1) (a) of the Act enables the grant of planning permission for the matters alleged in the notice, whether in relation to the whole or any part. It is my intention to grant planning permission for the dormer window and roof extension subject to a condition requiring a reduction in height in accordance with the drawing submitted, within the 6 months as suggested, and to refuse the increase in the height of the ridge of the roof.

9. To avoid the possibility of an inconsistent permission being granted by way of s173 (11), I will leave the enforcement notice as it is since, by virtue of s180 it would cease to have effect insofar as it is inconsistent with the planning permission being granted.
10. The appellant has referred me to a number of other similar developments in the surrounding area, in particular to a recent appeal decision, at Brinkburn Gardens. However these do not assist since I have considered this development in the specific context of the Whitby Gardens street scene.

Other Matters

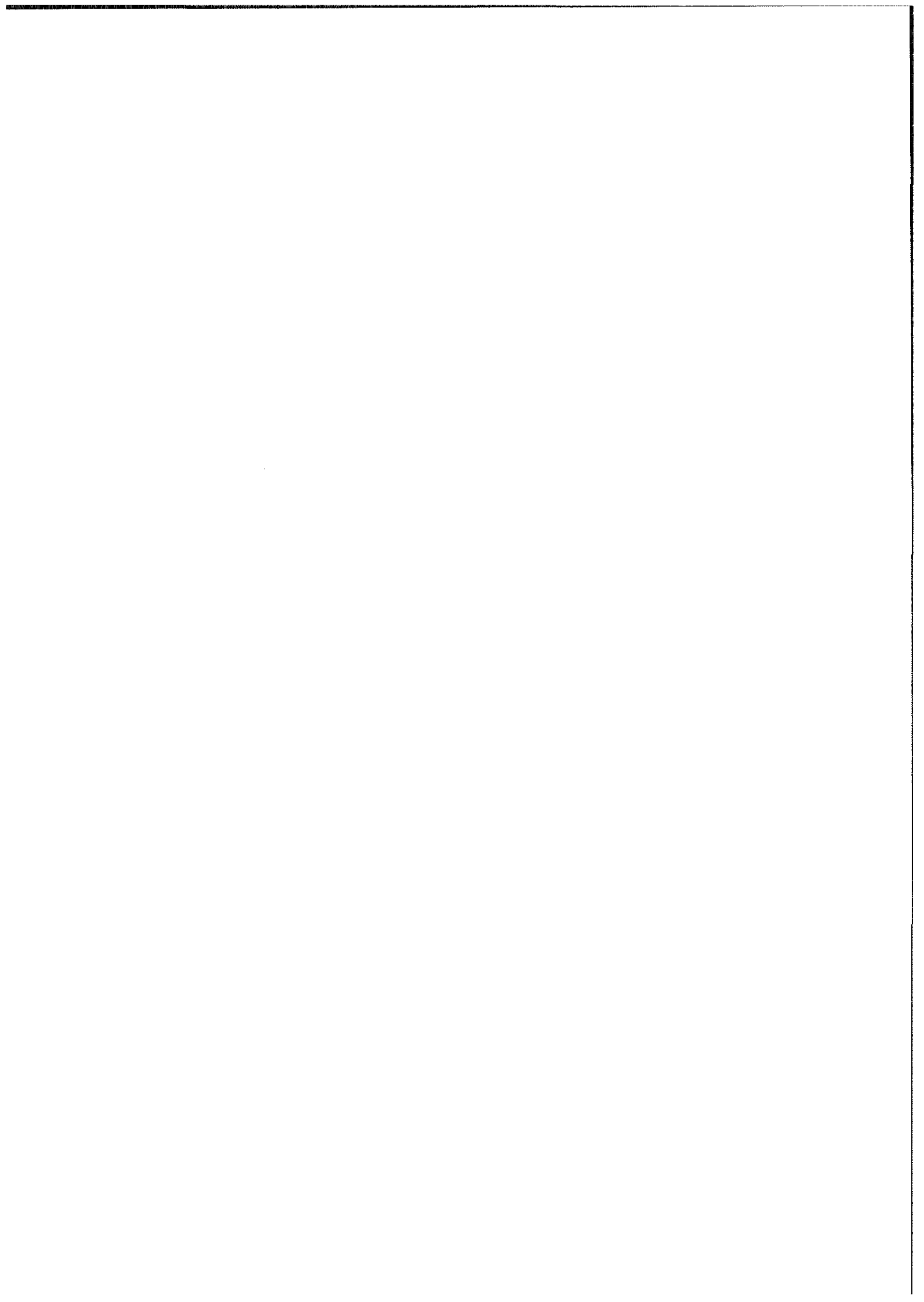
11. I have also considered a letter and petition, signed by several neighbours, which have been submitted in support of the development, but these do not outweigh my conclusion on the main issue.

Conclusion on ground (a) and deemed application

12. For the reasons given above I conclude that the appeal should succeed in part only, and I will grant planning permission for one part of the matter the subject of the enforcement notice, but otherwise I will uphold the notice with corrections and refuse to grant planning permission on the other part. The requirements of the upheld notice will cease to have effect so far as inconsistent with the permission which I will grant by virtue of S180 of the Act.

Miss A Morgan

Inspector





Appeal Decisions

Site visit made on 1 April 2014

by **Stephenie Hawkins BSocSc(Hons) MPhil MSc MRTPI**

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

Decision date: 28 April 2014

Appeal A: APP/T5150/A/13/2207723

51-63 High Road, Willesden, London NW10 2SU

- 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 Harsuns Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/3233, dated 30 November 2012, was refused by notice dated 2 May 2013.
 - The development proposed was originally described as: Reduction of side brickwork panel to No 63 High Road down to first floor height to match side elevation of 51 High Road. Removal of brick pilaster to side elevation of No 63 High Road. Removal of existing chimney pots to Nos 51-63 High Road. Removal of all pitched roofs to Nos 51-63 High Road. Removal of pitched gable to Nos 51 & 53 High Road. Removal of all satellite dishes, aerials, redundant pipework and redundant wiring. Removal of all windows fronting Willesden Green High Road. Erection of new roof top addition to front building and rear outriggers. Render applied to front elevation of Nos 51-55 with scribed stonework detailing. Brickwork and render to all elevations cleaned. New Dutch gable built over gable wall to Nos 51 and 53 High Road to match Dutch gables to Nos 55-61 High Road. Private external terraces to front and rear of property. Balustrades to rear outriggers. Communal satellite dishes and terrestrial aerials to each property. Bicycle storage block built within the garden of No. 51 High Road. Replacement of existing timber fence with timber doors to access bicycle store. Zero parking development with Unilateral Undertaking to prevent additional units from applying for a parking permit.
-

Appeal B: APP/T5150/E/13/2208494

51-63 High Road, Willesden, London NW10 2SU

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Harsuns Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/3234, dated 30 November 2012, was refused by notice dated 2 May 2013.
 - The demolition proposed was originally described as: Reduction of side brickwork panel to No 63 High Road down to first floor height to match side elevation of 51 High Road. Removal of brick pilaster to side elevation of No 63 High Road. Removal of existing chimney pots to Nos 51-63 High Road. Removal of all pitched roofs to Nos 51-63 High Road. Removal of pitched gable to Nos 51 & 53 High Road. Removal of all satellite dishes, aerials, redundant pipework and redundant wiring. Removal of all windows fronting Willesden Green High Road.
-

Decision

Appeal A

1. The appeal is allowed and planning permission is granted for demolition of existing pitched roofs, removal of existing chimneys to the ridges of Nos 51-63 High Road, demolition of existing gable to Nos 51-53 and erection of replacement Dutch gable, to enable the erection of a third floor roof extension to provide 6 self contained flats with private external terraces, plus the installation of replacement windows to all flats facing High Road, installation of communal satellite dishes and terrestrial aerials to each property, reduction of side brickwork panel to No 63 High Road and removal of brick pilaster to side elevation of No 63 High Road, at 51-63 High Road, Willesden, London NW10 2SU in accordance with the terms of the application, Ref 12/3233, dated 30 November 2012, 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: C152-00 (Rev A); C152-53 (Rev A); C152-54 (Rev C); C152-55 (Rev C); C152-56 (Rev C); C152-57 (Rev C); C152-52 (Rev B); C152-70 (Rev A); and C152-59 (Rev C).
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including the replacement windows, have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No construction activity, including demolition, shall take place until the site and/or company carrying out the works has registered with the Considerate Constructors Scheme. The site and/or company shall remain registered for the duration of the works hereby permitted.

Appeal B

2. The appeal is allowed and conservation area consent granted for reduction of side brickwork panel to No 63 High Road, removal of brick pilaster to side elevation of No 63 High Road, removal of existing chimneys to the ridges of Nos 51-63 High Road, removal of all pitched roofs to Nos 51-63 High Road, removal of pitched gable to Nos 51 & 53 High Road and removal of all windows fronting Willesden Green High Road, at 51-63 High Road, Willesden, London NW10 2SU in accordance with the terms of the application, Ref 12/3234, dated 30 November 2012, subject to the following conditions:

- 1) The works hereby authorised shall begin not later than three years from the date of this consent.
- 2) The works hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site, hereby permitted under Appeal A, has been made.

Procedural Matters

3. The descriptions of development and demolition, as used in the case details above, are taken from the application forms. However, I have edited the latter to omit works that are not acts of demolition.
4. The proposal was amended following submission of the applications to the Council, but prior to their determination. The Council dealt with the proposal on this basis and, accordingly, so have I. Consequently, I have amended the descriptions of development and demolition in my formal decision to reflect those used on the decision notices and appeal forms. In addition to reflecting amendments to the proposal, notably omission of proposed render to the front elevation of Nos 51-55 High Road, the amended description of development better reflects the proposal in that it would create six self contained flats. For clarity, I have made a minor amendment to the descriptions of development and demolition as used in my formal decisions to reflect that not all chimneys would be removed and, that where they are, the whole chimney would be, not just the pots. I have also omitted the date of the amended proposal as this is superfluous to the descriptions and, in relation to Appeal B, works that are not acts of demolition.
5. The second reason for refusal on the decision notice for Appeal A refers to Policy TRAN22 of the Unitary Development Plan (UDP). However, Policy TRAN22 relates to non-residential development and the Council's case has relied on Policy TRAN23, which relates to residential development. Accordingly, I have taken Policy TRAN23, rather than Policy TRAN22, into account in my consideration of the appeal.
6. As far as is relevant, I have taken the Planning Practice Guidance (PPG), issued 6 March 2014, into account in reaching my decision.

Main Issues

7. The main issue in both appeals is the effect of the roof top additions to the rear outriggers on the character and appearance of the appeal premises and the Willesden Green Conservation Area.
8. An additional issue in Appeal A is the impact of any parking demand generated by the proposed development on the safe and efficient operation of the highway.

Reasons

Character and appearance

9. Nos 51-63 comprise a group of terraced properties spanning the entire block between Richmond Avenue and Ellis Close. The premises are three storey in height to the High Road, with four storey rear outriggers. The rear outriggers have dual pitched roofs, with chimneys to the ridges and sides. Whilst a pitched gable is to the end of Nos 51-53, Dutch gables are to the ends of Nos 55-57 and 59-61. The premises accommodate commercial uses on the ground floor and residential uses on the upper floors. A supermarket and associated car park is to the rear of the premises, separated by Ellis Close. The premises form part of mixed use centre covered by the Willesden Green Conservation Area. To me, the significance of the Conservation Area lies in the architecture of its buildings, which is varied including in terms of roof forms. The appeal

premises contribute to the significance of the Conservation Area, dating from late 1800s/early 1900s and remaining fairly intact externally, a main exception being the application of stucco render over the original red brick of the front elevation of Nos 57-63. The Spotted Dog, opposite the site, is worthy of note and has recently been subject to a contemporary redevelopment.

10. I acknowledge that the proposed roof top additions to the rear outriggers would alter the appearance of the appeal premises and would be visible from the rear, including across the supermarket car park, and when approaching in both directions along High Road. However, they would primarily comprise of glazing and, as such, would appear as fairly lightweight structures. I consider they would sit comfortably against the original buildings, being set in from the sides and from the rear gables. Whilst they would extend above the proposed additions to the front, they would be set back from the High Road and would also sit below the highest part of the rear gables. In this respect, a Dutch gable would be provided to Nos 51-53, increasing the cohesiveness of the group of buildings. Together with the proposed retention of the chimneys to the sides, including their pots, I consider the original form of the buildings would continue to be read. Overall, I consider the proposed roof top additions would follow the example set by the contemporary redevelopment of the Spotted Dog, by successfully striking a balance between contrasting with, and complementing, the original group of buildings.
11. For the reasons given above, I conclude that the proposed roof top additions to the rear outriggers would not materially harm the character and appearance of the appeal premises. It therefore follows that they would not materially harm the significance of the Conservation Area, given that this lies in the architecture of its buildings, which is varied including in terms of roof forms. Overall, I conclude they would preserve and enhance the character and appearance of the Willesden Green Conservation Area. As such, I find the proposed roof top additions to the rear outriggers would accord with Policies BE2, BE9 and BE26 of the UDP 2004. These policies seek to protect the character and appearance of areas, with particular attention to conservation areas, whilst supporting innovative contemporary design and creative and appropriate alterations to buildings, provided alterations to the roofline of buildings in conservation areas are not detrimental to the character of the conservation area and characteristic features such as chimneys, and their pots, are retained.
12. The decision notices also refers to Supplementary Planning Guidance (SPG 17) Design Guide for New Development, which the Council states supplements the UDP policies that encourage high quality design. However, the Council has not drawn my attention to any specific provisions within this document and, as such, I have afforded it little weight.

Safe and efficient operation of the highway

13. Nos 51-63 does not provide for any off-street parking spaces. It was intended that the proposed development be car-free, whereby occupiers of the additional flats would not be entitled to parking permits for the local Controlled Parking Zones. In this respect, Unilateral Undertakings were submitted in support of the proposal, although I note that these are incomplete. Whilst Policy TRAN23 of the UDP offers support for such car-free development, the Council has concerns about the practicality of such an arrangement in this instance. Whilst I note the main parties' submissions on this matter, in light of

my findings on the parking demand that would be generated by the proposal and the likelihood that this could be accommodated on-street, as discussed below, I do not consider it necessary for the proposed development to be car-free and, as such, do not intend to address this matter further.

14. Under standard PS14 of the UDP, the proposed development would generate a requirement for 4.2 parking spaces. However, under Policy TRAN23 of the UDP, these are maximum standards. In addition, the standards do not take account of car ownership within a locality and, in this respect, taking account of 2011 Census data, the Council expects the proposed development to generate a requirement for 1-2 parking spaces. Whilst the Council points out that householders are generally entitled to purchase as many as three parking permits, plus visitor permits, I see no reason why they would purchase more permits than required. Consequently I consider it reasonable to conclude that, on a day-to-day basis, the proposed development would generate a need for up to two parking spaces.
15. Policy TRAN23 of the UDP does allow for on-street parking, on local access roads outside heavily parked streets, for the frontage of the development only. In this respect, the Council points out that High Road is a major distributor, rather than local access, road, with parking designated as short term pay and display and not for the use of permit holders. However, the supporting text for Policy TRAN23 suggests that on-street parking should be frontage only so as not to intrude on neighbouring frontages. In this respect, Ellis Close, to the rear of site is an adopted service road and does not serve such a frontage. Whilst Ellis Close may have a limited number of parking spaces, despite the existing flats at Nos 51-63 having no off-street parking, the Council states that it is not heavily parked. Consequently, I consider it reasonable to conclude that it is likely that the fairly limited parking demand that would be generated by the proposed development could be satisfactorily accommodated on-street.
16. For the reasons given above, I conclude that the parking demand that would be generated by the proposed development would not materially harm the safe and efficient operation of the highway. As such, I do not find conflict with Policy TRAN23 and standard PS14 of the UDP, which set maximum parking standards and allow for on-street parking.

Other Matters

17. The reasons for refusal of the grant of planning permission included the absence of a legal agreement to secure financial contributions towards public infrastructure. However the Council's Community Infrastructure Levy (CIL) Charging Schedule took effect on 1 July 2013, after the application for planning permission was determined, but prior to consideration of this appeal. The Council has not published a list of infrastructure that it wants to fund by CIL and, as such, its CIL applies to any infrastructure. There is no dispute between the main parties that the issue of an infrastructure obligation has fallen away. Notwithstanding this, I note the Council's concerns about ensuring payment of the CIL contribution. However, the collection of the CIL contribution is undertaken by the relevant charging authority on service of a notice that planning permission has been granted in relation to a chargeable development. As such the requirement for, and enforcement of, the payment of a contribution is not a matter for consideration in this appeal.

18. Turning to concerns raised by neighbours, the proposed addition of render was omitted from the amended scheme, addressing strong objections. The Council has accepted other design elements of the proposed development, such as replacement windows, by granting planning permission for a similar alternative scheme that omitted the roof top additions to the rear outriggers (Application Ref 13/1517). The Council are satisfied that sufficient space would be provided within the flats created for future occupiers, with the proposed floorspace exceeding the minimum requirements of the London Plan, and I see no reason to take a different view. Cycle parking is proposed, as shown on Drawing No C152-52 (Rev B). I have no substantive evidence before me that the existing drainage system could not accommodate the additional flats.

Conclusion and Conditions

19. I have found that the proposed roof top additions to the rear outriggers would not materially harm the character and appearance of the appeal premises and would preserve and enhance the character and appearance of the Willesden Green Conservation Area. I have also found that the parking demand that would be generated by the proposed development would not materially harm the safe and efficient operation of the highway. Consequently, Appeal A should be allowed. Given my findings in respect of the character and appearance of the appeal premises and the Conservation Area, Appeal B should be allowed.

20. I have considered the conditions suggested by the Council against paragraph 206 of the National Planning Policy Framework and the advice in the PPG. In respect of Appeal A, in the interests of the character and appearance of the appeal premises and the Conservation Area, I consider it necessary to attach a condition requiring the materials to be used in the construction of the external surfaces of the development, including the replacement windows, to be approved by the local planning authority. To safeguard the living conditions of neighbouring occupiers, in terms of noise and disturbance, I consider it necessary to attach a condition to require the site and/or construction company to register with the Considerate Constructors Scheme. As a consequence, all works should then be carried out in accordance with the Scheme's requirements, including in respect to the display of signage. I have also attached the standard time limit condition and, for the avoidance of doubt and in the interest of proper planning, a condition requiring that development be carried out in accordance with the approved plans. However, in light of my findings in respect of parking demand and the availability of on-street parking, together with the Council's concerns about the practicality of a car-free development in this instance, I consider a condition restricting occupiers of the flats created from obtaining parking permits neither necessary nor enforceable. As referred to above, I do not consider a condition to require payment of the CIL contribution of relevance to this appeal. I note reference to a condition to secure noise insulation in accordance with Building Regulations, but do not consider such a condition, requiring compliance with other regulatory requirements, to be relevant. In respect to Appeal B, to safeguard the character and appearance of the appeal premises and the Conservation Area, I consider it necessary to link the consent to the planning permission, as applied for. In addition, I have attached the standard time limit condition.

Stephenie Hawkins

INSPECTOR



Appeal Decision

Site Inspection on 23 April 2014

by **John Whalley**

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

Decision date: 29 April 2014

Appeal reference: APP/T5150/A/13/2192396

Land at 14 Irwin Gardens, London NW10 3AS

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a decision to grant a planning permission subject to conditions.
- The appeal was made by Mr Haseeb Aslam against the decision of the London Borough of Brent Council.
- The application, ref. 12/3350, dated 19 December 2012, was granted planning permission subject to conditions by a decision dated 4 February 2013.
- The development granted planning permission was: Conversion of garage to habitable space, including removal of garage door and installation of new front window, and new first floor side and rear extension to dwellinghouse at 14 Irwin Gardens, London NW10 3AS.
- The condition the subject of this appeal is Condition 4. Condition 4 said: "This permission shall only be implemented if no works have been carried out to enlarge the roofspace under Class B of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) Order 1995."

Summary of Decision: The appeal succeeds. A new planning permission is issued without Condition 4 applied to planning permission 12/3350

The appeal property

1. The appeal property, No. 14 Irwin Gardens, London NW10 3AS, is a large semi-detached house. The 2 storey hipped roofed house has a slightly lower 2 storey side extension. The side extension, which was part of the original house, also has a hipped roof. A large dormer extension has been built on the main roof at the rear of the house.

Planning history

2. Planning permission ref. 12/3350 was granted in February 2013 to convert the single garage in the side extension to habitable space within the dwelling, replacing the garage door with a domestic window. The permission also included a proposed first floor side and rear extension.
3. A Certificate of Lawful Development, ref. 12/3351, has been granted for an enlargement of the main roof. That would consist of the replacement of the much of the main roof hip by a gable end with a corresponding alteration to the roof of the side extension.

4. The lawfulness of this work was derived from the concessions under Class B of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 as amended.

Planning policy

5. The parties referred to Brent Unitary Development Plan, (UDP), saved policies BE2 and BE9. Policy BE2, in dealing with the townscape, says that proposals should be designed with regard to their local context, making a positive contribution to the character of the area. Policy BE9 referring to architectural quality, says that new buildings, extensions and alterations to existing buildings, should embody a creative and appropriate design solution, specific to their site's shape, size, location and development opportunities.
6. The Council's Supplementary Planning Guidance (SPG) Notes provide further guidance. SPG 5 "Altering Your Home" was adopted in 2002. That states on page 10 of the guidance that: "Permission will not be granted for a side extension to a house that has a conversion from a hipped roof to a full gable end.". That, therefore, must be the derivation of the appeal condition 4 attached to the garage conversion, side and rear first floor extension granted planning permission on 4 February 2013 under ref: 12/3350.

Considerations

7. Page 10 of SPG 5 contains a paragraph headed "Hips and Gables". That paragraph says the conversion of a hipped roof into a full gable will not normally be permitted because it would result in a significant change to the character and appearance of the street scene. That is despite the fact that most such conversions would be development permitted by the Order. However, a list of conditions in SPG 5 does allow for such conversions. Nevertheless, the sentence; "Permission will not be granted for a side extension to a house that has a conversion from a hipped roof to a full gable end.", ends the paragraph. But it is not substantiated. Nor does it make reference to what may be permitted by the Order or to any consequent withholding of permitted development rights.
8. The large rear dormer extension referred to in para. 1 above is not that granted planning permission in February 2013 under ref: 12/3350. That project has not been built. Whether Mr Aslam now wishes to build that extension is a matter for him. But I see little point in continuing to attach condition 4 to the permission. That is because the street scene would be unaffected by the 12/3350 project, except for the unobtrusive replacement of a garage door by a domestic window. The rear side and first floor extension would be hard to see from the fronting road. Any effect would be of no consequence. There would be no conflict with UDP policies BE2 or BE9.
9. If planning permission 12/3350 is not implemented, Mr Aslam could, under Class B permitted development rights, carry out works to the roof of the house as set out in the approved Certificate of Lawfulness under ref: 12/3351. The effect on the street scene would be no different if the planning

permission ref. 12/3350 for the side and rear extension was built. Therefore condition 4 is unnecessary.

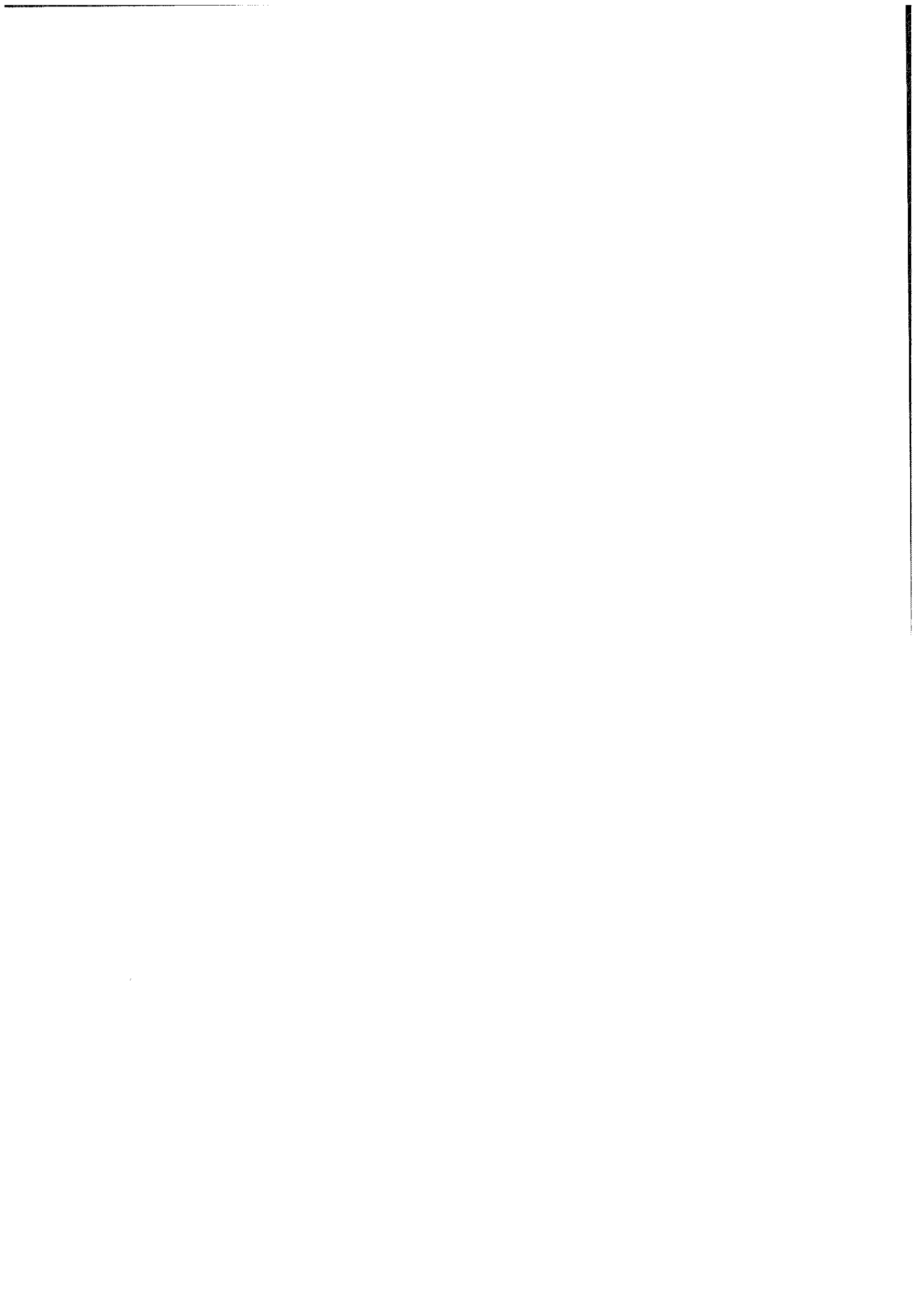
10. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but retaining the relevant non-disputed conditions from the previous permission.

FORMAL DECISION

11. The appeal is allowed and planning permission is granted for the Conversion of garage to habitable space, including removal of garage door and installation of new front window, and new first floor side and rear extension to the dwellinghouse at No. 14 Irwin Gardens London NW10 3AS in accordance with the application, ref. 12/3350, dated 19 December 2012, without compliance with condition number 4 previously imposed on planning permission ref. 12/3350 dated 4 February 2013, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

John Whalley

Inspector





Appeal Decision

Site visit made on 14 March 2014

by **R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL**

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

Decision date: 14 April 2014

Appeal A Reference: APP/T5150/A/13/2205129

'Kingsley Court', Park Avenue, London NW2 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 Everything Everywhere Limited against the decision of Brent Council.
 - The application (reference 13/0422, dated 22 August 2012) was refused by notice dated 12 April 2013.
 - The development proposed is described in the application form as follows: "*The like for like replacement of 6 No. antennas with 6 No. new antennas at the same height in the same locations, the addition of 1 No. 0.6m dish on an existing support pole, and the like for like replacement of 2 No. cabinets and addition of 1 No. cabinet on the existing grillage*".
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Appeal B Reference: APP/T5150/E/13/2205159

'Kingsley Court', Park Avenue, London NW2 5TH

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Everything Everywhere Limited against the decision of Brent Council.
 - The application (reference 13/1299, dated 15 May 2013) was refused by notice dated 11 July 2013.
 - The works proposed are described in the application form as follows: "*Application for listed building consent for development to replace on a like-for-like basis 6 No. antennas on existing supports, add 1 No. 600mm Dish on an existing support pole, remove 2 No. equipment cabinets and install 3 No. Equipment Cabinets on the existing steel grillage and ancillary development, to include a cable tray to be placed on the roof*".
-

Decision

1. The planning appeal (Appeal A) is allowed and planning permission is granted for "*the like for like replacement of 6 No. antennas with 6 No. new antennas at the same height in the same locations, the addition of 1 No. 0.6m dish on an existing support pole, and the like for like replacement of 2 No. cabinets and addition of 1 No. cabinet on the existing grillage*", at 'Kingsley Court', Park Avenue, London NW2 5TH, in accordance with the terms of the application
-

(reference 13/0422, dated 22 August 2012), subject to the conditions set out in the attached Schedule of Conditions.

2. The listed building consent appeal (Appeal B) is allowed and listed building consent is granted for the construction of "... development to replace on a like-for-like basis 6 No. antennas on existing supports, add 1 No. 600mm Dish on an existing support pole, remove 2 No. equipment cabinets and install 3 No. Equipment Cabinets on the existing steel grillage and ancillary development, to include a cable tray to be placed on the roof", at 'Kingsley Court', Park Avenue, London NW2 5TH, in accordance with the terms of the application (reference 13/1299, dated 15 May 2013), subject to the conditions set out in the attached Schedule of Conditions.

Main issue

3. The main issue to be determined in both these appeals is the effect of the proposals on the appeal building and its setting.

Reasons

4. The appeal site is located in north-west London, in a lively but predominantly residential locality, with nineteenth and twentieth century housing but including more modern blocks of flats and some commercial development. The railway passes immediately to the north of the appeal site, on an embankment, crossing Park Avenue over a bridge.
5. 'Kingsley Court' stands at the acute angled corner of Park Avenue and St Paul's Avenue, which are both busy roads. It is a block of 54 flats built in 1933-1934 and designed by Peter Caspari for Davis Estates, one of the earliest examples of a block of flats designed in England in the Expressionist style. 'Kingsley Court' makes a bold modern architectural statement, with sweeping curves and banded horizontal lines and it is listed (Grade II) as a building of special architectural or historic interest. Even so, the building is plainly in need of significant maintenance work.
6. The roof of the listed building already supports a cluster of telecommunications antennas as well as sundry domestic television aerials. These are visible from some distance away, though they are obscured by the building itself in some close perspectives. While it was, obviously, not contemplated in the original design, the telecommunications installation is not wholly alien to the modernist aesthetic of the architecture.
7. The current proposals would involve the replacement of six existing antennas, the addition of one new satellite dish and the replacement of two existing equipment cabinets with three new cabinets. Some additional ancillary work would also be involved (including a cable tray).
8. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission and listed building consent for development or works (respectively) that would affect a listed building. In such cases, it is necessary to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

9. That statutory framework is reinforced by the 'National Planning Policy Framework', especially at Section 12, which also points out the desirability of putting a heritage asset to its "optimum viable use". Policies in the Development Plan do not have the same weight in respect of applications for listed building consent but they are material considerations in both these appeals and are also aimed at achieving good design and at protecting the historic environment (notably Policy BE9 of the Brent Unitary Development Plan).
10. The proposed cabinets would be larger than the existing, as well as including an additional unit, but they would be located away from the edge of the roof, behind a chimney stack, where they would have only a limited visual impact. The proposed new antennas would be more obvious than the existing cluster, with the addition of a new satellite dish, especially in longer distance views. Nevertheless, the overall visual impact of the finished installation would not be significantly worse than that of the existing installation.
11. A previous scheme that was rejected on appeal in 2006 would have involved the installation of new antennas more prominently (close to the edge of the flat roof and close to the curved edge features) whereas the current proposals adapt the previous installation. The criticisms of the earlier scheme do not apply to this scheme, therefore.
12. In connection with these appeals, concerns about health risks have been raised by residents. However, the applicants have submitted evidence to show that the proposed equipment would not conflict with recognised health criteria, relating to exposure to electric and magnetic fields, and that evidence is accepted. Health considerations are not a main issue in these appeals, therefore.
13. Concerns have also been raised by residents about the physical impact of the necessary works on the fabric of the building. Nevertheless, conditions can be imposed to require full construction details of the proposed works to be submitted to and approved by the local planning authority prior to the commencement of the work, which ought to control any impact on the fabric of the listed building (including any impact made by the construction operations themselves) and prevent harm to the fabric.
14. The 'National Planning Policy Framework' makes it plain (at paragraph 42) that "advanced, high quality communications infrastructure is essential for sustainable economic growth". In this case, the new installation would improve existing telecommunications services, based on an existing installation, rather than introducing a new installation elsewhere, and the benefits of the scheme would outweigh the very limited harm to the listed building (and any other harm).
15. In short, I am persuaded that the scheme before me can properly be permitted, in accordance with the applicable planning policies, taken as a whole, subject to conditions. Although I have considered all the matters that have been raised in the representations, as well as the recently published national planning practice guidance (which has not affected the issues in this case), I have found nothing to cause me to alter my decision.

16. I have, however, also considered the need for conditions and I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained in the detailed construction work.

Roger C Shrimplin

INSPECTOR

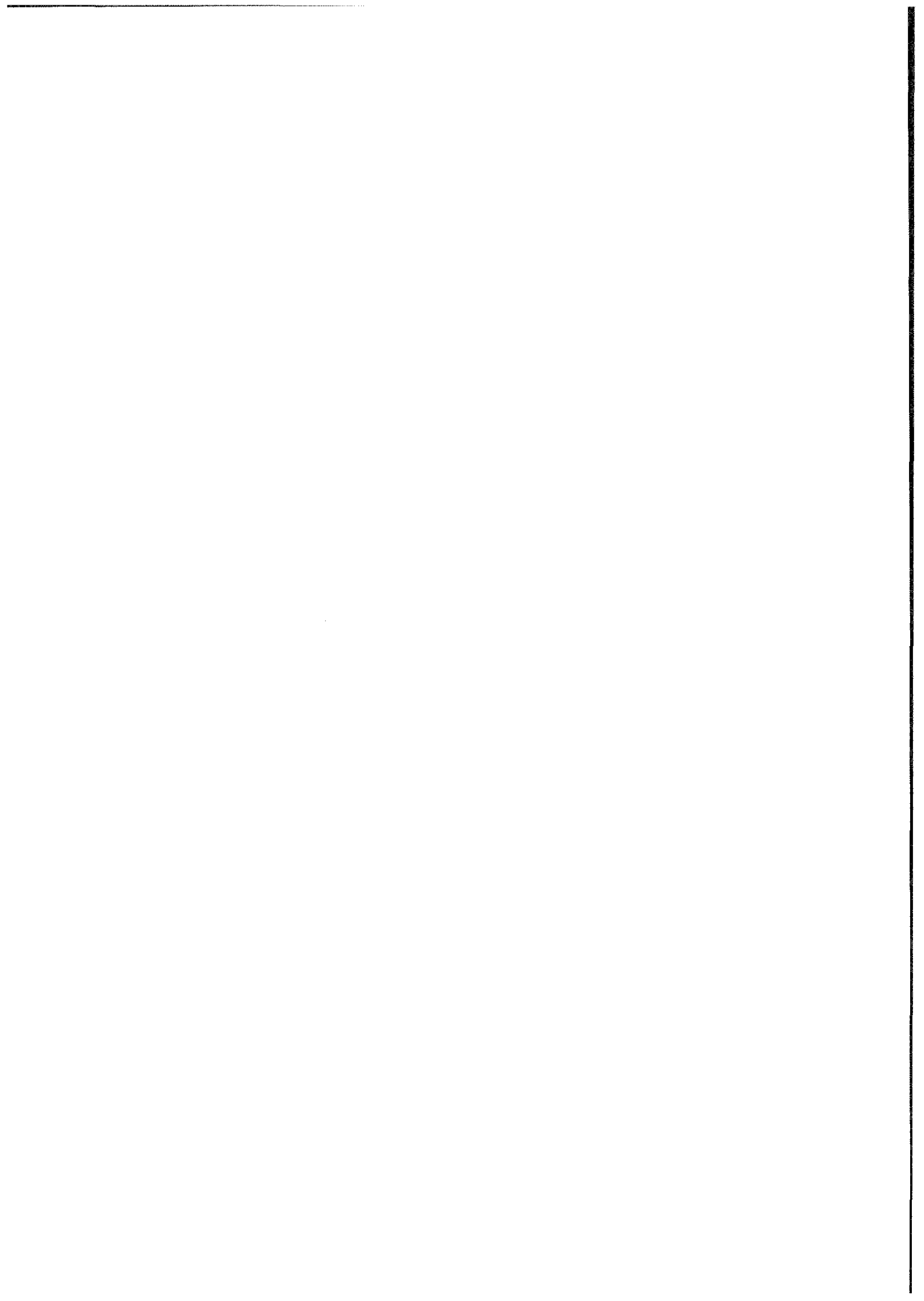
SCHEDULE OF CONDITIONS

Appeal A (the Planning Appeal)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 101B (Location Plan and Block Plan);
 - drawing number 102B (Existing Equipment Layout and Site Plan);
 - drawing number 102B (Proposed Equipment Layout and Site Plan);
 - drawing number 103B (Existing and Proposed Site Elevation 'A');
 - drawing number 104B (Existing and Proposed Plan View of OPCS Antenna);
 - drawing number 200B (Proposed Plan View of OPCS Antenna and Equipment Layout).
3. No development shall take place (including any demolition work or any removal of existing installations) until detailed drawings (at appropriate scales) of the construction details to be used in the construction of the new development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Appeal B (the Listed Building Consent Appeal)

1. The works hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The works hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 101B (Location Plan and Block Plan);
 - drawing number 102B (Existing Equipment Layout and Site Plan);
 - drawing number 102B (Proposed Equipment Layout and Site Plan);
 - drawing number 103B (Existing and Proposed Site Elevation 'A');
 - drawing number 104B (Existing and Proposed Plan View of OPCS Antenna);
 - drawing number 200B (Proposed Plan View of OPCS Antenna and Equipment Layout).
3. No works shall be commenced (including any demolition work or any removal of existing installations) until detailed drawings (at appropriate scales) of the construction details to be used in the construction of the new works hereby permitted have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.





Appeal Decision

Site visit made on 19 March 2014

by **A Banks BA(Hons) DipUD PGCM MRTPI**

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

Decision date: 14 May 2014

Appeal Ref: APP/T5150/A/13/2206954

Merley Court, Church Lane, London NW9 8JR

- 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 Basil Gordon (Investments) Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/1190, dated 3 May 2013, was refused by notice dated 16 July 2013.
 - The development proposed is Demolition of existing garages. Erection of 5 x 1 bedroom dwellings with associated works.
-

Application for costs

1. An application for costs was made by Basil Gordon (Investments) Limited against the Council of the London Borough of Brent. This application is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for Demolition of existing garages. Erection of 5 x 1 bedroom dwellings with associated works at Merley Court, Church Lane, London NW9 8JR in accordance with the terms of the application, Ref 13/1190, dated 3 May 2013, subject to the attached Schedule of Conditions.

Preliminary Matters

3. On the appeal form the site address is given as 'Land to the rear of 11-13 Mallard Way, Kingsbury, London NW9 8JR'. I have used the address provided on the original application form and the plans clearly identify the site.
4. The Government's Planning Practice Guidance (PPG) was published on 6 March 2014. This supersedes guidance relied on by both parties. However, I have considered the content of the Guidance and in the light of the facts of this case the document does not alter my conclusions.
5. Despite having validated the application the Council appear to have refused it on the basis of invalidity and failure to comply with relevant policies in the development plan. The Council does not state which policies. The sole reason for refusal refers to a flaw because part of the proposed works, which in the main includes parking provision, lie outside the appeal site. These works would be located on land adjoining the appeal site which is owned and controlled by the appellant. The Council explain that the application is flawed because the parking area revisions to Merley Court were not included within the red line site plan and the leasehold properties were not served with notice.

6. PPG Paragraphs 023 and 024 Reference ID: 14-023-2014036 clarifies that as a minimum applicants need to submit a location plan which shows the application edged clearly in red and that the application site should include all land necessary to carry out the proposed development, including car parking, and a blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site. This is not unlike the DCLG's publication "Guidance on information requirements and validation", which was current at the time the application was made and has been superseded by the PPG.
7. Although this supports the Council's argument, the appellant denies that there is any flaw. In July 2013 an offer was made to alter the blue line, stating *'There will still be no need to serve notice to occupiers in Merley Court as they have a shorthold tenancy agreements and are not "owners" in the eyes of the planning system'*. This claim was supported by a letter and plan submitted with the appeal statement. Further to this the appellant has suggested two approaches. Firstly, that the appeal is considered as a car free proposal. Secondly, in the event that a car free scheme proves unacceptable, that a Grampian style condition would resolve the concerns as illustrated by the proposed site parking in Merley Court. The Council has not responded to the appellant's case, nevertheless I will consider the appeal on this basis.
8. The proposed site parking in Merley Court provided 36 off road parking spaces. A second option showing an alternative layout for 26 spaces was provided with the appeal. The Council has not commented on the alternative layout. Notwithstanding the evidence provided indicates that the Highway Authority would be satisfied with the second option, I cannot be certain that statutory consultees and third parties have had a proper opportunity to consider the revisions. Accordingly I will consider this appeal on the basis of the plans determined by the Council.

Main Issue

9. Based on the evidence before me, the main issue is the effect of the proposed development on highway safety with particular regard to parking.

Reasons

10. The appeal site comprises a garage courtyard located within an urban area of mixed housing, including bungalows, houses and blocks of flats. It has vehicle access from Mallard Way and a pedestrian access via Merley Court. The site currently comprises two single storey buildings that provide 11 (eleven) single garages and hardstanding. The proposal would result in the loss of this area of off-street parking, along with the development of five new dwellings.
11. I saw, when I visited the site, that there was extensive parking on the unrestricted streets, both on Mallard Way and within Merley Court. In addition I saw that cars park on the pavements leading into Merley Court. As my site visit took place during office hours, it is highly likely that parking would be heavier after normal working hours. This is supported by the views of local residents who have raised many concerns in respect of parking. Average car ownership for the area is 0.84 cars per household. 44 dwellings within Merley Court have no off-street parking apart from the appeal site and 18 flats within Mallard Court, close to the appeal site, have no off-street parking provision. There is thus substantial parking pressure in the vicinity of the appeal site.

12. The appellant states that there is no condition limiting the use of the garages or requiring them to be made available for any of the local residents. I have no reason to doubt this claim. In addition it would not be appropriate to seek the provision of a remedy to a parking problem that is not the result of the proposed development. However, the matters relating to on-site parking are significant material consideration since any new development on the site is bound to have some effect on parking in the area. If residents are unable to use the garages or spaces they will park on-street. Thus any new development would have a cumulative effect on on-street parking.
13. Where streets suffer heavy parking, the Council seeks the full parking allowance. In this case in accordance with the Brent Unitary Development Plan (UDP) Appendix TRN2 Parking and Servicing Standards PS14, 1 space per dwelling is required. Added to this the site has fairly poor access to public transport. I conclude therefore, that a car free development would not be suitable and as such it would be contrary to UDP Policy TRN23.
14. A proposal plan detailing the provision of on-site parking in Merley Court was submitted with the application and shows that 36 off road parking spaces could be provided on land within the appellant's ownership. Based on the officer's report and evidence provided by the Highway Authority it appears that the scheme was not acceptable because of the loss of soft landscaping. However, I consider that the plan shows an acceptable solution is possible. Although the works would lead to some loss of soft landscaping, this would not be significant and additional planting would take place, thus the overall character of the area would be retained.
15. Despite the land not falling within the application site boundary, the appellant states that their control of the land demonstrates a very reasonable prospect of these works being carried out within the time-limit imposed by the permission. As such a 'Grampian' style condition could be imposed to overcome the Council's concerns. In their justification, the appellant refers to the "Letter to Chief Planning Officers (2002): Circular 11/95 – Use of Negative Conditions". This has been superseded by the PPG, which refers to the use of a Grampian style condition in respect of when conditions can be used relating to land not in control of the applicant (my underlining), reference ID: 21a-009-20140306. Whilst this is not the situation in this case, the parking area necessary to make the proposed new development acceptable was not provided within the application site (land edged red). Therefore, I consider that the spirit of the PPG advice on the use of a Grampian conditions could be applied under the unusual circumstances of this appeal and would meet the tests in the National Planning Policy Framework (the Framework).
16. I note that the application proposal would provide more spaces than would be required by the Council's Parking Standards. However, it is not clear how off-site parking provision could be provided within Merley Court without also addressing the needs of Merley Court itself. Therefore I consider that such a condition would fairly and reasonably relate to the development.
17. I conclude that subject to an appropriately worded condition to ensure the provision of off-site parking, the proposed development would not result in a detrimental impact on highway safety relating to parking. Consequently it would comply with UDP Policy TR23 on parking standards.

Other Matters

18. I have given consideration to the other concerns raised by local residents. These include outlook, privacy, noise, damage to trees and plants, potential crime, sewerage and waste facilities. The variance in levels, along with the siting of the new dwellings and their openings, and the distances maintained around the new buildings, would satisfactorily avoid any significant impact on outlook or privacy. Whilst noise would occur during construction works, it would only be for a temporary period. There is no evidence before me that the development would result in any substantial damage to trees and plants, or an increase in crime. Thames Water has no objection regarding sewerage and details for bin storage can be dealt with by condition.

Conditions

19. The Council has suggested a number of conditions in the event that the appeal succeeds. I have considered them having regard to the Framework and the PPG. I have amended them where necessary and in the interests of precision.
20. In the interests of proper planning and for the avoidance of doubt, it is necessary to impose a condition to require the development to be carried out in accordance with the approved plans. In the interests of character and appearance it is necessary that samples of materials to external walls, and details of landscaping, including the means of enclosure to prevent vehicle access via Mallard Way, and of refuse storage, are agreed with the local planning authority. Similarly and to encourage sustainable travel, details of the cycle storage are necessary. In the interests of highway safety it is necessary to ensure off-site parking provision is provided and the drop kerb is reinstated. It is necessary to require obscure glazing in the first floor windows on the east elevation to prevent overlooking. Given the potential for contamination as the site has been used as garages and historic maps indicate that there is likely to be an in-filled pond on the site, a contamination condition is necessary. Also, given the close proximity of the site to residential housing a condition to minimise noise and dust during construction works is necessary.
21. There are no exceptional circumstances to justify the removal of permitted development rights, as there is limited room for additional window openings and a small extension or outbuilding is unlikely to have a significant impact on neighbouring properties.

Conclusions

22. I consider there is no evidence that the proposed development, including the off-site parking provision, would be contrary to the development plan and it would comply with the aims of the Framework. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

A Banks

INSPECTOR

(Schedule of Conditions attached)

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: 12113/001; 12113/002; 12113/003; 12113/004; 12113/005; 12113/006.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include details of means of enclosure, including to Mallard Way to prevent vehicular access.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. 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.
- 6) Before the first occupation of the dwellings hereby permitted the windows at first floor level in the east elevation shall be fitted with obscured glass and shall be permanently retained in that condition.
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with details agreed in writing by the local planning authority for bicycle parking and refuse and recycling storage.
- 8) No development shall take place until a scheme to provide off-site parking in Merley Court has been approved in writing by the local planning authority and if necessary the appropriate consent obtained. The scheme shall include a management plan which details the allocation of parking spaces for the development hereby approved and for existing properties in Merley Court. No dwelling shall be occupied until the off-site parking in Merley Court has been provided in accordance with the approved scheme and shall be retained thereafter.
- 9) No dwelling shall be occupied until the drop kerb to Mallard Way has been reinstated.
- 10) Following demolition of the garages and prior to the commencement of building works;
 - a contaminated land assessment report to assess the actual/potential contamination risks shall be submitted to and approved in writing by the local planning authority;
 - where suitable remediation/protection measures are required, a detailed remediation strategy shall be submitted and approved in writing by the local planning authority;
 - where remediation is required, the approved remediation strategy shall be carried out within timescales agreed with the local planning

authority. A verification report shall be provided by the local planning authority stating that remediation has been carried out in accordance with the approved remediation strategy prior to the development being brought into use.

- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for measures to control the emission of noise, dust and dirt during construction.



Appeal Decision

Site visit made on 24 February 2014

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

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

Decision date: 30 April 2014

Appeal Ref:- APP/T5150/X/13/2205377

Land and buildings at 126 Herbert Gardens, Kensal Rise, London NW10 3BP

- The appeal is made under section 195 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, against a refusal to grant a lawful development certificate (LDC).
- The appeal is made by Mr & Mrs Matt Fell against the London Borough of Brent Council.
- The application, Ref:- 13/1711, was dated 24 June 2013.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate is sought is described on the application form as loft conversion (roof extension) within permitted development; replacement of windows on rear elevation.

Summary of decision:- The appeal is allowed and a lawful development certificate is granted.

Preliminary Matters

1. I am satisfied that this decision is unaffected by the Planning Practice Guidance issued on 6 March 2014.
2. I have taken into account the local planning authority's letter of 18 March 2014 and e-mail of 14 April 2014 and the appellant's agent's e-mails of 25 and 31 March 2014 in response to the Planning Inspectorate's letter to both main parties dated 6 March 2014.
3. For the avoidance of doubt, I should explain that the planning merits of any future operations are not relevant and they are not, therefore, an issue for me to consider, in the context of an appeal under section 195 of the Town and Country Planning Act 1990 as amended, which relates to an application for a lawful development certificate. My decision rests on the facts of the case, and on relevant planning law and judicial authority.

Main Issue

4. I consider that the main issue is whether the Council's refusal to grant a lawful development certificate (LDC), for the loft conversion and rear windows, was well-founded. Where a LDC is sought, the onus of proof is on the appellants and the standard of proof is the balance of probabilities.
-

Reasons

5. At paragraph 3.7 of its statement, the local planning authority conceded that a part hip to gable conversion could be considered a roof alteration under Class B of the Schedule to the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (GPDO 2008) and issued a LDC (Ref:- 13/2864 dated 28 October 2013) to that effect. However, even though this constitutes the bulk of the proposed permitted development, the question remains whether any addition to any side wall falls within the ambit of Class A.
6. As the Department for Communities and Local Government Permitted Development for Householders Technical Guidance of August 2010 (PDTG) states, at page 8, *"It is therefore essential that any proposed household development is considered in the context of the permitted development rules as a whole in order to determine whether it benefits from permitted development rights and therefore does not require an application for planning permission."*
7. Class A of the Schedule to the GPDO 2008 states that the enlargement, improvement or other alteration of a dwellinghouse is permitted development subject to certain limitations.
8. Limitation A.1(h) states that development is not permitted if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse and would:-
 - (i) exceed 4m in height;
 - (ii) have more than one storey, or;
 - (iii) have a width greater than half the width of the original dwellinghouse.
9. The PDTG states, at page 22 on limitation A.1(h), that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. Houses will often have more than two side walls and an accompanying illustrative diagram shows three side walls in different planes all forming one side elevation. All of the side walls on the diagrams demonstrated as approved under permitted development on pages 17, 18, 23 and 24 are shown expanding sideways rather than upwards.
10. PDTG goes on to say that, where an extension projects beyond **any** (PDTG's emphasis) side wall, the restrictions in limitation A.1(h) will apply. Any extension can only be single storey, be limited to four metres in height and can only be half the width of the original house.
11. At the time of my inspection of the site, I made the observation, based on its method of construction, that I thought that the first floor flat roofed side extension over a garage was contemporary with the original inter-war semi-detached house, or at least predated 1 July 1948, the start date for determining the size of an original dwelling, even though this unbalanced the symmetry of the pair of houses. Despite any subsequent representations made, I consider that, on the balance of probabilities, this remains the case.

12. It is best exemplified in the drawing showing the flank elevation taken from the rear at a time when work to extend the building considerably was at a preparatory stage. It results in there being three flank walls in the original flank elevation. That to the flat roofed two-storey portion to the front remains unaltered. This remains the wall closest to the boundary.
13. The wall that the local authority finds in breach of Class A.1(h) is behind the front flat roofed portion. It would be extended upwards to provide the portion of the flank wall up to eaves level in the hip to part gable end conversion, for which the local planning has issued a LDC. This wall would undoubtedly be two-storeys high and more than 4m high but it would be an extension upwards, in the same plane as the original middle section flank wall, not sideways, as shown on the diagrams in the PTDG.
14. Because this upward extension would not involve any sideways encroachment of the original middle side wall and would be well inside the line of the unaltered original flank wall of the two-storey flat-roofed front portion, I conclude that, despite this part of the enlargement of the side elevation being more than single-storey and over 4m high, limitation A.1(h) would not be breached and the proposed development overall would fall within classes A and B of the Schedule to the 2008 GPDO.
15. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a lawful development certificate, in respect of a loft conversion (roof extension) within permitted development and replacement of windows on the rear elevation at 126 Herbert Gardens, Kensal Rise, London NW10 3BP, was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me under section 195(2) of the 1990 Act as amended.

Formal decision

Appeal Ref:- APP/T5150/X/13/2205377

16. The appeal is allowed and, attached to this decision, is a lawful development certificate describing the extent of the proposed development, which is considered to be lawful.

Ian Currie

INSPECTOR



Lawful Development Certificate

APPEAL REFERENCE APP/T5150/X/13/2205377
TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by section 10 of the Planning and Compensation Act 1991)

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 24 June 2013 the use described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto, and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192(1)(b) of the Town and Country Planning Act 1990 as amended, for the following reason:-

The proposed loft conversion, including the formation of rooms in the roof of a part gable ended hipped roof and the upward extension of an original flank wall of this dwelling house, would constitute permitted development not requiring planning permission by virtue of the provisions of Classes A and B of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008.

Ian Currie

INSPECTOR

Date: 30 April 2014

Reference: APP/T5150/X/13/2205377

First Schedule

A loft conversion (roof extension) within permitted development and replacement of windows on the rear elevation.

Second Schedule

Land and buildings at 126 Herbert Gardens, Kensal Rise, London NW10 3BP.

NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 as amended.
2. It certifies that the operational development described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the development described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use, operation or matter, which is materially different from that described, or which relates to any other land, may result in a breach of planning control, which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



The Planning Inspectorate

Plan

This is the plan referred to in the Lawful Development Certificate dated:- 30 April 2014

by Ian Currie BA MPhil MRICS MRTPI (Retired)

Land and buildings at:- 126 Herbert Gardens, Kensal Rise, London NW10 3BP

Appeal ref:- APP/T5150/X/13/2205377

Scale:- 1:1,250





Appeal Decision

Site visit made on 31 March 2014

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 8 May 2014

Appeal Ref: APP/T5150/A/13/2210196 **56 Station Road, London NW10 4UA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Ali against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/1730, dated 20 June 2013, was approved on 15 August 2013 and planning permission was granted subject to conditions.
 - The development permitted is described as 'change of use of existing shop unit (use class A1) to mixed use comprising A1 and data-controlled administrative booking office for private hire vehicles (Use Class Sui Generis)'.
 - The condition in dispute is No 4 which states that: 'no signage or reference to the mini-cab office shall be displayed at the premises'.
 - The reason given for the condition is: 'to ensure that patrons are not attracted to the premises and in the interest of residential amenity'.
-

Decision

1. The appeal is allowed and the planning permission Ref 13/1730 for 'change of use of existing shop unit (use class A1) to mixed use comprising A1 and data-controlled administrative booking office for private hire vehicles (Use Class Sui Generis)' at 56 Station Road, London NW10 4UA granted on 15 August 2013 by the Council of the London Borough of Brent, is varied by deleting condition 4.

Procedural Matters

2. Prior to the determination of the appeal the government's planning guidance came into force on 6 March 2014. The content of the guidance has been considered but in the light of the facts in this case it does not alter my conclusion.

Background and Main Issues

3. The change of use permitted by the planning permission in question has occurred. In essence this has resulted in the creation of a mixed use of the premises through the addition a small administrative booking office for private hire vehicles and the continued use of the remain floor space as a shop. Condition 4 of the planning permission prohibits the display of signage or reference to the mini-cab booking office. The Council's statement indicates that the condition is necessary to protect the living conditions of neighbours in regard to noise and disturbance and in the interests of highway safety.
4. The main issues are, therefore, the effect that retaining the mixed use, including the data-controlled administrative booking office for private hire

vehicles, would have on the living conditions of neighbours in regard to noise and disturbance and on highway safety having particular regard to the effectiveness and appropriateness of the condition in dispute and the remaining conditions of the planning permission along with any other conditions that could reasonably be imposed.

Reasons

5. The appeal site is a mid-terrace property located at the back of the pavement of a busy thoroughfare, Station Road. At ground floor the nearby units that line this street are largely in commercial use, including shops, bars, bookmakers and cafes. There is also a fairly large Royal Mail sorting office a little way to the north. There appear to be residential uses on the floors above the units that front Station Road and the predominant use in the wider area is also residential.
6. The principal entrance to the appeal property is via the Station Road shop front. There is also a pedestrian access to the rear from Harley Road via a narrow passage and a private yard which appears to be shared with a flat. The site has no off-street parking or any form of vehicular access. On-street parking and loading in the surrounding streets is very limited. In Station Road to the front of the site parking and loading are prohibited. On the opposite side of the Station Road and to the rear in Harley Road there is short stay pay and display street parking. Nearby residential streets are largely restricted to residents' only parking during the day. The evidence indicates that the area is well served by public transport.
7. When I conducted my site visit I observed that the data-control administrative booking office for private hire vehicles element of the mixed use is confined to a small ground floor room, which appeared to be consistent with the details shown on drawing number SR-01 rev A. When viewed from Station Road, from Harley Road, from the rear yard and from within the shop I saw nothing to indicate the presence of the booking office.
8. Due to the proximity of residential uses and as the evidence indicates that appeal use has no limits on the hours of operation, an unrestricted use would have the potential to affect the living conditions of neighbours resulting from noise and disturbance associated with the coming and going of customers and mini-cab drivers. Due to the site's location on a heavily trafficked road close to a pedestrian crossing and the junctions of several roads, along with the presence of a number of commercial uses, an unrestricted booking office use would also have the potential to effect highway safety as a result of cab-drivers visiting the premises and customers being dropped off nearby.
9. In addition to the condition in dispute, three conditions are attached to the planning permission. In summary, condition 1 limits the private vehicle hire element of the use to a period of 1 year expiring on 15 August 2014; condition 2 requires the development to be carried out in accordance with approved drawing number SR-01 rev A; and condition 3 restricts the private hire use to radio-controlled communication between the 'dispatcher' and the drivers of the mini-cab vehicles only.
10. Given the site's location, I recognise that the introduction of signage or referencing as currently restricted by condition 4 would have the potential to attract customers to the premises. Nonetheless, if condition 4 was to be

removed, the other three conditions could remain in place. Condition 3 limits the private vehicle hire use to an extent that customers and drivers are not permitted to visit the premises. The floor area of the private vehicle hire use is also restricted by condition 2. Any breach of conditions 2 or 3 would be a matter for the Council. In this scenario the remaining conditions would, therefore, be sufficient to protect the living conditions of neighbouring residents and highway safety and consequently the disputed condition is unnecessary.

11. For the foregoing reasons, the continuation of the appeal use subject to conditions 1, 2 and 3 only, would not harm the living conditions of neighbouring residents or highway safety. Therefore, in this regard there would be no conflict with Policies SH4, SH14, SH16, EP2, TRN3, TRN16, TRN23, TRN24, TRN25 or TRN34 of the Brent Unitary Development Plan 2004, or with the National Planning Policy Framework.

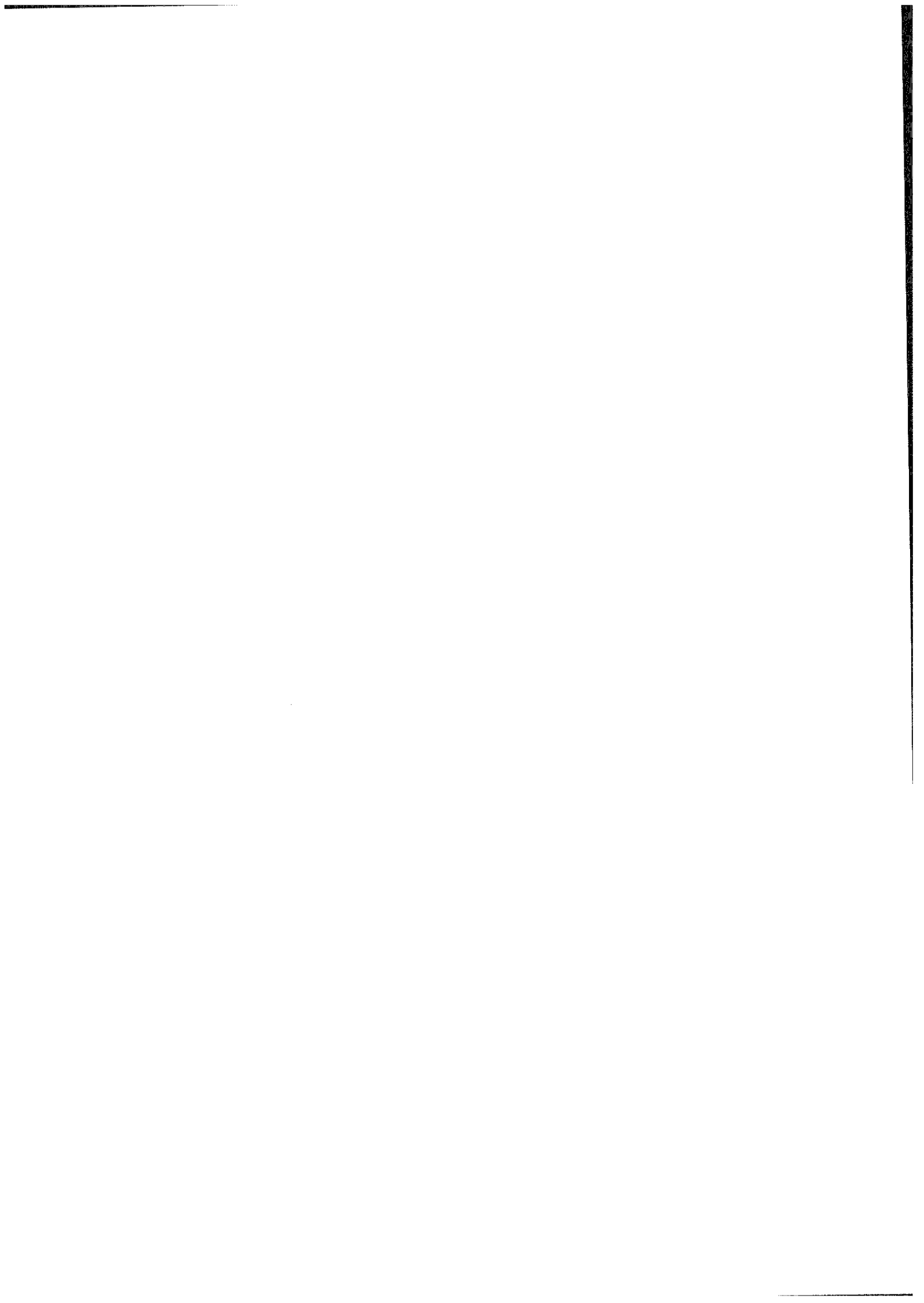
Conclusions

12. For the reasons given above, I conclude that the appeal should succeed. I shall vary the planning permission by deleting the disputed condition as indicated in my decision.

G D Jones

INSPECTOR

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Appeal Decision

Site visit made on 23 April 2014

by **A Banks BA(Hons) DipUD PGCM MRTPI MRTPI**

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

Decision date: 22 May 2014

Appeal Ref: APP/T5150/A/14/2212838

Mr Fish, 51 Salusbury Road, London NW6 6NJ

- 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 Shafiq Jivraj against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/1946, dated 12 July 2013, was refused by notice dated 11 November 2013.
 - The development proposed is change of window to front and side elevation of restaurant.
-

Decision

1. The appeal is allowed and planning permission is granted for change of window to front and side elevation of restaurant at Mr Fish, 51 Salusbury Road, London NW6 6NJ in accordance with the terms of the application, Ref 13/1946, dated 12 July 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 plan: SA524-12-P3.

Preliminary Matter

2. The appellant has requested that the appeal is determined on the basis of revised plans - P4. However, P4 is a substantial departure from the scheme the Authority determined. Whilst the appellant states that letters were sent to the original residents consulted on the application and accordingly third parties would not be prejudiced by this, I cannot be sure that statutory consultees as well as all third parties have been offered an opportunity to comment on the modified scheme. Therefore, whilst it was clear from my site visit that matters have moved on, I have considered the proposal as determined by the Authority.

Main Issue

3. It is clear from the Officer's report that the Council has no issue with the design of the windows. Their concern relates to the window on the side elevation which would be fully opening and the main issue is its effect on the living conditions of the occupiers of the adjoining first floor dwelling with particular regard to noise.

Reasons

4. The appeal site is located on the corner of a crossroad junction. It fronts onto the busy Salisbury Road, which has a noisy and lively commercial character. Its side elevation faces Brondesbury Road, which beyond the properties fronting onto Salisbury Road, has a quieter residential character.
5. The proposal would change the main window facing onto Brondesbury Road, so that it could potentially open to its full extent. The proximity of the window to Salisbury Road along with its slightly angular alignment towards it creates a stronger association with that road rather than the quieter residential Brondesbury Road. In this context, an opening window would not be dissimilar from The Alice House Restaurant, opposite the site and which has sliding windows or other nearby eating places which have outside seating areas. Noise levels are already higher in this area and it is unlikely that the additional noise arising from having an open window at the appeal site would be discernible. The measurements taken for the Noise Impact Assessment submitted with the appeal support this.
6. I therefore conclude that the proposed development would not unacceptably affect the living conditions of the occupiers of the adjoining first floor dwelling with particular regard to noise. Consequently the proposal would not be contrary to Brent's Saved Unitary Development Plan (UDP) Policy EP2 which seeks to maintain acceptable noise levels. UDP Policy BE9 and the Council's Design Guide for New Development Supplementary Planning Guidance 17 are not directly relevant to this case as they are concerned with architectural quality and design.

Other Matters

7. I have considered the concerns of residents in neighbouring 134 Brondesbury Road. In particular I note their comments in respect of The Alice House Restaurant. But I saw that this has sliding windows which are opposite No 134 whereas the proposed window at Mr Fish is at a sharp angle facing away from No 134. Given the conclusions above I consider there would be no significantly increased impact on the occupiers of No 134.
8. The Government's Planning Practice Guidance (PPG) was published on 6 March 2014. The content of the Guidance has been considered but in the light of the facts of this case the document does not alter my conclusions.

Conditions

9. In the interests of proper planning and for the avoidance of doubt, it is necessary to impose a condition to require the development to be carried out in accordance with the approved plans.

Conclusion

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

A Banks

INSPECTOR



Appeal Decision

Site visit made on 1 April 2014

by **Stephenie Hawkins BSocSc(Hons) MPhil MSc MRTPI**

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

Decision date: 29 April 2014

Appeal Ref: APP/T5150/A/13/2205500

Gladstone Court, Anson Road, London NW2 4LA

- 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 Charles Raval against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/1977, dated 17 July 2013, was refused by notice dated 11 September 2013.
 - The development proposed is erection of a two bedroomed three storey dwelling house.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a two bedroomed three storey dwelling house at Gladstone Court, Anson Road, London NW2 4LA in accordance with the terms of the application, Ref 13/1977, dated 17 July 2013, subject to the conditions in the attached schedule.

Procedural Matters

2. The decision notice refers to Policy 5.17 of the London Plan. However, the Council has confirmed that this is an error and that it should read as Policy 5.13. Whilst Revised Early Minor Alterations to the London Plan were published in October 2013, after the application was determined, these do not constitute a material change to Policy 5.13.
3. As far as is relevant, I have taken the Planning Practice Guidance (PPG), issued on 6 March 2014, into account in reaching my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupiers in terms of amenity space provision and outlook, together with privacy;
 - the effect of the proposed solar panels on the living conditions of occupiers of Gladstone Court in terms of outlook; and

- whether the proposed development would make adequate arrangements for waste water drainage.

Reasons

Character and appearance

5. The appeal site comprises a triangular shaped plot of land, which fronts Melrose Avenue and tapers to the rear. The site is located to the side of a block of flats known as Gladstone Court. This block is four storeys in height, with the top floor set within pitched roofs with dormer windows. It has a traditional, and symmetrical, appearance, which includes projecting brick bays and use of render. Melrose House, a fairly recent residential care home development, is to the south. Next to the site, this has replaced a three storey development with a mono-pitched roof, with one of four storeys with a flat roof.
6. The appeal site has a planning history that includes previous appeals arising from similar proposals to erect a dwellinghouse in a similar position, which were dismissed in March 2000, October 2001 and January 2003. I have been provided with some details of the last appeal (Ref APP/T5150/A/02/1098612), which I consider is a material consideration in this appeal.
7. The previous Inspector found the proposal before them would detract from the space that is part of the established setting of Gladstone Court and which gives it a degree of separation from the development to the south. The Council suggests that, on this basis, infill development on the site should be resisted in principle. However, the previous Inspector pointed out that the first appeal failed on grounds of amenity space and highway safety, not character and appearance. As such, I consider the issue is not one of principle, but one of the scale and massing of the proposal and whether sufficient space would be retained to provide visual separation between Gladstone Court and Melrose House.
8. The proposal before the last Inspector was for a two storey dwelling that would extend across the full width of the plot. Whilst the proposal before me is for a three storey dwelling, it would retain space to the side with a wide frontage to Melrose Avenue. This space would largely be framed by the side elevation of Melrose House, which is prominent within the street scene. However, the planting of trees, as proposed, would soften and filter views of the built form. In my view, this would emphasise that space exists between Gladstone Court and Melrose House. Such tree planting could be secured as part of a landscaping condition, as suggested by the Council. Whilst the space would taper into the site, at this point there would be a clear gap between the proposed dwelling and Melrose House. Consequently, whilst the proposed dwelling would reduce the space, I am satisfied that sufficient space would be retained to overcome the concerns of the last Inspector.
9. Turning to appearance, I consider the proposed development would have much to commend it, especially when viewed from Melrose Avenue. I consider the contemporary design would provide a striking contrast to the traditional design of Gladstone Court, whilst complementing it, for example, by drawing on its scale and proportions and use of render. Whilst the design includes substantial glazing to the front, with vertical fins reflecting the vertical emphasis of the projecting brick bays of Gladstone Court, there would be horizontal breaks at

each floor level following the openings of Gladstone Court. The proposed dwelling would adjoin Gladstone Court by a recessed glazed strip, which would provide a visual break. The flat roof would lend subservience to Gladstone Court and, given the use of such within the Melrose House development, I consider it would sit comfortably within the setting. In my view, the visual break and subservience, together with the contrasting design, would enable the symmetry of Gladstone Court to continue to be read.

10. For the reasons given above, I conclude that the proposed development would not materially harm the character and appearance of the area. As such, it would accord with Policies BE2, BE7, BE9 and H12 of the Unitary Development Plan 2004 (UDP). These policies generally require developments to have regard to the local context and not cause harm to the character and appearance of the area, resisting the excessive infilling of spaces between buildings and supporting contemporary design that respects and satisfactorily relates to the adjoining development.
11. The decision notice also refers to Policy BE3 of the UDP and Supplementary Planning Guidance Design Guide for New Development (SPG17). However, Policy BE3 relates to space and movement, and I find it of limited relevance to this appeal. In respect to character and appearance, the Council has not drawn my attention to any specific provisions within SPG17 and, as such, I give it little weight in this regard.

Living conditions – future occupiers

12. The Council considers the quantity of proposed amenity space would accord with the standards as set out in SPG17, but considers it would not be of sufficient quality. I concur with the Council in respect to the proposed rear amenity space, which given its size, shape and enclosure by close boarded fencing, would be cramped and overshadowed. However, the main amenity space would be provided to the side of the dwelling. This would be set back from the street by the proposed car parking space, refuse stores and cycle parking, which would act as a buffer to passing pedestrians and vehicles. Whilst habitable room windows to the side elevation of Melrose House would enable overlooking of this space, some overlooking of amenity space is unavoidable in urban areas and, in this instance, it would tend to be oblique. In addition, it would, to an extent, be filtered by the planting of trees as proposed. Consequently, I consider the proposed development would provide amenity space of sufficient quality.
13. The Council contends that the proposed development would breach SPG17's separation distance standards between habitable room windows to the side and rear elevations and the site's boundaries. These standards relate to privacy. However, given habitable room windows to these elevations would only be on the ground floor, and the relationship with adjacent developments, I consider the potential for overlooking to be satisfactorily limited. I acknowledge that these windows may offer a somewhat restricted outlook for future occupiers of the proposed dwelling, especially to the rear. However, they would serve an open plan kitchen/living room, which would also be served by the substantially glazed frontage that would have an unrestricted outlook. Consequently, in this case, I do not consider the Council's concerns about conflict with SPG17's separation distances between habitable room windows and the site's boundaries sufficient to justify withholding planning permission.

14. For the reasons given above, I conclude that the proposed development would provide acceptable living conditions for future occupiers in terms of amenity space provision and outlook, together with privacy. As such, it would accord with Policy BE9 of the UDP, in that it requires developments to promote the amenity of users. In addition, notwithstanding the technical conflict with numerical guidelines, I consider the proposed development acceptable when considered against SPG17.

Living conditions – occupiers of Gladstone Court

15. The proposed solar panels would be in close proximity to a dormer window to Gladstone Court, with one set in direct view. Whilst this would be set fairly low to the window, given its proximity, I consider it would be particularly noticeable to occupiers of the flat and, as such, would materially harm their living conditions in terms of outlook. However, the appellant has suggested that the panels could be lowered, which could be secured by condition, and I am satisfied that this would overcome the harm that I have identified.
16. For the reasons given above, I conclude that the proposed solar panels would not materially harm the living conditions of occupiers of Gladstone Court in terms of outlook. As such, the proposed development would accord with the aforementioned provision of Policy BE9 of the UDP, which specifically refers to developments providing a satisfactory level of outlook for existing residents.

Waste water drainage

17. I note the concerns of Thames Water in respect of there being insufficient capacity within the existing waste water infrastructure to accommodate additional demand from the proposed development, especially in respect to surface water. In this respect, I note that the application form states that surface water disposal would be via the main sewers, whereas Thames Water would prefer sustainable drainage measures. Notwithstanding the details on the application form, the proposed development would incorporate such measures, including a green roof. Given the fairly minor scale of the development, I consider such measures could be secured as part of the suggested landscaping condition. As such, I do not consider this matter justifies planning permission being withheld.
18. For the reasons given above, I conclude that the proposed development would make adequate arrangements for waste water drainage and would accord with Policy 5.13 of the London Plan 2011, which requires developments to incorporate sustainable urban drainage systems.

Other Matters

19. I acknowledge that the proposed development would alter the immediate environment of Gladstone Court and have addressed matters of outlook and privacy above. Any works affecting the building itself would be covered by separate legislation and, as such, has no material bearing on the planning merits of the case. Similarly access across the frontage would be a private matter. Notwithstanding this, the proposed development would be set back in line with Gladstone Court and Drawing No P-101 indicates that the right of way is to be retained and resurfaced. In my view, concerns about the maintenance of the site, including problems of fly-tipping, weigh in favour of bringing the site into use. I note preferences for the site to be used for parking, or gardens,

associated with Gladstone Court, and ongoing efforts to achieve this, but such a proposal is not before me.

Conclusion and Conditions

20. For the reasons given above, the appeal should be allowed.
21. The Council has not provided a list of conditions that they consider should be imposed if planning permission is granted. However, conditions are suggested within the evidence of the main parties, which I have considered against paragraph 206 of the National Planning Policy Framework and the advice in the PPG. In addition, I sought the views of the main parties on the use of conditions to address issues of living conditions of occupiers of Gladstone Court and waste water drainage, but neither responded.
22. I have already referred to the necessity for a landscaping condition as suggested by the Council, incorporating details of tree planting and sustainable drainage measures. In addition, in the interests of sustainable travel and the safe and efficient operation of the access, I consider it necessary for this to incorporate details of the cycle storage and the gate to the parking area, as suggested by the Council's transportation officer. Also as referred to above, I consider it necessary to attach a condition for the re-siting of the solar panels, as suggested by the appellant to overcome concerns in terms of the outlook of occupiers of Gladstone Court. In addition, in the interests of the character and appearance of the area, I consider it necessary to attach a condition requiring the materials to be used in the construction of the external surfaces of the development to be approved by the local planning authority. I have also attached the standard time limit condition and, for the avoidance of doubt and in the interest of proper planning, a condition requiring that development be carried out in accordance with the approved plans.
23. I note that the transportation officer seeks a financial contribution towards improving highway safety, new parking controls and enhancing non-car access. However, lack of such a contribution did not form part of the reasons for refusal and I have no reasoned assessment that it is necessary. In addition, the proposed development would be liable for the Council's Community Infrastructure Levy and it is not clear as to whether such infrastructure would be funded by this.

Stephenie Hawkins

INSPECTOR

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: L-100; S-101; P-101 and P-301.
- 3) No development shall take place until full details of the materials to be used in the construction of the external surfaces of the building 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.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority. These details shall include: the size, species and positions of all trees to be planted, and the proposed time of planting; sustainable drainage measures, including specifications for the green roof; hard surfacing materials; cycle storage; and proposed means of enclosure including gates. The works shall be carried out as approved prior to first occupation of the dwelling hereby permitted or in accordance with a timetable agreed by the local planning authority.
- 5) With reference to condition 4, all the works carried out as part of the approved sustainable drainage measures shall thereafter be retained as such.
- 6) With reference to condition 4, if within a period of two years from the date of the planting of any tree, that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 7) Notwithstanding condition 2, no development shall take place until details of the siting of the solar panels have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.

Appeal Decision

Site visit made on 8 April 2014

by **J D Westbrook BSc(Hons) MSc MRTPI**

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

Decision date: 11 April 2014

Appeal Ref: APP/T5150/D/14/2212560 14 Westward Way, Kenton, Harrow, HA3 0SE

- 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 Satishbhai against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/2970, dated 25 September 2013, was refused by notice dated 28 November 2013.
 - The development proposed is an outbuilding to the dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for an outbuilding to the dwelling house at 14 Westward Way, Kenton, Harrow, HA3 0SE, in accordance with the terms of the application, Ref 13/2970, dated 25 September 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: 270 1/R1, 270 2/R1.
 - 3) 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 14 Westward Way, Kenton, Harrow, HA3 0SE.

Main Issue

2. The main issue in this case is the effect of the proposed outbuilding on the character and appearance of the area around Westward Way.

Procedural Matter

3. In reaching my decision I have had regard to the recently published and updated National Planning Practice Guidance.

Reasons

4. No 14 is a detached house situated on the south side of Westward Way. The houses on this side of the road have long rear gardens, as do the houses to the
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rear on Hampton Rise. No 14 has no rear extension, although a number of the houses in the vicinity have sizeable rear extensions. The proposed outbuilding would be constructed at the bottom end of the long rear garden, some 20 metres from the house. It would be around 6.5 metres wide by 5.5 metres deep. It would be sited 1.2 metres away from the side and rear boundaries, and it would have a height to eaves of 2.5 metres, with an overall height of 3 metres, utilising a very shallow hipped roof. It would have timber cladding on the walls and a green felt roof.

5. The appellant contends that if the outbuilding had a flat roof it would meet permitted development requirements. I consider this a significant fall-back position.
6. In view of its limited height and its distance from the rear elevations of the host building and its neighbours on all sides, I do not consider that the proposed outbuilding would have any significant impact on the generally spacious character of the surrounding area. It would not be prominent from any perspective and it would leave a substantial amount of garden unobstructed.
7. The Council contends that the size of the building would be uncharacteristic of the area and would fail to respect the garden setting. It would be a large outbuilding, but the garden is also large. Furthermore, I am mindful of the fact that a similar building with a flat roof could be constructed using permitted development rights. I find that the proposed low hipped roof would be a more appropriate design than a flat roof, particularly in the context of the surrounding houses, which also have hipped roofs.
8. On the basis of the above, I find that the proposed outbuilding would not be significantly harmful to the character and appearance of the surrounding area. It would also, therefore, not conflict with Policy CP17 of the Council's Core Strategy, or with Policies BE2 or BE9 of the Council's Unitary Development Plan, all of which require a development to respect its setting and local context, and not cause harm to the character of an area.
9. Finally, concern has been expressed that the size of the building and the inclusion of a toilet within the building indicates a potential that the outbuilding could be used other than as ancillary to the main dwelling. This issue and the concern resulting from it can be dealt with using a relevant condition, and I have attached such a condition accordingly.

Conditions

10. I have attached a condition relating to plans because 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. I have attached a further condition relating to ancillary use in the interests of the residential amenities of neighbouring occupiers, and in the interests of protecting the established character of the area.

J D Westbrook

INSPECTOR

Appeal Decision

Site visit made on 10 April 2014

by **G Powys Jones MSc FRTPI**

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

Decision date: 2 May 2014

Appeal Ref: APP/T5150/A/14/2211535

43 Dollis Hill Lane, London, NW2 6JH

- 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 Andre Araujo against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/3328, dated 1 November 2013, was refused by notice dated 27 December 2013.
 - The development is a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension at 43 Dollis Hill Lane, London, NW2 6JH in accordance with the terms of the application Ref 13/3328, dated 1 November 2013, subject to the following condition:

Within 3 months of the date of this decision the windows in the flank wall of the extension hereby permitted shall be fixed shut and obscurely glazed, and no further windows shall thereafter be inserted in the flanks walls of the extension.

Preliminary matters

2. The single storey rear extension has already been built and the appellant, in effect, wishes to retain it. I shall proceed on this basis. The discrepancies in the submitted plans pointed out by the Council are noted, but since the extension already exists, the discrepancies do not materially affect my assessment.
3. The Council's second reason for refusal refers to the property being used as a House in Multiple Occupation (HMO). An enforcement notice was served which came into effect on 26 October 2013. The notice required the use as a HMO to cease, and the demolition of the rear extension. The appellant says that the use of the property as a HMO has ceased. However, the use made of the property is not a matter within my remit since the appeal is concerned solely with the rear extension.

Main issues

4. The main issues are the effects of the proposed development on: (a) the character and appearance of the host property and surrounding area, and

(b) the living conditions of the residents of 41 & 45 Dollis Hill Lane with particular reference to outlook, privacy and visual intrusion.

Reasons

Character and appearance

5. The appeal property is a semi-detached dwelling set in a predominantly residential area of distinct suburban characteristics. The extension, built at the rear of the dwelling, has no impact on the public realm since it is shielded from view by the bulk of extant properties. The extension is clad in white UPVC panels although the material of construction is not immediately apparent until one is close to it. Its colour matches the painted render of the main rear wall of the dwelling, and its shape is not unlike other rear extensions in the locality, albeit that it is longer. Fences and vegetation on or near to the appeal site's boundaries are such as to provide good screening from adjacent gardens. Whilst the extension may not be of a particularly high quality of design, it is unobtrusive both from the front and from adjacent properties, and causes no harm.
6. I conclude that the proposed extension would sit unobtrusively and acceptably in its visual context without harming the character and appearance of either the host property or surrounding area. Accordingly, there is no conflict with those provisions of policies BE7 & BE9 of The London Borough of Brent Unitary Development Plan (UDP) requiring building proposals to be designed with regard to their local context. Policy BE7 relates specifically to the public realm, upon which the development has no perceptible effect.

Living conditions

7. The Council's concern in respect of potential loss of privacy to the residents of No 41 Dollis Hill Lane, may be acceptably addressed by condition requiring the windows on the flank wall of the extension to be obscurely glazed, and fixed.
8. The fences and other enclosures along the boundaries with the adjacent properties are of an adequate height to ensure that the extension is not particularly noticeable from neighbouring properties at close quarters, internally or externally, and certainly not sufficiently noticeable to cause harm by reason of visual impact or loss of outlook.
9. I conclude that the proposed extension would not give rise to unacceptable effects on neighbouring living conditions. Accordingly, there is no conflict with those provisions of UDP policy BE9 requiring development to be designed to promote a satisfactory level of privacy and outlook for existing residents.

Conditions

10. The Council's proposed conditions in respect of fenestration shall be imposed in the interests of protecting neighbouring privacy, albeit in a different form. Since the extension has already been built, no further conditions are necessary.

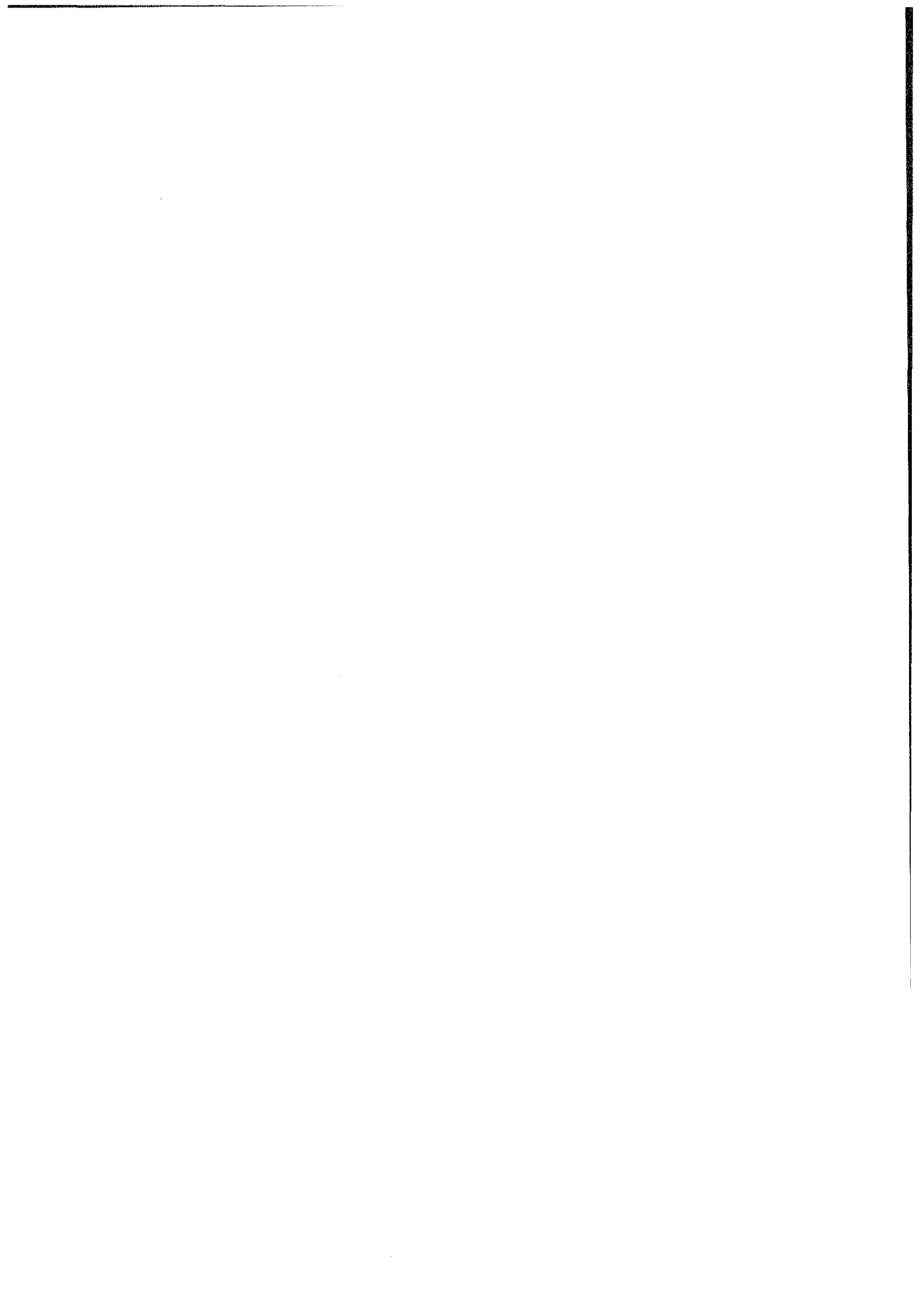
Other matters

11. The new national *Planning Practice Guidance* has been published recently, but having regard to the facts in this case and the main issues identified at the outset, it has no material bearing on my conclusions.

12. All other matters raised in the representations have been taken into account, including the references to the Council's Supplementary Guidance on 'Altering and Extending your Home' and also to what may be possibly built under permitted development rights. I give little weight to this latter aspect, given that the extension is already built, and required planning permission, and I am not convinced that a reasonable prospect exists of a new extension being built on the lines suggested. No other matter raised is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR





Appeal Decision

Site visit made on 8 April 2014

by **J D Westbrook BSc(Hons) MSc MRTPI**

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

Decision date: 15 April 2014

Appeal Ref: APP/T5150/D/14/2214968

5 St Michaels Avenue, Wembley, HA9 6SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph A4 of the Town & Country Planning General Permitted Development Order 1995 (as amended).
 - The appeal is made by Mr B Rahman against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/3890, dated 8 December 2013, was refused by notice dated 10 January 2014.
 - The development proposed is a single-storey rear extension to the dwellinghouse.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)(GPDO) for a single-storey rear extension to the dwellinghouse at 5 St Michaels Avenue, Wembley, HA9 6SJ in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A4 (2) of the GPDO.

Procedural matters

2. The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises - taking into account any representations received. My determination of this appeal has been made in the same manner.
3. I have been provided with plan drawing no. SB/30/1, which is referred to in the Council's decision notice, and on which my decision is based.
4. In reaching my decision I have had regard to the recently published and updated National Planning Practice Guidance.

Reasons

5. No 5 St Michaels Avenue is a semi-detached house, situated on the western side of the road. It has a very small rear extension to the kitchen. The adjoining No 3 has an L-shaped extension at the rear, some 3 metres in depth at the boundary with No 5, and around 4 metres in depth some 2 metres away from the boundary. It has a pitched roof. No 7 St Michaels Avenue is separated from the appeal property by a 1 metre wide passageway. It also has

a full-width rear extension some 3 metres deep. The houses on this side of the road have very long rear gardens, sloping down somewhat from east to west.

6. The extension at No 5 would be full width and would have a depth of 6 metres. It would have a flat roof and be 2.9 metres high. It would be sited to the north of No 3 and would, therefore, have no significant impact on the light received by that property. No 3 has large patio doors in that part of its rear extension closest to the appeal property and a large window in the deeper part, further away from the boundary. The extension at No 5 would project some 3 metres beyond the shallowest point of the extension at No 3 and only 2 metres from the deeper part. There are extensive and unobstructed views down the garden and over the properties further to the south and west.
7. The extension at No 7 is 1 metre distant from the side elevation of the appeal property. It has an obscure-glazed door closest to the boundary with No 5 and large patio doors further away. Again, there are unobstructed views down the garden and over houses to the rear.
8. In view of its limited projection beyond the rear elevations of the extensions in Nos 3 and 7, and the distance of the main ground-floor rear windows in those houses from the boundary with the appeal property, I find that the proposed extension at No 5 would not have any significant detrimental impact on the outlook from the neighbouring dwellings.
9. The Council notes that the ground slopes away from the rear elevation of the houses on this side of the road, and that the extension would therefore appear more oppressive. However, the slight drop in ground level over the length of the extension would not affect the view from the windows in the adjacent houses, since the proposed extension itself would remain at the same horizontal level as the extensions at Nos 3 and 7. It would be marginally more prominent from outside of the buildings, but this would have no significant detrimental impact on outlook due to the restricted length of the extension beyond that of the existing extensions on the neighbouring properties.
10. The appellant notes a number of cases where other long extensions have been recently approved but, on the limited information before me, the circumstances in these cases would not appear to reflect those of this current proposal. In any case, I have treated it on its own merits.

Conclusion

11. On the basis of the above, I conclude that the appeal should be allowed and approval granted. In granting approval the Appellant should note that the GPDO requires at Paragraphs A4 (10), (11) and (12) that the development shall be completed on or before 30th May 2016 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer; the address or location of the development, and the date of completion.

J D Westbrook

INSPECTOR



Appeal Decision

Site visit made on 7 May 2014

by **J Westbrook BSC(ECON) MSC PGCE MRTPI**

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

Decision date: 14 May 2014

Appeal Ref: APP/T5150/D/14/2216768

147 Salmon Street, Kingsbury, LONDON, NW9 8NG

- 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 Mrs Mary Healy against the decision of the Council of the London Borough of Brent.
 - The application Ref 13/3967 was refused by notice dated 13 February 2014.
 - The development proposed is a two-storey side extension, part single-storey rear extension and part two-storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey side extension, part single-storey rear extension and part two-storey side extension at 147 Salmon Street, Kingsbury, LONDON, NW9 8NG, in accordance with the terms of the application, Ref 13/3967, dated 19 December 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: 131104-10-P1, 131104-11-P1, 131104-12-P2.
 - 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.

Procedural matter

2. In reaching my decision I have had regard to the recently published and updated National Planning Practice Guidance.

Main issue

3. The main issue in this case is the effect of the proposed extensions on the character and appearance of the area around Salmon Street.

Reasons

4. No 147 Salmon Street is a semi-detached house within a row of properties that is set back from the main carriageway of Salmon Street behind a service road and a mature landscaped strip. The properties along this section of the road are a mix of detached and semi-detached houses with a variety of styles and displaying a number of different types of extension to the front, side and rear. The prevailing roof style in the area is hipped.

5. The site is within a designated 'Area of Distinctive Residential Character' (ADRC) and is therefore subject to the provisions of Policy BE29 of the Council's Unitary Development Plan (UDP), which indicates that particular attention will be paid to the design, height and space between buildings in order to protect their individual qualities and character.
6. No 147 has a small detached garage to the side and has previously been extended using a hip to gable method, allowing for the construction of a very large rear dormer window, the side elevation of which is clearly visible from the service road to the front. The proposed development would involve the demolition of the garage and the construction of a part single-storey, part two-storey front and side extension, which would also wrap around part of the rear of the house. It would also involve the replacement of the side gable with a hipped roof and a new subservient hipped roof to the side and rear extensions. As a result, the wide rear dormer window would be reduced in width by around 50%. It would be a little deeper than the existing dormer, but would be set down lower from the ridge and would be hidden from view by the hipped roof of the side extension.
7. The Council accepts that the proposed development meets certain of the criteria for the preferred design of extensions as laid down in its Supplementary Planning Guidance: "Altering and extending your home" (SPG5). It contends, however, that the front extension, which takes the form of a canopy wrapping round the existing front door and following the line of the front bay window, would conflict with that guidance and would detract from the appearance of the house. The appellant points to a large number of similar front extensions in the row of properties of which it is a part.
8. From my site visit, I note that there are front extensions on a large number of houses in the vicinity of the appeal property, including the adjoining No 149 and also at Nos 153 and 155 to the north, as well as Nos 143 and 145 to the south and Nos 131, 133 and 139 beyond. Whilst these are of differing designs and some are clearly of longstanding, nevertheless this feature is characteristic of the houses in the area and I do not consider that the proposed front extension at the appeal property would be out of character, nor would it be significantly harmful to the appearance of this part of the ADRC.
9. The Council also contends the replacement dormer would breach guidelines on size and positioning as laid down in the SPG. However, the new dormer would be only around half of the size of the existing dormer and it would be positioned well below the ridge of the side extension. It would, therefore, not be visible in the street scene. Since the existing dormer and gable side elevation of the house are uncharacteristic of and unsympathetic to the character and appearance of their surroundings, I find that the reconfigured hipped roof and the smaller hidden dormer would be beneficial to the general appearance of the area.
10. Finally, the Council contends that the single-storey element of the rear extension would be excessive in length. It would be a little under 6 metres beyond the existing main rear elevation of the house but only around 0.5 metres beyond the depth of the rear extension at the adjacent No 145. Furthermore, this element of the proposal apparently benefits from a ruling by the Council that Prior Approval would not be required for a single-storey extension of this length. This is a significant fall-back position.

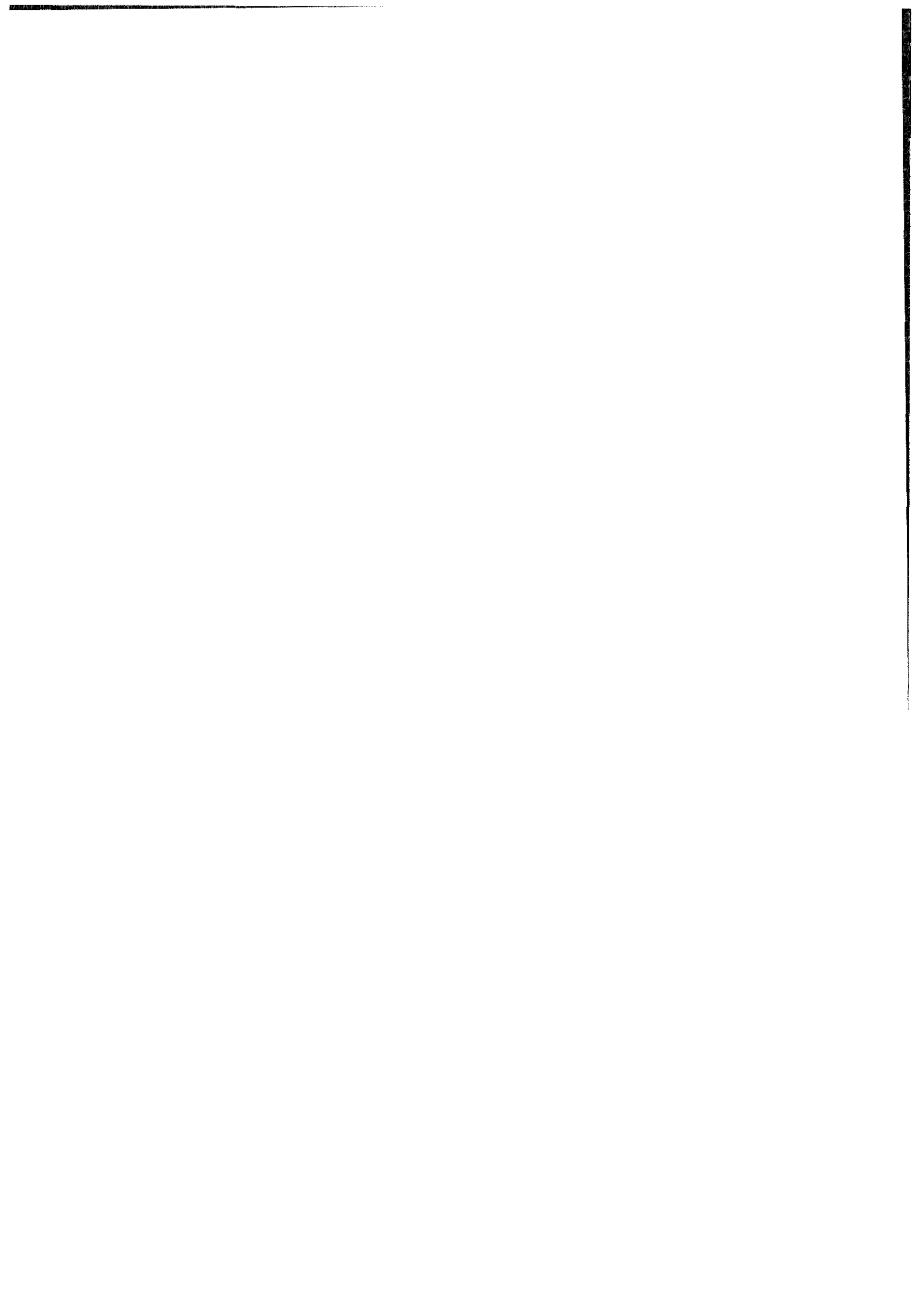
11. In conclusion, I find that the disputed elements of the proposal, namely the front extension, the dormer and the length of the single-storey rear extension, would not be harmful to the character and appearance of the area around Salmon Street. The front extension would reflect what is, in fact, a common feature of the surrounding area; the dormer and side-hipped roof would be a visual improvement on the current appearance of the side of the house and prominent rear dormer; and the single-storey rear extension would not be dissimilar to other rear extensions in the vicinity, including at the neighbouring No 145. On this basis, therefore, I find that the proposal would not conflict with Policies BE2, BE9 and BE29 of the Council's UDP, which relate to protection of townscape and architectural quality, including protection of the ADRC, nor would it significantly conflict with guidance in the SPG5.

Conditions

12. I have attached a condition relating to plans because 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. I have attached a further condition relating to materials in the interests of the visual amenities of the area.

J Westbrook

INSPECTOR





Appeal Decision

Site visit made on 10 April 2014

by **G Powys Jones MSc FRTPI**

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

Decision date: 17 April 2014

Appeal Ref: APP/T5150/D/14/2214759

143 Carlton Avenue East, Wembley, Middlesex, HA9 8PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 1, Paragraph 4A of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
 - The appeal is made by Mr Hussain Obaydi against the decision of the Council of the London Borough of Brent.
 - The application Ref 14/0228, dated 24 January 2014, was refused by notice dated 3 March 2014.
 - The development proposed is a single storey rear extension to original dwelling house.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 1, Paragraph A4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)(GPDO) for a single storey rear extension to original dwelling house at 143 Carlton Avenue East, Wembley, Middlesex, HA9 8PU in accordance with the details submitted pursuant to Schedule 2, Part 1, Paragraph A4 (2) of the GPDO.

Procedural matters

2. The provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises - taking into account any representations received. My determination of this appeal has been made in the same manner.
3. The original form submitted by the appellant to the Council is undated. Accordingly, the date used by the Council in its decision letter and by the appellant in the appeal form has been adopted as the date on which the original application was made.

Reasons

4. The Council considers that the proposal satisfies the empirical requirements of what currently qualifies as permitted development, and I have no reason to arrive at a different conclusion. The Council refused prior approval on the basis that the impact of the proposed development on the amenity of the residents of the next door properties, 141 & 145 Carlton Avenue East, would be unacceptable on the grounds of loss of light, outlook and visual intrusion.

5. The extension would be 6m deep for the most part, but has been designed so that for much of its length either side it would be set away from the adjoining boundaries by at least 2m. Where it adjoins the neighbouring boundary with No 145, it would have a height of approximately 3m. This would be higher than the solid fence that currently demarcates the boundary, but not so much higher as to materially affect the amount of daylight and sunlight currently enjoyed by No 145 residents, particularly in their rear rooms. The proposed extension's roof has been designed so as to minimise the potential impact of height, and to allow as much sunshine as practicable to shine through to the property to the north.
6. The other adjacent property, No 141 has a single storey extension built along the common boundary with the appeal property, and a high fence continues along this boundary. The development would have no material impact on the level of daylight or sunlight entering No 141.
7. The extension would be seen from the adjacent properties, particularly from their gardens and obliquely from rear windows. However, since the bulk of the extension would be set well away from the side boundaries and since its roof would not be inappropriately high, I do not consider that it would materially harm outlook or prove to be overbearing.
8. The single objection raised by one neighbour relates mainly to potential issues of flooding, which is not part of my remit in determining this appeal. I have already dealt with the other matter planning-related point raised.
9. Although I understand the reason for the Council's references to its Supplementary Planning Guidance on Altering and Extending Your Home (SPG), I attach limited weight to its contents since it considerably predates the introduction of the revised permitted development limits. I have therefore dealt with the appeal on its merits solely on the basis of its impact on the amenity of the adjoining properties taking account of the representations made.

Conclusion

10. I conclude that the appeal should be allowed and approval granted. In granting approval the Appellant should note that the GPDO requires at Paragraphs A4 (10), (11) and (12) that the development shall be completed on or before 30th May 2016 and that the developer shall notify the local planning authority in writing of the completion of the development as soon as reasonably practicable after completion. Such notification shall include the name of the developer, the address or location of the development, and the date of completion.

G Powys Jones
INSPECTOR