



Appeal Decision

Site visit made on 11 September 2012

by Vincent Maher MA (Cantab) MCD MSc MBA MRTPI

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

Decision date: 17 October 2012

Appeal Ref: APP/T5150/A/12/2173766
89 Kilburn High Road, London NW6 6JE

- 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 G T Promotions Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/0125, dated 19 January 2012, was refused by notice dated 16 March 2012.
 - The development proposed is a change of use to amusement centre/ adult gaming centre.
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Preliminary matter

1. The appellant amended the application after planning permission was refused, seeking to restrict the change of use to 89 Kilburn High Road only through the submission of drawing RE/K/12/02 Revision A which substitutes drawing RE/K/12/03. A copy of the plan was sent to the Council which has not passed comment on the revision. The development is of a notably smaller scale. No harm to natural justice would be caused by my consideration of this reduced development as it raises identical planning issues. I have therefore amended the address of the proposed development site and made my decision on the basis of drawing RE/K/12/02 Revision A.

Decision

2. The appeal is allowed and planning permission is granted for a change of use to amusement centre/ adult gaming centre at 89 Kilburn High Road, London NW6 6JE in accordance with the terms of the application, Ref 12/0125, dated 19 January 2012, as amended by a letter dated 28 March 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 plan: RE/K/12/02 Revision A.
 - 3) The shop window of the premises shall at all times contain a prized retail display of goods available for sale from within the premises.
 - 4) The use hereby permitted shall not be open to customers outside the following times: 0900 hours to 2300 hours.

Main issue

3. The main issue in this case is whether the proposed development would have an adverse impact on the vitality and viability of Kilburn town centre by reason of the introduction of an additional non retail use and its proposed shop frontage.

Reasons

4. The appeal property is located on a busy shopping street that straddles the local authority boundary with the London Borough of Camden. Planning permission was granted for the change of use of 87/89 Kilburn High Road for a similar use in 1992 (appeal reference APP/T5150/A/92/205468).
5. The western side of the street along with the appeal property is identified in the Brent Unitary Development Plan 2004 (the UDP) within a Primary Shopping Frontage (PSF) where development plan policy seeks to protect the proportion of retail uses as a means of contributing to its overall vitality. Changes of use on PSFs are controlled by UDP Policies SH6 and SH7. UDP Policy SH6 states that changes of use will be confined to Use Class A2, the former A3 Use Class (now split into Use Classes A3 to A5) and libraries, subject to other criteria in Policy SH7. The proposed development is a *sui generis* land use. Policy SH13 further states that amusement arcades will only be acceptable on Secondary Shopping Frontages subject to other criteria. While these three UDP policies have development plan status, they should be considered in the light of other policies as well as evolving national retail policy since they were adopted. Other inspectors approving similar developments at other sites in the borough have come to similar views (refer APP/T5150/A/09/2094508 and APP/T5150/A/08/2085629).
6. The drafting of UDP Policy SH13 has had close regard to Annex D to the former PPG6 (1996) which was national policy at the time the UDP was adopted. However, this guidance has been superseded over time by PPS6 in 2005, by PPS4 in 2010 and, finally, the National Planning Policy Framework (the NPPF) which has replaced all earlier guidance. The UDP policies should also take account of recent research into the management of town centres such as the Portas Review. The overwhelming thrust of national policy and other quoted research in recent years is that centres should promote a more diverse offer to improve their long term vitality. This includes leisure uses. National policy has a much less restrictive approach to uses such as the appeal proposal. Paragraph 23 of the NPPF still makes clear that primary shopping areas should be defined in local plans but the needs for retail, leisure, office and other main town centre uses should be met in full too and not compromised by limited site availability.
7. The Council has also asked me to consider these UDP policies in the light of Core Strategy Policy CS16 which stresses the need for additional retail in major centres such as Kilburn. However, my reading of the policy is that it focuses on major development and leisure uses only. A use of the scale proposed would not materially conflict with this policy.
8. In assessing the proposal against UDP Policy SH6, it is clear that the proposal does not fall within one of the uses supported by this policy. However, the use would not conflict with the aim of the policy which is to retain a retail core and to allow a range of complementary uses. As I have indicated above, national

- policy is significantly less restrictive on other uses such as leisure activity. In this case, the appellant has submitted substantial additional survey work based in other centres. This shows that similar uses were not considered unattractive, nor would they adversely affect the footfall and appearance of the parades in which they would be located. A planning condition requiring a shopfront to be retained would ensure the development retains the appearance of a use similar to a retail parade. On balance, I accept that the appeal proposal would not be inappropriate within this PSF in principle.
9. Turning to Policy SH7, it is clear that the proposal does not conflict with criterion (a), (b), (c) and (e) as far as they are relevant to this case. Criterion (d) states that a proposal "should not generally increase the proportion of non-retail frontage to over 35%" where there is a vacancy rate of less than 10%. The Council has stated that the proportion of non-retail frontage currently marginally exceeds this threshold. The appellant has not challenged this finding. I accept that the marginal increase does not materially conflict with a policy that assesses compliance in general terms only.
 10. As the site is located on a PSF, it would conflict with the words of UDP Policy SH13. I have therefore considered the proposal against the purposes of this policy. Paragraph 8.8.19 states that "amusement arcades can cause particular problems because of the nature of the activity". I find this account unclear. I have therefore assessed the proposal against the criteria in this policy and conclude that it is unlikely to give rise to any of the problems identified in the criteria in this policy. It would not affect the living conditions of local residents, subject to a planning condition controlling opening hours. It is not in proximity to a church or school or other sensitive use. It would not cause parking problems. It would not result in a concentration of amusement centres either.
 11. In summary, the proposal would conflict with the letter of Policies SH6 and SH13 but without harming with the aim of either policy. Moreover, given the modest scale of the revised proposal and in the context of evolving national policy which seeks to promote the vitality of town centres through a broader offer, I find it generally acceptable.
 12. I have reviewed the conditions suggested by the Council. I have specified a three year start period and identified the revised floorplan on which I have made my decision to avoid doubt and in the interests of good planning. I accept that a condition is necessary to preserve the appearance of a shopfront reflecting its location on a PSF. Finally, I have imposed a condition restricting hours of operation consistent with those for which planning permission has been sought.
 13. I have reviewed all matters raised by the parties in this appeal including letters of objection which raise a concern about a connection between this proposal and increased gambling addiction and anti-social behaviour. Much of these issues are matters to be managed by the operator of the business. I do not consider there to be harm in establishing the use on a busy street with a mix of shops and other uses including public houses and take aways.
 14. For the reasons given above, I conclude that the appeal should be allowed.

Vincent Maher

INSPECTOR



Appeal Decision

Site visit made on 15 October 2012

by Peter J Golder Dip TP MRTPI

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

Decision date: 30 October 2012

Appeal Ref: APP/T5150/A/12/2176152
277 Willesden Lane, London NW2 5JA

- 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 Guiseppina Rezai-Jorabi against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/0307, dated 7 February 2012, was refused by notice dated 4 April 2012.
 - The development proposed is conversion of ground floor flat to two single bedroom flats with extension to rear.
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Decision

1. The appeal is allowed and planning permission granted for the conversion of ground floor flat to two single bedroom flats, with extension to rear, at 277 Willesden Lane, London NW2 5JA in accordance with the terms of the application, Ref 12/0307, dated 7 February 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) Unless superseded by details submitted pursuant to the other conditions attached to this permission the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 331-01X, 331.sk01, 331.P01, 331.P02 and 331.P03
 - 3) The hereby permitted flats shall be not occupied until provision has been made within the site for the storage of cycles in accordance with details which shall first be submitted to and approved in writing by the local planning authority.
 - 4) Prior to the commencement of development details of the treatment of the front and rear garden areas, including details of hard and soft landscaping, screening and means of enclosure and the storage of refuse and recycling facilities, shall be submitted to and approved in writing by the local planning authority. The works comprising the approved details shall be carried out prior to the first occupation of the hereby permitted flats.

Application for costs

2. An application for costs was made by Mrs Guiseppina Rezai-Jorabi against the Council. This application is the subject of a separate Decision.

Main Issues

3. There are three main issues in this appeal. Firstly whether the proposal would result in an acceptable standard of residential environment in terms of security and privacy as a result of the intended shared garden arrangement. Secondly whether the proposal meets the required standards in terms of dedicated covered cycle storage facilities and thirdly, whether the scheme would give rise to highway difficulties as a result of increased pressure for on-street car parking.

Reasons

The residential environment

4. The Council acknowledges that both flats would meet the minimum standards required in the London Plan 2011. They also agree that the internal layout of both would be satisfactory, that all habitable rooms have external windows and the bedrooms would have adequate outlook. Both flats would have access to the rear garden.
5. In many respects the proposed scheme replicates the existing situation in terms of the arrangements to the rear of the property. The Council offers no evidence to support its contention that the proposed arrangement of a shared back garden would make the ground floor unsecure. The rear garden area is reasonably well enclosed and served by gates which could be kept locked. Its use could be restricted to the occupiers of the flats. The installation of new windows and a door on the rear elevation would enable improved security measures to be put in place. It seems to me an arrangement which has every prospect of achieving an acceptably safe and secure environment for the occupiers of the rear flat.
6. The main part of the rear garden area is about 1m higher than the area immediately adjacent to the building. Bringing this unused and overgrown area into beneficial use would be of advantage to the locality and prospective residents alike. Shared amenity areas, particularly if used inconsiderately, can bring with them some prospect of impacting upon the level of privacy. However, given the modest nature of the units proposed this is unlikely in this case to be of an extent to result in a significant reduction in the quality of residential environment enjoyed by those in the rear flat.
7. To ensure satisfactory external amenity space the layout and treatment of the rear garden area needs to be resolved. This is a matter which can appropriately be addressed by condition. Attention could be given in the preparation of those details to minimising the limited prospect of a lack of privacy for those in the rear flat. For example consideration could be given to greater enclosure of the small patio area serving the proposed living room, re-siting the steps to the end of the passage and screening and planting to avoid direct intervisibility between the garden area and windows.
8. In conclusion the proposal would provide secure accommodation with a quality of outlook and degree of privacy commensurate with the relevant provisions of saved policies BE9 and H18 of the Brent Unitary Development Plan 2004 (UDP). An attractive and useable external environment for these two modest flats would be provided in accordance with the advice in the Council's adopted SPG17 – Design Guide for New Development. Therefore I find these aspects of the proposal acceptable.

Cycle storage

9. Policy H18(g) requires, where practical, secure cycle storage. The requirement is repeated in the SPG17. The Council's standards (PS16) point to a preference for a particular type of facility and I acknowledge that covered storage would enhance the level of security provided. The application drawings show a storage facility in the shared passage to the rear garden. Unless suitably designed and adequately lit such an arrangement might be inconvenient. As the appellant acknowledges a suitable alternative could be within the shared garden. What is clear is that cycle storage could be accommodated on the site. There seems nothing to prevent this being covered if necessary and I consider cycle storage a matter which could be satisfactorily addressed by condition.

Car parking

10. Policy H19 specifically provides scope for the parking requirements of flat conversions to be met on-street, other than in heavily parked streets or where particular hazards might result. The proposal gives rise to an effective requirement of one additional space. Willesden Lane is a distributor road and bus route. In the vicinity of the site parking is heavily controlled and largely limited to a few pay and display spaces. There is a bus stop directly outside the appeal premises. I agree with the Council that circumstances at No 277 are not conducive to an effectively enforced car-free agreement. Consequently it is reasonable to conclude that should the proposed additional flat give rise to increased demand then in all probability the occupier would seek to park in Heathfield Park; the residential street which wraps round the rear of the site. This is a controlled parking zone for residents from 0800 to 1830 Monday to Saturday.
11. The UDP (Appendix TRN3) identifies heavily parked streets within the Borough. These are streets where overnight parking is recorded as being 80% or more of available capacity. It appears that Heathfield Park was omitted from the survey used to identify heavily parked streets. It is the Council's case that survey data compiled in March 2012 (since the original appeal decision in November 2011) shows that parking demand in Heathfield Park is consistently high enough for the street to be defined as being heavily parked. Two results are provided of demand; 76.5% and 86.5% - an average of 81.4%.
12. The appellant also carried out late night surveys in Heathfield Park on four occasions in April 2012; these show an average demand of 70%. It seems to me taking the survey data as a whole that it cannot be conclusively concluded that Heathfield Park consistently falls into the "heavily parked" category. On the contrary the available information highlights only one instance where this was the case. The evidence does not point to the prospect of one additional car from the proposed development placing additional demand upon parking in Heathfield Park to the extent that it would cause traffic safety hazards when measured against the UDP criteria. The Council identifies no other specific highway safety concerns. In these circumstances the unacceptable consequences which policy H19 seeks to avoid would be most unlikely to arise and I find no material conflict with this policy or policies TRN23 and TRN24 which deal with parking standards and on-street parking generally.
13. In conclusion the additional demand for on-street parking would be small and capable of being safely absorbed in Heathfield Park. This view is reinforced by the very real prospect that, having regard to the highly sustainable location of

the premises; close to a good range of local services and served by public transport facilities sufficient to achieve a high PTAL rating, future occupiers would not be car owners. The appeal decisions to which the Council directs my attention relate to circumstances involving heavily trafficked streets identified in the UDP; hence they are not on all fours with those at the appeal site.

Other matters

14. The appeal property lies within the Willesden Green Conservation Area. The impact of the previous scheme upon the character and appearance of the conservation area was a contributory consideration in the earlier appeal being dismissed. This is not a matter of concern raised by the Council in this instance. I am satisfied that the reduced width of the present proposal would result in the proposal having no material impact upon the character and appearance of the conservation area, which would be preserved.

Conclusions

15. The appeal proposal accords with the relevant saved provisions of the development plan. I agree with the Council that as far as the matters surrounding this appeal are concerned there is no inconsistency between these provisions and the core principles of the National Planning Policy Framework. Accordingly I find the proposal acceptable and have decided that the appeal should be allowed and planning permission granted. In reaching this view I have had regard to all other matters raised in the representations including those on behalf of the occupiers of No 275; matters which have been principally addressed in the body of this decision.

Conditions

16. I have already dealt with the need for conditions regarding the design and layout of the shared garden and the provision of cycle storage. In the interests of good planning and for the avoidance of doubt I impose a condition requiring development to be carried out in accordance with the approved plans. Willesden Lane affords important vistas within the conservation area. In recognition of the qualities of this area a condition is required to ensure satisfactory treatment of the front garden area including provision for the storage of waste and recycling facilities.

Peter J Golder

INSPECTOR



Appeal Decision

Site visit made on 28 September 2012

by Gary Deane BSc(Hons) DipTP MRTPI

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

Decision date: 15 October 2012

Appeal Ref: APP/T5150/D/12/2178198

39 Queens Walk, London NW9 8ES

- 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 Manoj Mohindra against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/0376, dated 13 February 2012, was refused by notice dated 16 April 2012.
 - The development proposed is the erection of a front extension and canopy (retrospective application).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a front extension and canopy (retrospective application) at 39 Queens Walk, London NW9 8ES in accordance with the terms of the application, Ref 12/0376, dated 13 February 2012 and drawing numbers QW-39/11A and QW-39/17A.

Procedural matter

2. The development for which planning permission is sought is complete. It appears to be in accordance with the plans.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the appeal property and the local area.

Reasons

4. The appeal property, 39 Queens Walk, is detached 2-storey house that lies in a predominantly residential area wherein dwellings are broadly similar in age and style. From what I saw, many dwellings in the local area, like No 39, have been externally altered and extended with, in some cases, sizeable front porches and canopies. As a result, there is some variety in built form notably in the local street scene to which No 39 belongs.
 5. The Council's SPG5, *Altering and Extending your Home*, advises that front extensions will not be permitted unless these reflect the predominant character of the area, which includes porches that are linked to front bays. It also advises that the design of the porch or canopy should complement the house.
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6. The front extension of No 39 is single storey and modest in height and depth. It has been carefully designed to be in keeping with the overall scale and proportions the appeal dwelling, which has also been extended at both sides. Although positioned close to the front ground floor bay window, there is a small gap between it and the front extension. In my opinion, that gap is sufficient to create some visual separation and ensures that both features are visually read as separate, distinct entities.
7. The mono pitched hipped roof that extends over the front extension connects with the front bay window. This canopy spans the width of the main house and terminates just beyond its sides. In this elevated position, the canopy is a prominent feature of the front elevation. Nevertheless, sizeable, horizontal canopy roofs form part of the building's façade with this roof form above both side extensions. These features give the front elevation a strong horizontal emphasis and, in my opinion, reduce the significance of the front bay windows, at both ground and first floor levels. As the front canopy broadly aligns with the canopies on either side and is consistent in scale and design, it broadly respects and reinforces the character and appearance of the building. Although the Council's SPG5 generally advises against porches linking with bay windows, in this particular case no significant harm is caused in doing so.
8. I saw several examples in the vicinity of the site where front extensions and canopies have been added to properties. Although these particular features vary considerably in their scale, design and appearance, and respect the host building to different degrees, they nonetheless form an integral part of the character of the area of which they form part. In one case, 37 Queens Walk, located adjacent to the appeal property, the front extension and canopy is similar to the development before me. Having walked around the local area, including Queens Walk and Salmon Street, I have little doubt that the appeal scheme reflects the predominant character of the local area in which houses with prominent porches and canopies often linked to front bays and garages are common place.
9. Core principles of the National Planning Policy Framework are to seek to secure high quality design and to take account of the different roles and character of different areas. For the reasons given, the development accords with these principles. Against that background, I conclude that the development is in keeping with the character and appearance of the appeal property and the local area. Accordingly, it complies with Policies BE2, BE7 and BE9 of the London Borough of Brent Unitary Development Plan 2004 and the Council's SPG5. These policies and guidance seek to ensure that development is appropriate to its context and secures a high quality of design for the street environment.
10. For the reasons set out above and having regard to all other matters raised, including the absence of objections from others, I conclude that the appeal should be allowed. Since the development is complete, I agree with the Council that no conditions are necessary.

Gary Deane

INSPECTOR



Appeal Decision

Site visit made on 28 September 2012

by Gary Deane BSc(Hons) DipTP MRTPI

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

Decision date: 4 October 2012

Appeal Ref: APP/T5150/D/12/2181162
10 Langler Road, London NW10 5TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Sue Higgs against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/0704, dated 6 April 2012, was refused by notice dated 13 June 2012.
 - The development proposed is the erection of a ground floor rear (side) extension.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a ground floor rear (side) extension at 10 Langler Road, London NW10 5TL in accordance with the terms of the application, Ref 12/0704, dated 6 April 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: Refs 1744AL01, 1744AL02, 1744AL03 and the Ordnance Survey Plan which shows the site edged red.
 - 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.

Main issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 12 Langler Road with particular regard to outlook and light.

Reasons

3. The proposal is to erect a single storey, mono pitched roof extension at the rear of the appeal property, 10 Langler Road, which is a mid-terraced house. It would infill the narrow and long recess of this 'L' shaped building. In doing so, the height of the brick wall that marks part of the shared rear boundary with the attached property, 12 Langler Road, would be raised. The height and depth of the proposed extension would exceed the thresholds that the Council considers to be generally acceptable for this type of extension.
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4. At the rear of Nos 10 and 12 there is a noticeable variation in the window alignments and rooflines, which indicates that the internal floor levels at the neighbouring property may be higher than those at the appeal dwelling. This difference appears to be replicated in the external ground levels either side of the common boundary, in which No 12 occupies a slightly elevated position relative to the site. A kitchen window in the side elevation of No 12 faces the shared boundary wall with No 10 and there is a ground floor window in the rear elevation of the main house, which serves a main habitable room.
5. With the new built form in place, views from the kitchen window of No 12 would continue to be dominated by the brick boundary wall, which currently increases in height closest to the rear of the main house. The additional height of the wall would further enclose the space at the rear of No 12 and increase the tunnel effect when viewed from the ground floor rear window of the main house. The glazed roof would also be visible, which would slope up to the sidewall of No 10. Nevertheless, the main view from this window towards the rear garden would not be significantly affected. It would continue to be framed by brick walls on either side. The proposal would also further confine the narrow space between the boundary wall and the side of the 2-storey outrigger of No 12 to a larger degree than at present. However, given my findings with regard to light and the slight difference in ground levels, I consider that the change would be so great as to feel overbearing or oppressive.
6. The upper part of the proposed extension would also be visible from the first floor rear windows of No 12. That view would look down mainly onto a modest expanse of glazed sloping roof and be in the context of the built form of No 10. In my opinion, the new addition would not look obtrusive. On balance, I consider that quality of outlook from No 12 would not be materially poorer as a result of the proposal.
7. The Council considers that there would also be a significant loss of daylight serving the rear windows of No 12 although the appellant's evidence contests this point of objection. To my mind, the proposal would not, in itself, cause an appreciable loss of light given the position and height of the existing boundary wall and the existing house, both of which will influence light penetration to the rear of No 12. Consequently, I consider that the additional loss of light resulting from the proposal would have no significant impact on the living conditions of the occupiers of No 12.
8. Overall, I conclude that the proposal would not significantly harm the living conditions of the occupiers of No 12. Accordingly, it complies with Policy BE9 of the London Borough of Brent Unitary Development Plan 2004, which seeks, amongst other things, to safeguard residential amenity. That aim also underpins the advice within the Council's SPG5, *Altering and Extending Your Home*, with which the proposal would also comply.
9. In reaching this conclusion I have taken into account the appeal decisions to which both main parties have referred. While these cases appear to be similar to the proposal before me, I have not been provided with full background details of these previous cases. Consequently, I am unable to confirm that their particular circumstances are directly comparable. That the outcome of those decisions has varied serves to emphasise that planning decisions turn on

the specific circumstances of each case and that each proposal should be considered on its individual merits, which I have done in this instance.

10. The Council appears to raise no objection to the installation of sliding folding doors at the rear of the existing house and I, too, find these acceptable in their design and appearance.
11. For the reasons set out above, and having regard to all other matters raised, including the absence of objections from others, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR



Appeal Decision

Site visit made on 28 September 2012

by Gary Deane BSc(Hons) DipTP MRTPI

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

Decision date: 3 October 2012

Appeal Ref: APP/T5150/D/12/2178968

81 Princes Avenue, London NW9 9JN

- 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 P Dharant against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/0755, dated 7 March 2012, was refused by notice dated 7 June 2012.
 - The development proposed as described on the application form is the 'retention of existing rear outbuilding'.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey outbuilding in the rear garden of dwelling (retrospective application) at 81 Princes Avenue, London NW9 9JN in accordance with the terms of the application, Ref 12/0755, dated 7 March 2012.

Procedural matter

2. The development is complete and appears to be in accordance with the plan. As retention is not an act of development, I have considered the proposal as one for retrospective planning permission and used the Council's description of the development in my decision.

Main issue

3. The main issue is the effect of the development on the character and appearance of the local area.

Reasons

4. The development is a single storey, flat roof building that is located at the rear of the back garden of the appeal property, 81 Princes Avenue. The local area within which No 81 is located is predominantly residential in character. Many nearby properties possess similar sized rear gardens within which I saw various sizeable outbuildings and other structures, including the properties on either side of No 81.
 5. The appeal building, together with a narrow covered walkway, extends across the garden's width with its rear and sidewalls located close to the site's boundaries. In this position, it forms part of a short row of outbuildings that
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occupy a similar position at the back of neighbouring properties. As a result, the appeal building, despite its considerable width and the absence of a noticeable set back from the site's boundaries, does not appear cramped in terms of layout nor is it imposing on the adjacent gardens.

6. Although the appeal building covers a relatively large footprint, it is modest in depth and height and constructed of materials that are compatible with those of other nearby outbuildings. To my mind, the appeal building is appropriate in design and appearance and not excessive in scale. It generally respects the visual character of the existing property and its immediate suburban surroundings.
7. Therefore, I conclude that the development is not out of keeping with the character and appearance of the local area. Accordingly, it does not conflict with Policies BE2 and BE9 of the London Borough of Brent Unitary Development Plan 2004. These policies seek to ensure that development is appropriate to its local context and should not cause harm to the character and appearance of an area. These aims underpin the underlying principles of the Council's SPG5, *Altering and Extending Your Home*, with which the proposal also complies.
8. With regard to conditions, neither a commencement condition nor one to secure matching external materials is necessary because the development has been completed in this idiom.
9. Therefore, for the reasons given above and having regard to all other matters raised, including the absence of objections from others, I conclude that the appeal should be allowed.

Gary Deane

INSPECTOR



Appeal Decision

Site visit made on 16 October 2012

by Sue Glover BA (Hons) MCD MRTPI

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

Decision date: 24 October 2012

Appeal Ref: APP/T5150/D/12/2181815

17 Dean Court, Wembley, Middlesex, HA0 3PU

- 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 Amar Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1597 was refused by notice dated 13 August 2012.
 - The development proposed is a new front garage extension with a porch and a single storey side and a single storey rear extension.
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Decision

1. The appeal is allowed and planning permission granted for a new front garage extension with a porch and a single storey side and a single storey rear extension at 17 Dean Court, Wembley, Middlesex, HA0 3PU in accordance with the terms of the application, Ref 12/1597, subject to the following conditions:
 - 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 plan: location plan and drawing no. 17DEANCOURTDWG001 dated June 2012. For the avoidance of doubt the roof levels and gradients shall be as shown in the elevation drawings.
 - 3) No development shall take place until details of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the flank wall facing no. 19 Dean Court.

Main Issues

2. The main issue is the effect of the proposal on the character and appearance of the host building and the area.

Reasons

3. No. 17 lies within an area that is designated as an Area of Distinctive Residential Character in the London Borough of Brent Unitary Development Plan

2004 (UDP). In this part there are pairs of distinctive semi-detached houses in a spacious setting, set back from the street and for the most part with good separation between the pairs at first floor level. There are a variety of single-storey extensions of differing designs and materials infilling the gaps between the dwellings at the side.

4. The proposal would demolish the existing side garage, which lies just behind the front of the adjoining garage at no. 15. The front of the new garage would project a little forward of the main front wall of no. 17 but behind the front porch. There would be a low profile shallow hipped roof and a small parapet at the side, which would sit comfortably alongside the flat roof design of the adjoining garage.
5. Whilst positioned a modest amount further forward, the proposed garage would not appear overly dominating or prominent in this position. It would add to the variety of garages in the street, but still maintain the architectural integrity of the host building. There would be no reduction in the spacious character of the street scene.
6. To conclude on this issue, I find no material harm to the character and appearance of the host building or the area in general. There is no conflict with the objectives of UDP Policies BE2, BE7, BE9 and BE29, and SPG 5, Altering and Extending Your Home in this respect.

Other matters

7. I have also considered the effect of the proposal on the residents at no. 19. Whilst some noise might be expected during construction, I am mindful that it would be for a temporary period only. There is other legislation to control noise and disturbance should it exceed acceptable limits. Any concerns about development on the boundary would also fall to be determined under other legislation.
8. The rear window at no. 19 is close to the boundary and would be further enclosed by the proposed rear extension. There is a high fence with climbing plants on the boundary and an external sunblind to the window. Whilst the side wall would be higher than the fence, I am conscious that some development could take place as permitted development, and that the depth of the extension would be modest and the pitch of the "lean-to" style roof shallow. On balance, taking all these matters into account I find no material harm to the living conditions of the residents of no. 19.
9. The Council indicates that there are inconsistencies between the roof plan and the elevation drawings, although no details are given. I am satisfied that any discrepancies are insignificant and that the roof levels and gradients would be as shown on the elevation drawings. I have taken into account all other matters, including the policies in the National Planning Policy Framework, but I find none that justify dismissal of this appeal.

Conditions

10. I have imposed a condition requiring details of external materials and finishes to ensure a high quality finished appearance. There is also a condition to restrict the insertion of windows in the flank wall facing no. 19 to protect the privacy of adjoining residents. As there are no changes proposed to the front garden and the existing garage is to be replaced, conditions requiring the retention of the

garage for car parking and soft landscaping in the front garden are unnecessary. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

Sue Glover

INSPECTOR



Appeal Decisions

Site visit made on 15 October 2012

by Janet L Cheesley BA (Hons) DipTP MRTPI

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

Decision date: 16 October 2012

APPEAL A

Appeal Ref: APP/T5150/D/12/2180728

226 Walm Lane, London NW2 3BS

- 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 Tim Jackson against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1305 was refused by notice dated 26 July 2012.
 - The development proposed is erection of single-storey rear extension on east boundary.
-

APPEAL B

Appeal Ref: APP/T5150/D/12/2180738

226 Walm Lane, London NW2 3BS

- 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 Tim Jackson against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1404 was refused by notice dated 24 July 2012.
 - The development proposed is demolition of existing rear projection on western boundary and erection of single-storey rear extension.
-

APPEAL C

Appeal Ref: APP/T5150/D/12/2182285

226 Walm Lane, London NW2 3BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Tim Jackson against the decision of the Council of the London Borough of Brent.
 - The application Ref 12/1661 dated 23 June 2012 sought approval of details pursuant to condition No. 5 of a planning permission Ref 11/1587, granted on 1 September 2011.
 - The application was refused by notice dated 06 August 2012.
 - The development proposed is erection of two x single storey rear extensions; replacement of all existing windows with timber windows including within the existing front and rear dormers, replacement of garage door and insertion of two new ground floor side windows.
-

APPEAL D

Appeal Ref: APP/T5150/D/12/2182288

226 Walm Lane, London NW2 3BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Tim Jackson against the decision of the Council of the London
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Borough of Brent.

- The application Ref 12/1660 dated 23 June 2012 sought approval of details pursuant to condition No. 4 of a planning permission Ref 11/3041, granted on 12 January 2012.
 - The application was refused by notice dated 06 August 2012.
 - The development proposed is rebuilding of single and two storey rear projection and insertion of three x windows in flank elevation to dwelling house (as revised by plans received 11/01/2012).
-

Applications for Costs

1. Applications for costs have been made by Mr Tim Jackson against the Council of the London Borough of Brent with respect to Appeals A and B. These applications are the subject of separate decisions.

Decisions

Appeals A and B

2. The appeals are dismissed.

Appeal C

3. The appeal is dismissed and approval of the reserved matters is refused, insofar as it relates to roof finishes. The appeal is allowed and the reserved matters are approved, insofar as it relates to timber windows details submitted in pursuance of condition No. 5 attached to planning permission Ref 11/1587, granted on 1 September 2011.

Appeal D

4. The appeal is dismissed and approval of the reserved matters is refused, insofar as it relates to roof finishes. The appeal is allowed and the reserved matters are approved, insofar as it relates to timber windows details submitted in pursuance of condition No. 4 attached to planning permission Ref 11/3041, granted on 12 January 2012.

Preliminary Matter

5. All four planning applications are retrospective.

Main Issues

Appeals A and B

6. I consider the main issue for both appeals to be whether the planning applications could be considered separately.

Appeals C and D

7. I consider the main issue for both appeals to be the effect of the roofing materials and windows on the character and appearance of the Mapesbury Conservation Area.
-

Reasons

Appeals A and B

8. The Council has stated that these planning applications cannot be considered separately as they form part of a two-storey rear and single rear extension carried out as one building operation for which planning permission does not exist.
9. I am not satisfied that the existing two-storey rear projection now has a valid planning permission. Since the Council's decisions on these retrospective applications, there has been granted a recent planning permission ref 12/1605. This is a variation of permission 11/3041, which was for both a two-storey rear extension and a single-storey extension (to the west). This permission has allowed the retention of the roof as built on the two-storey element where it differs from the previously approved plans. However, the roof slates and windows in the two-storey extension are not authorised. In addition, the single-storey side extension as built is larger than that approved under 11/3041.
10. For the above reasons, I consider that planning permission 12/1605 has not altered the planning situation. The two-storey rear extension and side extension to the west is not authorised development, as it does not fully comply with planning permission 11/3041 even when amended by planning permission 12/1605.
11. There is dispute between the parties as to whether the rear extensions were built as one building operation. Whatever the circumstances, each of the three parts are so closely linked together both internally and externally that they appear as one development. This adds weight to my opinion that the two side extensions cannot be considered in isolation when linked so closely to development that is unauthorised.
12. The Council has expressed its views with regard to each side extension, if it were felt possible to consider them in isolation. I note that with regard to Appeal A, the side extension to the east would be acceptable to the Council and due to the depth and height of that extension, I concur with that view. Nevertheless, due to the circumstances outlined above, I do not consider it appropriate to allow this appeal.
13. As regards the western extension (Appeal B), the Council has raised concerns regarding loss of outlook and access to natural daylight for occupiers of the adjacent property at 224 Walm Lane. The extension as built is one metre greater in depth than that previously allowed. From my observations, I consider that there would not be a significant loss of daylight, due to the height and position of the extension. However, due to the excessive cumulative depth of some 6.2 metres of the rear of the appeal property beyond the rear of No. 224, I consider that the side extension to the west unacceptably affects outlook from that neighbouring property.
14. For the above reasons and having taken into consideration all other matters raised, I dismiss Appeals A and B.

Appeals C and D

15. Both of these appeals are for the discharge of Conditions relating to materials. Both Conditions state that: Details of materials for all external work, including samples, shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The work shall be carried out in accordance with the approved details.
16. The materials under consideration are the retrospective use of Jutland Blue/Black fibre cement roofing slates and painted Sapele hardwood windows.
17. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability: at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
18. The National Planning Policy Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The appeal site lies within the Mapesbury Conservation Area, which is a designated heritage asset.
19. There is dispute between the parties over whether the previous roofing materials included natural slate. I note that The Mapesbury Conservation Area Design Guide requires that where the original material was natural slate, then re-roofing should be in natural slate to match. However, the use of a textured artificial slate is permissible in certain circumstances, which are not specified in this Design Guide.
20. The dwellings in the immediate vicinity of the appeal site of similar original design mostly have natural slate roofs. In my opinion, the artificial slate roofs that are apparent in the vicinity and on the roof of the appeal property do little to preserve the appearance of the Conservation Area, due to the distinct flatness in texture. From my observations, this is further exacerbated at the appeal property by the distinct contrast in colour between the roof and the rendered walls.
21. Whatever the history of the roofing materials on the appeal property, I do not consider that the existing roofing materials preserve or enhance the character or appearance of the Mapesbury Conservation Area, but this would be less than substantial harm as set out in the Framework.
22. A large expanse of the front of the roof is visible from public view. I find the stark contrast between the artificial slate and the natural slate used elsewhere is to the detriment of visual amenity. Thus, having regard to the Framework I find that the harm is not outweighed by any public benefit.
23. I note that the windows are made from Sapele hardwood and are of traditional design. Whilst samples were not provided to the Council as required by the Conditions, I have taken a pragmatic approach to this matter in my determining of these appeals.
24. The windows are in keeping with the traditional style and are of suitable hardwood construction. Thus, I consider that they accord with Policies BE2, BE9 and BE26 in the Brent Unitary Development Plan 2004 and the Mapesbury

Conservation Area Design Guide where these seek to ensure a high quality of design compatible with the local area and use of appropriate materials.

25. For the above reasons, I consider it appropriate to discharge the Conditions in part where they relate to the windows and not with regard to roof finishes.

Janet Cheesley

INSPECTOR



Appeal Decision

Site visit made on 22 October 2012

by Gloria McFarlane LLB (Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 30 October 2012

Appeal Ref: APP/T5150/C/12/2178053

19 Greystone Gardens, Harrow, HA3 0EF

- 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 Y P Shah against an enforcement notice issued by the Council of the London Borough of Brent.
- The Council's reference is E/10/0682.
- The notice was issued on 10 May 2012.
- The breach of planning control as alleged in the notice is the partial removal of the front boundary wall and the installation of hard surfacing to the front garden of the premises.
- The requirements of the notice are to:
 - Step 1 – Remove the unauthorised hard surface from the premises and dig/rip the land shaded black on Plan B attached to the notice.
 - Step 2 – Extend the existing front boundary wall in similar appearance, height and material to the existing front wall so it reflects the position shown on Plan B attached to the notice.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees are exempt, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal succeeds in part and the enforcement notice is upheld as varied in the terms set out below in the Decision.

Procedural Matters

1. Since the appeal was made planning permission has been granted for a scheme for hard and soft landscaping to the front garden and an extension to the boundary wall¹. It would, however, appear that the Appellant wishes to have larger accesses onto the appeal site than that granted permission². In an appeal on ground (a) and in the deemed planning application only the breach of planning control alleged can be considered, that is, the partial removal of the front boundary wall and the installation of hard surfacing to the front garden of the premises and I will determine the appeal on that basis.

The ground (a) appeal and the deemed planning application

2. The main issue is whether the partial removal of the front boundary wall and the installation of hard surfacing to the front garden of the premises enhances

¹ Ref:12/1677 dated 18 September 2012

² Appendix 5 to the Appellant's statement

- or preserves the character or appearance of the Northwick Circle Conservation Area.
3. The appeal premises are located within a suburban area of semi-detached and detached houses with large front gardens. The Council was concerned about the decline in the character of the area through works carried out as permitted development and on 1 February 2005 an Article 4 (2) Direction³ was made directing that specific permitted development rights no longer applied within the Northwick Circle Conservation Area. Included within the developments no longer permitted were the provision and enlargement of hard surfaces and the demolition of walls or fences at the front of properties.
 4. Many of the front gardens in Greystone Gardens have been paved over in a variety of materials to provide off-street parking spaces. In addition many properties no longer have full width front boundary treatments. I have no information about how many of these developments took place before the Article 4 (2) Direction; how many have been granted planning permission; or how many are unauthorised. Nevertheless, although there are a large number of hard surfaced front gardens, few are as extensive as the hard surface at No 19. The front boundary treatments that remain predominantly comprise low walls with some hedges.
 5. The extensive hard surface at No 19 is unrelieved by soft landscape save for one tree and a bush/tree in the centre of the front. Although the tree in the north-west front corner is protected by a Tree Preservation Order it appears squashed in and it appears to me that it may have been damaged by the installation of the hard surface. Saved Policy BE7 of the London Borough of Brent Unitary Development Plan (UDP) seeks to ensure that not more than half of a front garden area is occupied by a hard surface. The hard surface at No 19 exceeds this limit and results in a utilitarian appearance to the front to the property which does not reflect the generally green and suburban character of the area.
 6. The demolition of the boundary wall has resulted in there being two accesses from the road on to the front of No 19 and the provision of parking spaces for up to three cars (as I saw on my visit). Saved Policy TRN23 of the UDP advises that residential developments should not provide more parking than those in the standards which in this case is two spaces. The development is therefore contrary to policy and the number of vehicles in the front of the house has a negative impact on its residential character.
 7. Supplementary Planning Guidance No 5 'Altering and Extending Your Home' provides guidance in respect of boundary walls and front gardens⁴ and emphasises, among other things, the need to retain a boundary fence/wall, not having a driveway wider than 3m and maintaining a 50% / 50% balance between hard and soft landscaping to contribute positively to the character and appearance of the property and the street. The development in this case fails to comply with this guidance to the detriment of the visual appearance of the conservation area.
 8. I have taken into account the special needs of the current occupiers and the difficulty the disabled residents have in getting to and from and in and out of

³ of the Town and Country Planning (General Permitted Development) Order 1995 as amended

⁴ Part 4.0

vehicles. I note that the NPPF states that development should consider the needs of people with disabilities by all means of transport⁵. However, the development that is the subject of the notice appears to me to be excessive to meet those needs. Indeed, on the Appellant's own case, as shown on Appendix 5 to his statement, considerably less hard surface, with more soft landscape, is shown to be required than is currently the position.

9. The Appellant has suggested that a condition could be imposed requiring more planting on the front. However, that would not be consistent with the description of the development with which I am concerned, that is, the development that I saw on my visit and that which forms the subject of the notice.
10. I therefore conclude that the partial removal of the front boundary wall and the installation of hard surfacing to the front garden of the premises do not enhance or preserve the character or appearance of the Northwick Circle Conservation Area. I also conclude that the development is contrary to, and undermines the objectives of, the Article 4(2) Direction, the development plan policies referred to above and saved Policies BE2 and BE25 of the UDP which seek, among other things, to ensure that development does not have an unacceptable visual impact on conservation areas and that development is consistent with the preservation or enhancement of the character or appearance of the area.
11. The appeal on ground (a) fails and the deemed planning application is refused.

The appeal on ground (f)

12. In an appeal on ground (f) the Appellant has to show that the steps required to comply with the requirements of the notice are excessive and lesser steps would overcome the objection. The purposes of the requirements of a notice are to remedy the breach by, in this case, restoring the land to its condition before the breach took place which may include the carrying out of any building or other operations⁶. The Appellant has raised a number of matters under this ground of appeal that I have dealt with under the ground (a) appeal as they go to the planning merits rather than whether the requirements are excessive.
13. Taking the statutory provisions into account it therefore seems to me that the requirement in Step 1 to 'dig/rip the land shaded black on Plan B attached to the notice' is excessive in that it goes beyond remedying the breach. The breach would be satisfied by the first part of Step 1, that is, the removal of the hard surface, and I will vary the requirement accordingly.
14. So far as Step 2 is concerned, the Appellant says that the previous front wall was approximately 4.6m long and not the 6m long required by the Council. The Council's case is that Plan B was produced from an aerial photograph. I appreciate that the Appellant is most likely to know how much of the front wall was demolished but he has not provided any evidence in relation to this, nor was this issue addressed in his final comments which were made after the Council's case was known to him. In the circumstances I see no reason to vary the requirement in Step 2.

⁵ National Planning Policy Framework paragraph 35

⁶ S173(4) and (5) of the 1990 Act

15. To the limited extent set out above, the appeal on ground (f) succeeds and I will vary the notice accordingly.

Conclusions

16. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.

Decision

17. The appeal is allowed in part on ground (f) and it is directed that the enforcement notice is varied:

by the deletion of the words 'and dig/rip the land shaded black as shown on the attached Plan B to the notice' from Step 1 of Schedule 4.

Subject to this variation the enforcement notice is upheld.

Gloria McFarlane

Inspector