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# Appeal Decision

Site visit made 2 June 2011

**by Doug Cramond BSc MRTPI**

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

**Decision date: 23 June 2011**

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## **Appeal Ref: APP/T5150/A/11/2148029**

### **110 Wembley Park Drive, Wembley, HA9 8HP**

- 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 Abdi Fatah Hared against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/2279, dated 9 June 2010, was allowed on 22 October 2010 subject to conditions.
  - The development permitted is the change of use from internet café (Use Class A1) to mixed use internet café (Use Class A1) and radio cab office (Use Class Sui Generis).
  - The condition in dispute is No 3 which states that: There shall be no advertisements relating to the mini-cab use mounted on the exterior of the building or within the premises.
  - The reason given for the condition is: To ensure that the mini-cab business remains a radio-controlled operation and vehicles or customers do not visit or congregate at the premises, in the interests of the free flow of traffic on the neighbouring highway, consistent with policy SH14 of the Brent Unitary Development Plan 2004.
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## **Decision**

1. I allow this appeal and vary the planning permission Ref 10/2279, for the change of use from internet café (Use Class A1) to mixed use internet café (Use Class A1) and radio cab office (Use Class Sui Generis) at 110 Wembley Park Drive, Wembley, HA9 8HP granted on 22 October 2010 by the Council of the London Borough of Brent, by deleting condition No 3.

## **Main Issue**

2. The main issue is the effect of the proposal on the free flow of traffic.

## **Reasons**

3. Having regard to the content of the condition and reason and the development plan I shall assess the condition in the context of Circular 11/95: *The Use of Conditions in Planning Permissions*. This Circular sets out at paragraph 14, as a matter of policy, six tests which should all be satisfied when conditions are imposed. In brief, conditions should be:
    - (i) necessary
    - (ii) relevant to planning
    - (iii) relevant to the development permitted
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- (iv) enforceable
  - (v) precise
  - (vi) reasonable in all other respects
4. The appeal site lies within a section of road with facing secondary shopping frontages and includes a ground floor internet café and residential over. The radio cab office has been established and is a room to the rear which is accessed off a communal rear lane. The use was deemed acceptable by the Council having regard to analysis against Policy SH14 (Mini Cab Offices) in the Brent Unitary Development Plan 2004 (UDP) which particularly seeks to ensure that traffic safety problems do not arise and that such uses are located away from predominately residential areas. However no off-street parking could be provided and so it was deemed that the use should be for radio-controlled operation only and that, in line with the UDP policy, this consent would be granted for a temporary period only to enable monitoring.
  5. The permission was consequently granted for a temporary one year period ending 27 October 2011 (the Decision Notice in error refers to 2010) to allow the Council to "review the position in the light of the impact of this use". Further conditions were applied to seek to prevent use beyond a radio-controlled office; No 4 prevented any waiting area for drivers or customers from being provided and No 3, the subject of this appeal, prevented on-site advertisements to help ensure it remained a radio-base without having vehicles gathering locally. On the Decision Notice this was attached purely in the interests of the free flow of traffic. The Council seeks to widen this out through its appeal statement to also deal with residential amenity.
  6. The appellant argues that with the layout of the premises and the other conditions there are adequate controls in place to prevent drivers, cars and customers gathering and waiting and the prevention of advertisements is therefore unnecessary. The case is made that any advertisements would not be to draw to people to the office but rather to inform people of its existence and telephone number and that services would only be bookable by telephone in any event. Getting the telephone number known locally is an understandable business objective and to have to take advertisements on third party premises rather than using its own property would be an additional cost for a fledgling business.
  7. The road is a wide relatively busy one and both sides have extensive kerbside parking opportunities. It is clear that some visiting by taxis, as with other vehicles coming and going to the numerous businesses, would be most unlikely to interrupt traffic flow or be detrimental to highway safety and residential amenity might not be unduly harmed. In any event, however the nature the business premises is controlled by Condition No 4 which seeks to prevent taxis arriving here. This case made by the appellant is a strong one and furthermore to me of particular and over-riding importance is the fact that the whole permission is due for review in October 2011 and so the effect of a sign and all the other aspects of the operation can be considered in the round at that time. This review can encompass both traffic and residential amenity matters. Taken all factors together the condition the subject of this appeal is not necessary; the Council was being unreasonably over-cautious in its imposition.

8. For the reasons given above, and having regard to all matters raised, I conclude that the proposal to delete the condition in question should be allowed as this course of action would be in accord with Circular 11/95 and would not run contrary to the objectives of the relevant UDP policy SH14; it would not have an unacceptable harmful effect upon the free flow of traffic.

*Doug Cramond*

INSPECTOR



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# Appeal Decision

Site visit made on 9 June 2011

**by P W Clark MA MRTPI MCMi**

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

**Decision date: 21 June 2011**

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**Appeal Ref: APP/T5150/A/11/2149749**

**Garage to rear of 70 Minet Avenue, London NW10 8AP**

- 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 Orahá against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/2631, dated 20 September 2010, was refused by notice dated 23 December 2010.
  - The development proposed is change of use of garage into dwelling and conversion of garage into 2 bedroom maisonette.
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## Decision

1. The appeal is allowed and planning permission is granted for change of use of garage into dwelling and conversion of garage into 2 bedroom maisonette at the rear of 70 Minet Avenue, London NW10 8AP in accordance with the terms of the application, Ref 10/2631, dated 20 September 2010, 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: 6129/01 to 07/13.9.10/A.
  - 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.

## Main Issues

2. There are four. They are the effects of the proposal on:
  - The character and appearance of the locality.
  - The living conditions of potential future occupants in terms of amenity space, refuse and recycling storage, outlook, privacy and protection from land contamination.
  - The living conditions of neighbours in terms of outlook and privacy.
  - Local infrastructure.

## Reasons

### *Character and appearance*

3. Minet Avenue and its neighbouring streets comprise two storey terraces and semi-detached houses in a consistent style. They are mostly constructed in yellow stock bricks with orange brick trim. They have square two storey bays with pilasters rendered and painted. These either terminate in parapets behind which are gables, or the gables are brought forward over the bays. At the rear are two storey projecting wings under pitched, gable-ended roofs. Some of these are constructed in orange brick. The terraces are gable ended except for numbers 68 and 70 Minet Avenue and 91 Harley Road, immediately adjacent to the site, which are hipped.
4. At certain points in this homogenous area, there are infill plots which have been developed, or have permission to be developed. At 1A Minet Road is a conversion of a former coach house. The appeal site faces on to Fairlight Avenue. Opposite is a new development of flats at 89A Harley Road. At 147 Harley Road, permission exists, not yet implemented, for an infill house. The principle of developing this plot in a similar manner would therefore not be out of character.
5. Number 1A Minet Road has resonances with the appeal site in the way accommodation is fitted into the roofspace using rooflights. Otherwise, each new infill is styled in a way particular to the circumstances of each plot, contrasting with the homogeneity of the area so offering no general pattern to follow.
6. On the appeal site, the existing building is constructed in orange brick. This matches some other buildings in the vicinity. Extensions and alterations would be carried out in matching brick according to the drawings, in yellow stock brick according to the application form, but materials can be controlled by condition.
7. The front façade would not be articulated other than by the insertion of new windows and the addition of a new front entrance lobby. It is hardly wide enough to bear more complexity. In any event, the front façade would be partly hidden from view by the front boundary wall.
8. The addition of a gabled roof would complement the gables of the rear wings and front bays of all the other houses in the area. The council comments that concrete roof tiles would be of poor quality but neither the application form nor the application plans propose the use of concrete tiles, so this criticism seems misplaced. In any event, the materials to be used could be controlled by condition, as the Council suggests.
9. In conclusion, with such a condition in place the proposal would show respect for the local context, have regard for the urban grain and provide a creative and appropriate design, specific to the site, with a clear sense of place, in the way required by policies BE2, BE3, BE9(a, b, c, d and f) and H12 (a, b and c) of the Brent Unitary Development Plan 2004 (the UDP). By removing the present lean-to structure in front of the garage it would reduce the amount of space infilled between the building and the road and so comply with UDP policy BE7.
10. The Council suggests that, in the event of the appeal being allowed, a condition should require the submission of a scheme for landscaping the curtilage of the

site. Because the curtilage of the site would be enclosed by high walls, there would be little public interest in the landscaping of what would be a very private, domestic garden. Such a condition would therefore be unnecessary.

*Living conditions of potential future occupants*

11. The glossary of the UDP defines amenity space so as to exclude a depth of 6m from the front boundary of a site. In this case a new front boundary wall 2.727m high and a new side boundary wall 2.189m high would enclose the front garden, providing it with privacy from the street, so all the front garden may be counted as usable private amenity space. This, together with a tiny courtyard provided at the rear, would meet the Council's standards for outdoor space for a dwelling of this size.
12. The cupboard indicated as a storage space for refuse would be too small to accommodate a wheelie bin which the appellant describes as measuring 0.7 x 0.6m. However, other dwellings in the area appear to make no specific provision to house their wheelie bins, which were being collected from the street on the day of my visit, other than in their front gardens. There is no reason to suppose that a similar arrangement for the appeal site would be unsatisfactory.
13. The principal outlook from the living/dining room would be into the small front garden and onto a wall 2.727m high at a distance varying between 3.3 and 5m. The Council's Supplementary Planning Guidance (SPG17), *Design Guide for New Development* recommends a minimum distance of 10m between a habitable room window on a rear or side elevation and a site boundary but that is for purposes of privacy. No standard is suggested for outlook. In this case, almost all of the Council's standard for outdoor amenity space would be met by this courtyard alone and so the outlook into it should be regarded as adequate.
14. At first floor level the front elevation directly faces no other property across Fairlight Avenue and so a minimum separation is not called into question. The outlook from the first floor bedroom 1 would be into the street and so very similar to the outlook from any other first floor front room in the neighbourhood.
15. The outlook from the living/dining room to the tiny courtyard at the rear would only be 1.696m but this would be from a secondary window; the main outlook would be to the front. The kitchen would also look at right angles into this space. The outlook would be 2.847m to a blank wall but the kitchen is too small to be regarded as a habitable room. These confined outlooks are therefore of little consequence.
16. At first floor level one outlook from bedroom 2 would also be into this space. The height of the boundary wall relative to the floor level of the bedroom would be about 2.2m, above which would be a clear view of sky. This would not meet the Council's standards but its SPG17 recognises that in more dense, or differing urban areas, its standards may sometimes be reduced to a level that is consistent with the effectiveness of the design in minimising negative impacts. In this case, the bedroom would be provided with a rooflight with a clear outlook to the sky which would help to relieve any sense of oppression from the proximity of the boundary wall.

17. The very features which would limit the outlook from the property would provide it with privacy. It would therefore comply with UDP policies BE9(e) and H12(b).
18. The previous use of the premises leads to a suspicion of land contamination but an investigation, including chemical analysis of bore samples, has found that levels of contamination do not require remediation for the use envisaged. The fact that the bore samples do not confirm the Council's suspicions is not a reason to say that they are an inadequate sample. There is no suggestion that the number of samples does not meet appropriate professional standards. The proposal has complied with UDP policy EP6.
19. In conclusion, the proposal would result in acceptable living conditions for potential future occupants. It would comply with the relevant parts of UDP policies BE9, H12 and EP6.

#### *Living conditions of neighbours*

20. The flank parapet walls of the existing building would remain unchanged at their existing height, facing towards the rear of number 70 Minet Avenue and numbers 93, 95 and 97 Harley Road. Rising above and behind them would be the new pitched roof. Its ridge would be 2.133m higher than the existing parapets. The existing building fails the Council's SPG17 test for dominance of a neighbour's garden but because the greater height of the ridge would be further away from the neighbours, the proposal would make the degree of failure no worse. It would comply with the test for dominance of the rear elevations of the Harley Road houses.
21. The end elevation of the existing building, facing the flank of the rear garden of number 70 Minet Avenue, would be raised into a half gable. In this case, the degree of failure of the Council's test of dominance of a garden would be worsened but, in mitigation, a lean-to shed extends half way across the garden of number 70 Minet Avenue at this point, so moderating any oppressive effect.
22. In contrast, the outlook from the upper floors of number 93 Harley Road would be improved by the removal of the flank of the existing lean to covering the front courtyard of the appeal premises. This is formed of battened roofing felt. It is unsightly. It would be replaced by a brick garden wall. This would have an improved appearance.
23. As noted above, the first floor window to bedroom 2 would face onto a brick wall. In consequence, it would not look directly into neighbours' gardens as the Council fears. Similarly, the rooflights proposed would be placed too high in the roof pitches for anything other than a view of the sky. In consequence, neighbours' privacy would be respected.
24. In conclusion, the proposal would have acceptable effects on neighbours' outlook and privacy. It would comply with UDP policy BE9(e) which requires their protection.

#### *Local infrastructure*

25. Although a small proposal, the development would, of its nature, place demands on local infrastructure and services. The Council records that local schools are already full and so any children arising from the development could not be accommodated without additional investment. Like many inner city

areas, this part of London is short of local open space and sports pitches but investment can permit more intensive use of those that exist.

26. The appeal is accompanied by a Unilateral Undertaking offering a sum of money to be spent towards the provision or improvement of all or some of education facilities in the Borough and sport and/or open space in the local area. This would appear to be necessary for the development to be acceptable, proportionate to the development and related to the development in that the Council has proposals to spend the money on facilities which would serve the proposal. These parts of the Undertaking would comply with the Community Infrastructure Regulations.
27. The Undertaking would also provide for the money to be spent on sustainable transport in the area and would also prevent any resident of the development from obtaining a residents' parking permit. The implementation of the proposal would make a pavement crossover redundant and so permit the provision of an additional on-street car parking space. In consequence the proposal would be unlikely to place a disproportionate burden on local on-street parking or on public transport requiring remediation. The money could be spent on reinstatement of the pavement crossover but this would not be essential to the acceptability of the development. Accordingly, these provisions seem unnecessary and so I take no account of them.
28. Taking into account the parts of the Undertaking which comply with the CIL Regulations, the conclusion is that the proposal would have an acceptable effect on local infrastructure. It would comply with policy CP15 of the London Borough of Brent Core Strategy adopted in July 2010 which requires developments in growth areas to contribute to the infrastructure needs which they cause.

*P. W. Clark*

Inspector





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# Appeal Decision

Site visit made on 21 June 2011

**by R P E Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

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

**Decision date: 27 June 2011**

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**Appeal Ref: APP/T5150/A/11/2146934**

**Willesden Dental Clinic, 229-231 Church Road, London NW10 9EP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Dr B Vekaria against the Council of the London Borough of Brent.
  - The application Ref 10/2736, is dated 21 October 2010.
  - The development proposed 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 Willesden Dental Clinic, 229-231 Church Road, London NW10 9EP in accordance with the terms of the application, Ref 10/2736, dated 21 October 2010, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than two years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:
    - CHUR229-231/1
    - CHUR229-231/2
  - 3) All new external work shall be carried out in materials that match in colour, texture and design details those of the existing building.

## Main Issue

2. Since the appeal was submitted, the Council has resolved that it would have refused planning permission for an extension. In its statement the Council says that it is committed to the regeneration of Church End which involves safeguarding the area from development that is deemed to prejudice delivery. The Council considers that the proposed development prejudices imminent regeneration plans for the area.
3. Whether the proposal would prejudice delivery of the regeneration of the Church End area.

## Reasons

4. The dental clinic occupies a flat-roofed single-storey building within a parade of shops and businesses that front Church Road. To the north it adjoins a similar but smaller flat roofed single storey building. To the south it adjoins a modern multi storey building with apartments above ground floor level. To the rear is

public car park. Immediately behind the clinic is an open yard in the same occupation. The clinic has previously been extended to the rear across approximately half its width, making the building L-shaped. The proposal is to construct an extension of similar depth that would infill the building and create an approximately rectangular plan. An area of open yard would remain to the rear of the enlarged building.

5. The site location plan is based on an out-of-date ordnance survey base and is at too small a scale to accurately define all the boundaries of the yard. There are apparent discrepancies between that drawing and other plans submitted in evidence by the Council and the Catalyst Housing Group which are based on more up-to-date ordnance survey bases. Whilst these discrepancies may relate to the precise extent of the ownership of the land, they do not appear to materially affect the area of land proposed for the subject extension.
6. The dental clinic and its rear yard are included within the Church End Growth Area by Policy CP10 of the London Borough of Brent Core Strategy (2010) (the CS). This proposes mixed-use regeneration to include a market square, new homes and businesses and other facilities including a new health centre and 'space for 1 new dentist'. It now appears that the health centre is unlikely to proceed. However there is a process of land assembly by the Catalyst Housing Group (CHG) with a planning application expected shortly. The Council intends to assist this process with Compulsory Purchase powers if necessary. Draft Policy CE1 of the Submission Site Specific Allocations DPD indicates amongst other things that the appeal site is included within a row of properties 205-235 that 'may be subject to infill of individual plots' and that the Council will use a Compulsory Purchase Order for comprehensive development of the site as a whole.
7. In representations CHG include drawings which indicate an intention to include the whole site of the existing dental clinic in the intended redevelopment in which the existing building would be replaced by a multi-storey building to include a new dental clinic and apartments. In the alternative, other drawings submitted by CHG indicate what effect the entire exclusion of the Appellant's land might have on the CHG development of adjoining land. However the written representations from CHG indicate that they have been in negotiation with the Appellant who they say 'recognises that [the] area is in need of regeneration and understands that [the CHG] development will give them scope to seek consent to redevelop their site with apartments above a new surgery. [CHG] have always tried to acquire part of their land through negotiation and this is ongoing.' That indicates a midway position.
8. The CHG drawings do not confirm which part of the land CHG wish to acquire. However the Council statement indicates that it relates to the backyard area. That conclusion is supported by CHG's concerns that the Appellant is using that land as parking and because they dispute the Appellant's right to take access from their land. Whatever the merits of that argument it does not bear on the subject proposal. The Appellant's representations make no reference to negotiations with CHG.
9. There appear to be three potential scenarios:
  - i) CHG acquires part of the Appellant's land to the rear of the clinic by negotiation or compulsory purchase through the Council, leaving the remainder of the Appellant's site to either continue in its present use or

to be redeveloped by the Appellant as a new clinic with flats above. That appears to accord with proposals in an outstanding planning application (Council Ref 07/0055).

- ii) CHG acquires the whole site of the clinic for redevelopment and the new dental clinic is created on that site or elsewhere in the development.
  - iii) The Appellant's existing land ownership is entirely excluded from the regeneration scheme.
10. From the CHG representations, it appears that the first scenario accords most closely with their present intention and that their interest lies with land beyond the present rearmost elevation of the clinic building. In that case to infill to the side of the existing rear wing, as proposed, should not prejudice the regeneration. The retention of a single storey flat roofed building in the midst of multi-storey redevelopment might appear odd and would not make the most efficient use of the land. However the independent redevelopment of that site would remain feasible subject to considerations such as whether the clinic would need to be accommodated elsewhere either on a temporary or permanent basis.
11. The second scenario accords with the detailed drawings submitted by CHG. Had the subject extension been constructed by the time that the site was acquired for redevelopment, then it would have the same status as the rest of the clinic and both would be demolished as part of the redevelopment. The addition of this modest extension would only have a small proportional effect in enhancing the value of the site and need not prejudice the regeneration scheme.
12. Only the third scenario would appear to offer the potential to materially prejudice the regeneration in that the exclusion of the entire site would compromise the shape and development potential of the surrounding land. However it does not follow that to allow the subject appeal would have that effect. The construction of the extension would not prevent the incorporation of the remaining part of the open yard into the regeneration scheme. Neither would it prevent the entire site of the clinic from subsequently being redeveloped as part of that scheme.

### **Conditions**

13. As the Appellant indicates that the space is vital then it evidently needs to be provided quickly. If it is not needed than an outstanding unimplemented permission would complicate any necessary acquisition of the site for redevelopment for other purposes. The Council has therefore reasonably suggested that, if the appeal is allowed, the standard 3-year time limit for implementation should be reduced to 2 years. A condition to require implementation in accordance with the approved plans is justified in the interests of certainty. A condition to require matching materials is needed to protect the character and appearance of the area which is being regenerated.

### **Other Matters**

14. The Appellant states that the extra space is 'required for the installation and use of specialist equipment which is in demand and vital by the Dental surgery'. That equipment and its location are not described in the application. I note that the drawings indicate that the extension would allow for the

creation of a new recovery room. In any event there is no reason to doubt the functional need for the space and that has not been challenged by the Council.

**Conclusion**

15. For the above reasons it is concluded on the main issue and on the balance of probabilities that the proposal would not prejudice delivery of the regeneration of the Church End area and that it would not thereby conflict with CS Policy CP10 or other development plan objectives. The appeal should be allowed.

*R P E Mellor*

INSPECTOR



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# Appeal Decision

Site visit made on 9 June 2011

by **P W Clark MA MRTPI MCMi**

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

Decision date: 20 June 2011

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**Appeal Ref: APP/T5150/H/11/2149728**  
**576-582 High Road Wembley, London HA0 2AA**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr V Chadha against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/3025, dated 24 November 2010, was refused by notice dated 17 February 2011.
  - The advertisement proposed is three non-illuminated hoardings, (a) 3.55m x 1.75m x 0.2m, (b) 2.64m x 1.75m x 0.2m, (c) 3.55m x 1.75m x 0.2m.
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## Decision

1. The appeal is allowed and consent is granted for the display of the hoardings as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

## Main Issues

2. Amenity and highway safety are the two main issues.

## Reasons

### *Amenity*

3. The site is within Wembley Town Centre. This is a major centre. The site forms part of a secondary parade, comprising banks and betting shops, but is still within a busy part of the centre. At this point, the High Road is rising from west to east to pass over a railway line. The site is at a crossroads where both Ealing and Lancelot Roads rise to join the High Road, so it is prominent.
4. On three of the four corners around this junction, buildings are two and three storeys high. The appeal site is the exception. It forms part of a single storey parade extending along the High Road to the east, terminating against the flank of a taller commercial building. The site is therefore a weak element in the townscape of this important and busy crossroads.
5. The plan of the appeal premises is chamfered to face the crossroads. The central of the three hoardings would be sited above this angled façade. The two longer hoardings would extend symmetrically along the facades on either side. They would therefore relate to the architectural form of the building.
6. The hoardings would be set back from the elevations by 1.5m. Their height would be about one third of the height of the appeal premises and so would not

be out of proportion. In contrast to another advert further along the parade, against which enforcement action is being contemplated, the position and form of the hoardings now proposed would act as an attic storey to the part of the appeal premises which addresses the crossroads and so they would afford the site a greater presence at an appropriate place in the street scene.

7. There is little other advertising material above fascia level in this town centre but most other buildings in the centre are multi-storey with interesting architectural features which advertising would obscure. In the present case, that consideration does not apply.
8. I conclude that in the particular circumstances of this case, the proposal would be beneficial to the townscape and therefore the amenities of the town centre.

#### *Highway safety*

9. The Council's highway officers have some concerns that the hoardings would have the potential to cause a hazardous distraction to motorists. There is no evidence to substantiate those concerns. The primary purpose of an advertisement is to attract people's attention but it should not be presumed that it would therefore automatically distract the attention of passers-by, whether they are drivers, cyclists or pedestrians.
10. The positioning of these hoardings would be to one side of a crossroads. They would not be in the direct line of sight of a traffic sign or signal for an approaching motorist. Their size and position would not obstruct or confuse a road user's view, nor would they reduce the clarity or effectiveness of a traffic sign or signal. They could not be confused with a traffic light or signal. Because they would not be illuminated they would not cause glare or dazzle. There would be nothing unusual in the hoardings to cause distraction. They would therefore pass the tests for highway safety set out in paragraph C2 of the Council's Supplementary Planning Guidance number 8 *Advertisements (other than shops)*. I conclude that these hoardings would be unlikely to give rise to a hazard to highway safety.

*P. W. Clark*

Inspector



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# Appeal Decision

Site visit made 2 June 2011

**by Doug Cramond BSc MRTPI**

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

**Decision date: 23 June 2011**

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**Appeal Ref: APP/T5150/H/11/2148316**  
**Unit 3, 1000 North Circular Road, London NW2 7JP**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by The Railway Pension Trustees Company c/o Orchard Street Investment Management against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/3139, dated 6 December 2010, was refused by notice dated 21 February 2011.
  - The advertisement proposed is the erection of a free-standing internally illuminated double-faced advertising tower.
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## Decision

1. The appeal is allowed and consent for the display of the free-standing internally illuminated double-faced advertising tower as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
  - 1) The level of luminance shall not exceed 600 cd/m<sup>2</sup>.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the structure hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 3) Within one month of the erection of the structure hereby permitted the existing advertising display on the site comprising 1 x 96 sheet lightbox erected on the north flank of the host property which was granted express consent by the local planning authority in 2009 (Ref 09/0783) shall be removed and the external surfacing of building made good to match the main elevation.

## Procedural Matter

2. I use the Council's description of the proposal which is more extensive than on the application form.
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### **Main Issue**

3. I consider that the main issue is the effect of the proposal on amenity of the area.

### **Reasons**

4. The Council refers to development plan policies. The Regulations require that decisions be made only in interests of amenity and, where applicable, public safety. Therefore the development plan policies alone cannot be decisive, but I have taken them into account as material considerations.
5. The appeal site is at the eastern point of a landscaped strip to the north of the existing warehouse at 1000 North Circular Road adjacent to the slip road from the Staples Corner Roundabout to the westbound carriageway of the North Circular Road which is elevated at this point. The landscaped area at this point comprises grass behind a retaining wall about 2 metres in height alongside the footway. Further westwards the landscaped area becomes more banked and natural in appearance and includes some mid sized trees. The proposal is for a double-faced tower a little over 21 metres in height embodying the advertisement display areas of 5 metres by 7.5 metres within its upper part.
6. The landscaped area as it extends westwards is a relatively small but very welcome visual relief from the harsh urban environment that prevails locally through the major highway structures and the commercial premises. However, the siting of the proposed structure at the extreme eastern end of this would not impinge upon its merits. The proposal would sit close to the footway and a bus stop but at this point retaining walls and other built features are the predominant elements, the very sizeable warehouse is unavoidable in the scene and the tower would not unduly impinge upon the amenity of people passing or gathering nearby.
7. The tower is designed to rise above the roof line of the warehouse and consequently have some prominence from the North Circular Road. This aim for prominence is a reasonable objective in this particular location and not dissimilar from the situation one sees with the advertisement structure on the other side of this principal road albeit the built context is somewhat different. The juxtaposition of the proposal and the existing warehouse would be a comfortable one in terms of height and separation and there would not be jarring on the eye or the sense that there was undue clutter. I note the proposal would include the removal of an existing display of a 1 x 96 sheet lightbox on the side of the warehouse and this is an important attribute of the scheme when seen in the round on an assessment of amenity.
8. I consider that because of its suitable design, appropriate height and specific location, the display would not result in harmful visual impact. Its relationship to the neighbouring buildings and existing signage would appear reasonable and there would not be an appearance of a cramped or over-dominant feature. It would not have unacceptable adverse impact upon the character and appearance of the locality.



*Conditions*

9. The Council's request for a condition referring to specific compliance with the submitted plans is unnecessary as these would have to be followed in any event. The level of luminance should be controlled in the interests of amenity and general highway safety and I consider that the appellant's proposition on this is reasonable for the reasons the company gives. The submission of samples would be an important control in the interests of amenity. A condition relating to landscape would not be relevant in this case as no such works are proposed or necessary. As mentioned above, in the interests of amenity, the removal of the existing lightbox would form an important part of the proposal and should thus be a conditional requirement.

*Overall conclusion*

10. For the reasons given above, I conclude that the display would not be detrimental to amenity of the area and that the appeal should be allowed.

*Doug Cramond*

INSPECTOR



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# Appeal Decision

Site visit made on 24 May 2011

**by Christopher Bowden MA (Oxon)**

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

**Decision date: 9 June 2011**

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**Appeal Ref: APP/T5150/D/11/2151239**  
**14 Windermere Avenue, London NW6 6LN**

- 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 Martin Brecker against the decision of the Council of the London Borough of Brent.
  - The application Ref. 10/3213, dated 15 December 2010, was refused by notice dated 8 March 2011.
  - The development proposed is a single-storey side/rear extension.
- 

## Decision

1. The appeal is allowed and planning permission granted for a single-storey side/rear extension at 14 Windermere Avenue, London NW6 6LN in accordance with the terms of the application Ref. 10/3213, dated 15 December 2010, 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: drawing Nos MB-101B, MB-102B, MB-103B, MB-105B, MB-106B.
  - (3) Notwithstanding condition 2, no development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension 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.

## Procedural matters

2. The description of the development proposed is taken from the decision notice. I consider that it describes the proposal more accurately than the one given in the application form.
3. The drawings submitted with the appeal include Nos. MB-006 and 107B. Neither is listed in the decision notice and the Council has confirmed that neither was taken into account in its decision. I have not therefore taken them into account in determining the appeal.

## **Main issues**

4. These are the effect of the proposed extension on:
  - the character and appearance of No 14 Windermere Avenue and the Queen's Park Conservation Area; and
  - the living conditions of the occupiers of No 12 Windermere Avenue, with particular reference to outlook and sunlight and daylight.

## **Reasons**

### *Character and appearance*

5. No 14 is a two-storey terrace house. It is post-war infill in an otherwise mostly Victorian terrace. The property lies in a predominantly residential area in the Queens Park Conservation Area (CA). The proposal is for a single-storey extension at the rear of the main house to the side of the existing single-storey rear projection. I noted during my site visit that a conservatory had been added to the rear of that projection in an area shown on the plans as timber decking.
6. The proposal would fill the space between the existing projection and the boundary with No 12 but with a light well between the extension and the rear of the main house. It would not exceed the rearward extent of the existing projection and would have matching brickwork. The roof would be of lead and glazed panels and thus of relatively light appearance. It would rise at angle of some 45 degrees away from the boundary and then broadly level off to meet the higher side wall of the existing projection.
7. In this position, the extension would nestle comfortably against the projection and would not add unacceptable bulk to the house, allowing for the conservatory mentioned above. The shape of the roof differs from those of the rest of the house but this is already characterised by several different roof forms and the one proposed would add further variety and interest without looking incongruous or otherwise detracting from the overall appearance of the building. The extension would not be visible from the street and in this relatively discreet position between the rear projection of No 14 and the back addition of No 12 would be little more than glimpsed from surrounding properties, particularly given vegetation in neighbouring gardens.
8. Overall, therefore, I consider that the scale, form, materials and position of the extension would be sympathetic to and complement the existing house. It would relate satisfactorily to its surroundings and have no material effect on this part of the CA. The proposal would thus preserve the character and appearance of the CA as a whole.
9. I conclude that the proposed extension would not have a materially harmful effect on the character and appearance of No 14 Windermere Avenue and the Queen's Park Conservation Area. As such, I find no conflict with the objectives of Policies BE9, BE25 or BE26 of the London Borough of Brent Unitary Development Plan, adopted in 2004 (UDP), or of the Council's Supplementary Planning Guidance note 5 *Altering and Extending Your Home* (SPG 5) or of the Queen's Park Conservation Area Design Guide.

### *Living conditions*

10. The extension would abut the boundary with No 12, which is set at a lower level. The side wall of the extension would be little higher than the existing

boundary fence and the roof would slope away from the boundary before levelling off. Thus, while the extension would be visible to a greater or lesser extent from both rear- and side-facing windows of No 12 and its side passage, it would not be unduly intrusive or overbearing, taking account of the position of the light well and the appearance of the roof. Similarly, having regard to the positions and orientations of the extension and No 12, and of the existing rear projection of No 14, I do not consider that the proposal would have a significant effect on the amount of sunlight or daylight enjoyed by the occupiers of No 12.

11. I conclude that the proposed extension would not have a materially harmful effect on the living conditions of the occupiers of No 12 Windermere Avenue, with particular reference to outlook and sunlight and daylight. As such, I find no conflict with the objectives of UDP Policy BE9 or of SPG 5.

### **Conditions**

12. Conditions are needed on commencement (to comply with section 91 of the Town and Country Planning Act 1990) and to ensure that development is carried out in accordance with the approved plans, other than as set out in the related decision and conditions. The Council also suggested a condition on matching materials. I agree that a condition on external materials is needed in the interests of the appearance of the development but, given the range of materials proposed, I consider that a standard condition on submission of samples would be more appropriate in this case.

### **Conclusion**

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

*Christopher Bowden*

INSPECTOR



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# Appeal Decision

Site visit made on 26 May 2011

**by A D Robinson BA (Hons) DipTP MRTPI**

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

**Decision date: 22 July 2011**

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**Appeal Ref: APP/T5150/A/11/2148235**  
**47 Byron Road, Wembley HA0 3PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mrs Olawunmi Odunaiya (Logicplough Ltd) against the Council of the London Borough of Brent.
  - The application Ref 08/1079 is dated 7 March 2008.
  - The development proposed is the retention of one studio flat, one 3 bedroom flat, one 2 bedroom flat and one 2 bedroom maisonette.
- 

## Decision

1. I allow the appeal, and grant planning permission for the retention of one studio flat, one 3 bedroom flat, one 2 bedroom flat and one 2 bedroom maisonette at 47 Byron Road, Wembley in accordance with the terms of the application, Ref 08/1079, dated 7 March 2008, subject to the schedule of conditions set out in the attached Annex.

## Procedural Matters

2. There is a discrepancy as to the date of the planning application. The appeal form indicates that the application is dated 28 April 2008, but the application is clearly dated 7 March 2008. It could be that the application was not submitted to or registered by the Council until the end of April 2008, but it is the date that is entered on the application documents which is the one that is recorded in the sub headings above.

## Main Issue

3. I consider the main issue in this appeal to be the effect of the development on the character and appearance of the streetscene.

## Reasons

4. The recent planning history of the site is important to understanding the context for this appeal. In March 2006 planning permission was granted for the demolition of the house that formerly occupied the site and the erection of a three storey building comprising two 2 bedroom flats and one 2 bedroom maisonette.
5. The existing building was then erected. This building is different from the one that was granted planning permission in terms of detailed design and also in the type and number of residential accommodation provided within the building. An application seeking planning permission for the retention of the

building that had been erected was submitted in early 2008. For some reason, this application was never determined by the Council. The failure of the Council to determine this application is unfortunate. Equally, the developer's decision to erect a building which differs from what was granted planning permission is also to be regretted. The Council's inaction on the 2008 application and the decision of the developer to go ahead with a development for which planning permission was not given can only serve to undermine the public's confidence in the planning system.

6. Although the appeal questionnaire indicates that a statement is to be submitted by the Council as part of the appeal process, no statement has been forthcoming. However, the documents attached to the questionnaire include a copy of an officer's delegated report on the appeal proposal, although this is undated. In the absence of any other statement from either the appellant or the Council dealing with the planning merits of the appeal proposal, I have placed some reliance on the delegated report in my consideration of the appeal.
7. The delegated report makes the point that in granting planning permission in March 2006, the principle of developing the site for a mix of residential units within a three storey block was established. The report also confirms that the position of the block within the site and its impact on the amenity of those living in neighbouring properties has also been established. Further, the report says that the quality of the accommodation on offer in terms of size, daylight, outlook and external amenity space is not in dispute. I have no reason to disagree with the conclusions reached by the report on these matters with the exception of the external amenity space. Whilst the amount of amenity space may be acceptable, I have reservations about the quality of the space that has been provided. I will return to this later.
8. To a large extent, the report focuses upon the effect of the building upon the streetscene in terms of design, including the choice of materials, and the treatment of the front garden/forecourt. The appeal site sits on the western side of Byron Road, a wholly residential street. In the vicinity of the appeal site, the western side of the road consists of blocks of flats, mainly built in the inter-war years. The eastern side of the road comprises semi-detached houses, again originating from the inter-war years. Most of the blocks of flats and the houses opposite are set well back from the road providing Byron Road with a degree of space. There are numerous trees along the street, especially on the western side of Byron Road where many of the blocks of flats have mature roadside trees. These trees add to the sense of space and provide a degree of seclusion. The well ordered front gardens of many of the houses on the opposite side of the road add to the sense of space and seclusion in this stretch of Byron Road.
9. The building that has been built is of a modern design. I understand that the building which was granted planning permission five years ago was also of a modern design. The principle of having a building of modern design has thus been accepted by the Council. Although most of the buildings in this part of Byron Road date from the inter-war years and are of designs and built in materials that are redolent of that period, I do not consider that the clean, simple lines of a building of modern design necessarily jars with the other properties in the street. Rather, it acts as a contrast.

10. The Council says that the building that has been built does not achieve the same standard of design as the scheme granted planning permission in March 2006, but the Council has not provided any drawings of the earlier scheme to enable me to assess the detailed differences between the two schemes. I accept that there is little to break up the large expanses of brickwork and rendering and that little thought has been given to the treatment of windows. These give the existing building a somewhat bland appearance. However, this is far from saying that the building represents an incongruous and unattractive addition to the streetscene. The blandness of the building has to be seen in the context of its surroundings. None of the properties in this part of the street can be said to be architecturally distinctive or distinguished. The streetscene owes more to the trees along this part of Byron Road and the space between and around buildings than to the buildings themselves. Within this context, the blandness of the design is not a matter which would justify the dismissal of the appeal.
11. As for materials, I note that the Council approved the choice of brickwork in July 2006, but no approval has been forthcoming for the rendering or timber on the external surfaces of the building. In addition, no approval has been given for the treatment of windows. Indeed, no approvals were forthcoming for any other details required by a condition in the March 2006 planning permission. The delegated report refers to the poor quality of the rendering and external areas of timber and to the low quality of the windows that have been installed. I acknowledge that the treatment of the fenestration within the building could be more interesting, but I do not consider that the windows that have been installed and the quality of rendering and external areas of timber are such as to justify the dismissal of the appeal in this regard. The external materials and the treatment of windows are part and parcel of the blandness of the building. There are not, in themselves, harmful.
12. What is difficult to understand is why, if the Council found the design of the building, the choice of external materials and the treatment of windows so objectionable, no enforcement action was taken. After all, the Council knew at least in January 2008, when it took enforcement action over the alleged use of the building as a house in multiple occupation, that the building had been built and was not in accordance with the planning permission.
13. As already pointed out, the streetscene owes much to the trees and the space in and around buildings, particularly the blocks of flats. These elements impart a degree of spaciousness to this part of Byron Road and a degree of seclusion to the blocks of flats. This does not apply to the appeal development. The building is set some way back from the road which should provide opportunity, amongst other things, for landscaping to contribute to the tree cover along the street and to provide a degree of screening of both the building and for those occupying it from the street. Instead, the area between the building and the road is a sea of block paving. No attempt has been made to provide any landscaping. This means that the building is unduly conspicuous within the streetscene and the development as a whole pays little respect to the prevailing character of this part of Byron Road.
14. In my view, this is a matter that is capable of being remedied by the imposition of a suitably worded condition. The delegated report suggests that this course of action may be the appropriate one to take. A poorly drawn and insufficiently detailed plan was provided with the planning application to demonstrate how the front of the site was to have been laid out. This does not provide the basis

for making good the deficiencies in the treatment of the front of the site. What is required are detailed proposals drawn up by someone who is appropriately qualified and submitted to the Council for approval. Once approved, the proposals should be implemented within a limited timeframe. The proposals should include not only soft and hard landscaping but also the provision of clearly laid out parking spaces and a properly designed refuse bin storage facility.

15. I conclude that whilst the building that has been built is bland and not of the highest quality, it does not, in itself, adversely affect the character and appearance of the streetscene in this part of Byron Road. However, the absence of landscaping and the poor quality of the treatment of the front of the site means that the building sits poorly in the streetscene. However, as already mentioned, this is a matter which is capable of being remedied by properly executed proposals that have been submitted in response to a condition.
16. If the front of the site is properly dealt with then adopted Unitary Development Plan Policies BE2 and BE6 and adopted Core Strategy Policy CP17 would not be breached. The former is concerned with protecting the suburban character of the Borough, whilst the former two are concerned with ensuring that proposals take account of the character of their surroundings and include landscaping that contributes positively to the public realm.
17. I return to the quality of the amenity space that has been provided at the rear of the building. This is not a matter that is pertinent to a consideration of the effect on the streetscene, but it is important for the rear garden to be properly laid out to meet the needs of occupants of the building for outdoor amenity space. It is particularly important that this is done where children might be involved. Most of the residential units within the building are capable of accommodating families. The rear garden should be laid out in such a way as to not only to meet the requirements of occupants of the building for amenity space but also to provide a degree of privacy for those whose windows open directly onto the rear garden.
18. At the moment, what is at the rear of the building is a wide expanse of poorly maintained grass. This falls far short of what is needed. It also contrasts with the well maintained amenity areas around the adjoining flats, Garden Court to the south and Byron Court to the north. Again, I consider that this is a matter that is capable of being remedied by a suitably worded condition requiring a detailed scheme for the rear garden area to be submitted for approval and for the scheme then to be implemented within a short time. I note that a condition requiring details of the layout of the rear garden to be submitted for approval was attached to the March 2006 planning permission, but nothing was done to satisfy the condition.

### **Other Matters**

19. The body representing the residents of Garden Court have raised a number of concerns. The Residents Association mentions that it did not wish to see the old house on the site demolished to make way for a block of flats, but the principle of redeveloping the site for flats was established in early 2006 when planning permission was granted for the erection of a three storey block of flats. The Residents Association also refers to the disruption that took place when the flats were being built. However, building works were completed a long time before the consideration of this appeal. Complaints needed to be



made at the time to the planning authority or the environmental health department of the Council, depending on the nature of the complaint.

20. The Residents Association point to the poor standard of workmanship in the building. This may or may not be true, but it is a matter essentially for consideration by the Council under the Building Regulations. This also applies to the complaint about broken drain covers and broken drains.

### **Conditions**

21. I have already referred to the imposition of conditions requiring details of the layout and landscape treatment of the area in front of the building and the layout of the garden area to the rear of the building to be submitted for approval. The conditions as worded meet the tests set out in Circular 11/95 "*The Use of Conditions in Planning Permissions*" as being necessary, serving a planning purpose, relevant to the development and being reasonable in all respects. The onus is on the Council to ensure compliance with these conditions.
22. In addition to these conditions, I am imposing a condition linking the planning permission to the submitted plans and drawings. This is important because it is these plans which define the scope and nature of the development. There is now a formal procedure in place for the consideration of amendments to the permitted scheme.

### **Conclusions**

23. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Alan D Robinson*

**Inspector**

## **ANNEX**

### **Schedule of conditions in respect of planning permission granted for the retention of one studio flat, one 3 bedroom flat, one 2 bedroom flat and one 2 bedroom maisonette at 47 Byron Road, Wembley.**

- 1) This planning permission is in respect of the following approved plans and drawings:
  - No. 786676/SITE/01 1:150 Ground Floor Plan;
  - No. 786676/SITE/02 1:100 First Floor Plan;
  - No. 786676/SITE/03 1:100 Second Floor Plan;
  - No. 786676/SITE/04 1:100 Roof Plan;
  - No. BY004 1:100 Side Elevation;
  - No. BY005 1:100 Front Elevation;
  - No. BY005 1:100 Rear Elevation;
  - No. BY006 1:100 Side Elevation;
  - Unnumbered 1:500 Site Map; and
  - Unnumbered 1:1250 Site Map.
  
- 2) Notwithstanding the details of the area between the front of the building hereby permitted and Byron Road shown on approved plan No. 786676/SITE/01, within four months of the date of this decision a detailed scheme for this area shall be submitted to the local planning approval for its written approval. For the avoidance of doubt, the submitted scheme shall include:
  - Provision of four parking spaces;
  - Provision of refuse bin storage facility;
  - Construction of new 4.1 metre wide crossover to Byron Road and closure of existing crossover; and
  - Tree and shrub planting, provision of grassed areas and formation of paved areas. The details of tree and shrub planting shall include the position, species and size of plants.

Within four months of the date of the Council's written approval, the scheme shall be implemented in accordance with the approved details.

Thereafter, the parking spaces and refuse bin storage bin facility shall be retained and used solely for their respective purposes. Any trees or shrubs which within five years of the initial planting die, are removed, become seriously damaged or diseased shall be replaced with the same species and of similar height unless the local planning authority agrees in writing to any variation.

- 3) Within four months of the date of this decision, a detailed scheme for the garden area at the rear of the building hereby permitted shall be submitted to the local planning authority for its written approval. For the avoidance of doubt, the submitted scheme shall include:

- Tree and shrub planting, provision of grassed areas and formation of paved areas. The details of tree and shrub planting shall include the position, species and size of plants;
- Means of safeguarding the privacy of those occupying ground floor accommodation from those using the rear garden.

Within four months of the date of the Council's written approval, the scheme shall be implemented in accordance with the approved details.

The rear garden area as laid out in accordance with the approved details in shall be retained thereafter as amenity space. Any trees or shrubs which within five years of the initial planting die, are removed, become seriously damaged or diseased shall be replaced with the same species and of similar height unless the local planning authority agrees in writing to any variation.



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## Appeal Decisions

Hearing held and site visit made on 21 June 2011

**by Terry G Phillimore MA MCD MRTPI**

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

**Decision date: 15 July 2011**

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**Appeal Ref: APP/T5150/A/11/2146470 (Appeal A)**  
**32 Evelyn Avenue, London NW9 0JH**

- 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 R Panchal against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/1357, dated 29 May 2010, was refused by notice dated 28 January 2011.
  - The development proposed is erection of a garden room.
- 

**Appeal Ref: APP/T5150/A/11/2153167 (Appeal B)**  
**32 Evelyn Avenue, London NW9 0JH**

- 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 R Panchal against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/3036, dated 25 November 2010, was refused by notice dated 10 May 2011.
  - The development proposed is a first floor back addition.
- 

### Decisions

#### *Appeal A*

1. The appeal is allowed and planning permission is granted for erection of a garden room at 32 Evelyn Avenue, London NW9 0JH in accordance with the terms of the application, Ref 10/1357, dated 29 May 2010, 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 building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 32 Evelyn Avenue.
  - 3) No development shall take place until full details of the 'green roof' on 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) The development hereby permitted shall be carried out in accordance with the following approved plans: PA-LocR1, 32EV-EX1, 32EA PR01A.

## **Appeal B**

2. The appeal is allowed and planning permission is granted for a first floor back addition at 32 Evelyn Avenue, London NW9 0JH in accordance with the terms of the application, Ref 10/3036, dated 25 November 2010, and the plans nos. PA-LocR1, 32EV-FRA1b.

## **Procedural Matters**

3. At the hearing the above descriptions of the developments were agreed to be suitable in resolving discrepancies between the descriptions given on the application forms and decision notices. The Appeal B proposal has already been implemented and the application was retrospective.

## **Main Issues**

4. The main issues are:

Appeal A The effect the proposal would have on the character and appearance of the area.

Appeal B Whether there is adequate information on which to consider the proposal including having regard to its effect on the character and appearance of the area and the living conditions of neighbouring occupiers.

## **Reasons**

### **Appeal A**

5. The proposed outbuilding would occupy the full width of the rear part of the garden. It would project around 0.5m above the side boundary walls. The proposed green roof, as described at the hearing, would add only a small amount to the height.
6. The property has a basement extension under the full depth of the garden. This is lit by roof lights in an angled lightwell roof constructed against the rear elevation and a light bubble within the garden area. These features are not shown on the proposed plan, but planning permission for the basement was granted on 12 May 2011 pursuant to an appeal against an enforcement notice (ref APP/T5150/C/10/2135797). A condition required submission of details of a scheme for installing a green roof over that part of the basement extension which has not been timber decked. An area of decking would be removed to allow for the current proposal.
7. There is a variety of outbuildings in the rear gardens of houses in the vicinity in terms of the scale and design of these. The Council indicated that the planning histories of these are mixed, and drew attention to the potential use of its enforcement powers. Nevertheless, there is no evident strongly established local pattern against which to consider the proposal. This garden is a little shorter than many of the others nearby, and the proposal would leave no garden area to the sides of the outbuilding. However, the dimensions of the proposal are relatively modest, and an open garden area would remain between this and the rear of the house. It would not be noticeably out of character or obtrusive as perceived from neighbouring properties. There would be no harmful cumulative impact arising from the presence of the basement extension.

8. Deducting the footprint occupied by the lightwell structure would reduce the size of the remaining garden area below the 50sqm normally sought by the Council. However, the low form of the structure means that it does not significantly intrude visually on the open area. While the appellant suggested that the structure could be removed and replaced by flush rooflights, even with the existing structure in place there would be an adequate remaining garden area to provide for the external amenity and functional needs of the occupiers.
9. I conclude on this proposal that there would be no harm to the character and appearance of the area such as to result in a breach of policies BE2 and BE9 of the Brent Unitary Development Plan 2004 or policy CP 17 of the Brent Core Strategy 2010.

### **Appeal B**

10. The proposal involves a widening of a pre-existing rear first floor extension. The plan submitted with the application (drawing no. 32EV-FRA1a) did not accurately show the extension as built and its context, in particular with respect to window positions and details and an existing rear roof dormer extension.
11. With the appeal the appellant submitted revised drawing no. 32EV-FRA1b. The Council expressed some continued reservations about the accuracy of this, but at the site visit the extension as built appeared not to differ in any material way from this plan. Since the proposal was described as retention of the extension, which existed and could be seen by those who might be interested, the appeal can be determined on the basis of the revised plan without prejudice to any party.
12. An appeal against an enforcement notice relating to a larger first floor rear extension was dismissed on 12 November 2009 (reference APP/T5150/C/09/2102529). The Inspector assessed that this would result in some loss of sunlight to the adjoining rear elevation. He also found that, seen from ground level, the cumulative mass, height and bulk of the various extensions resulted in the house appearing overbearing and an unduly dominant feature, out of scale and character with the surrounding houses.
13. At the site visit the Council agreed that the current extension due to its limited depth does not breach the relevant test in paragraph 3.4 of the Council's Supplementary Planning Guidance on 2 storey rear extensions. In these circumstances there is no material adverse effect on the neighbouring property. Shallow first floor extensions are a feature of the area, and the proposal although enlarged from the original does not depart significantly from this pattern. Even added to other extensions it does not result in a development that is out of keeping with the surroundings.
14. It can be concluded on this proposal that there is no harm to the character and appearance of the area or neighbouring living conditions and the requirements of the above policies are met.

### **Conditions**

15. On Appeal A, use of the outbuilding should be restricted having regard to its nature and to safeguard amenity. Details of the green roof should be approved to ensure that the appearance and dimensions of this are satisfactory. A condition specifying the approved plans is needed for the avoidance of doubt

and in the interests of proper planning. As set out above, a condition requiring removal and replacement of the existing lightwell structure would not be reasonable or necessary.

16. On Appeal B, no conditions are needed since the proposal is retrospective.

**Conclusions**

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

*T G Phillimore*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Peter Stanway AADipl DipTP DipDS RIBA MRTPI	Stanway Little Associates
R Panchal	Appellant
S Panchal	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Rachel McConnell BA MA	L B Brent
Tim Rolt BA(Hons) BTP MRTPI	L B Brent
Harini Boteju BSc MSc	L B Brent

## **DOCUMENT SUBMITTED AT THE HEARING**

Full size copy of drawing no. 32EV-FRA1b





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# Appeal Decision

Site visit made on 26 May 2011

**by A D Robinson BA (Hons) DipTP MRTPI**

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

**Decision date: 15 July 2011**

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**Appeal Ref: APP/T5150/A/11/2146393**  
**61 Beverley Gardens, Wembley, HA9 9RB**

- 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 Jane Brannan against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/1478, dated 8 June 2010, was refused by notice dated 5 August 2010.
  - The development proposed is the erection of a two storey, end of terrace dwelling house with single storey rear and side extensions and front porch, installation of vehicle access, provision of car parking, refuse storage to front and landscaping (alteration to previously approved scheme 09/1888 to include single storey side extension).
- 

## Decision

1. I allow the appeal, and grant planning permission for the erection of a two storey, end of terrace dwelling house with single storey rear and side extensions and front porch, installation of vehicle access, provision of car parking, refuse storage to front and landscaping (alteration to previously approved scheme 09/1888 to include single storey side extension) at 61 Beverley Gardens, Wembley in accordance with the terms of the application, Ref 10/1478, dated 8 June 2010, subject to the schedule of conditions set out in the attached Annex.

## Procedural Matters

2. Although the planning application and the appeal were made in the name of Ms Jane Brennan, it appears from the final comments made on behalf of the appellant that the name is incorrectly spelt and it should be Ms Jane Brannan, which is the name that appears on the Unilateral Undertaking. Accordingly, I am treating the appeal as being made by Ms Brannan.
3. The Council's decision notice cites two reasons for refusal. The first is concerned with the effect of the single storey side extension on the character and appearance of the area. The second is concerned with the effect of the development on local services in the absence of a legal agreement to provide an appropriate contribution to these services. During the appeal process, the appellant has submitted a Unilateral Undertaking to provide a contribution of £9,000 towards education facilities, sustainable transport and sport and/or open space in the area.
4. The Unilateral Undertaking has been copied to the Council but no comments have been received. Notwithstanding that no response has been received from the Council, it seems to me that the Unilateral Undertaking meets the Council's

requirements, as set out in its appeal statement and in the officer's report on the planning application, insofar as the amount of the contribution is concerned and the services that it is going to be spent on. Accordingly, I do not consider that the Council's second reason for refusal remains at issue in this appeal.

### **Main Issue**

5. The effect of the addition of the single storey side extension on the character and appearance of the area and the property that has been granted planning permission.

### **Reasons**

6. The appeal site lies on the western side of Beverley Gardens, a street within a well established residential area which predominantly consists of pairs of semi-detached houses showing a variety of detailing and materials. The site comprises the side garden to No. 61. Originally, this was one of a pair of semi-detached houses. However, planning permission was granted a few years ago for a house to be built in the side garden of the adjoining property, No. 63. This house has now been erected. Subsequently, planning permission has been granted for a house to be constructed in the side garden of No.61 (application No. 09/1888). When this house is built, it will form part of a short row of four terraced properties.
7. The current proposal is for the erection of a house identical to the dwelling that was granted planning permission under application No. 09/1888 with the exception of the addition of a single storey side extension under a shallow sloping roof. The Council points out that the house was granted planning permission because it still left a gap between it and the boundary with the neighbouring property to the south, No. 59. The Council argues that the side extension would fill this gap which would be out of keeping with the pattern of development in the locality.
8. The gap that would exist between the house that has been granted planning permission under 09/1888 and the boundary with No. 59 is not typical of the area. Many, if not most, of the gaps between the pairs of semi-detached houses are narrow. By their narrowness, these gaps do little to contribute to a sense of space within the area. Side extensions are a characteristic of the area. Both within Beverley Gardens and in other streets, a number of properties have side extensions which go up to or almost up to the boundary with the neighbouring property. In this context, I do not consider that the proposed side extension would introduce an alien feature into the area.
9. The Council claims that the proposed side extension would have an awkward relationship with No.59. Nos.61 has an unusual relationship with No.59. Unlike most of the other properties within the street which occupy a similar building line, No.61 is set well back from the street and behind the front elevation of No.59. In this recessed position vis a vis the flank elevation of No.59, the proposed side extension would not be seen as visually linking up with No.59. In addition, the ground drops sharply away to the west from Beverley Gardens with the result that No.61 lies at a much lower level than No.59. When seen from the street, the proposed side extension would be at a much lower level than No.59 which occupies higher ground nearer to the street. This change in levels would also assist in ensuring that the side extension would not be seen as linking up with the adjoining house.

10. The fall in ground levels and the set back or recessed position of the side extension would also ensure that the extension would not form a conspicuous element within the street scene. As for the relationship of the extension to the house that has already been granted planning permission, I do not agree with the Council that the shallow roof of and degree of glazing within the extension would be incongruous when seen against the permitted house. By its height and its slightly recessed position behind the front of the permitted house, the side extension would clearly be seen as a subordinate element to the house. The roof shape and size of windows would be different from the house but these would emphasise the subordinate nature of the extension.
11. Accordingly, I conclude that the single storey side extension would not adversely affect the character and appearance of the area or the house that has already been granted planning permission. As such, I do not consider that Policy CP17 of the Brent Core Strategy (CS) or Policies BE2, BE7 and BE9 of the Brent Unitary Development Plan (UDP) would be breached.

### **Other Matters**

12. I have had regard to the representations made by local residents, who object to the proposal. Their objections are supported by the Member of Parliament for the constituency, Mr Barry Gardiner. A common theme of these representations is an anxiety that the proposed house could be used as flats. Local residents point out that this could lead to increased levels of noise and disturbance, make for difficulties for refuse and other large vehicles to use local roads and place undue pressure on limited on-street parking capacity.
13. It is important that planning applications and appeals are considered on the merits of what is being proposed and not on speculation as to what potential alternative uses could be made of a site. I consider that the imposition of a suitably worded condition would meet the anxieties of local residents by limiting the use of the property to that of a single dwelling house. In effect, this means that if the use of the property as flats was contemplated then another planning permission would have to be sought. This would place control with the Council in the first instance.
14. Many of the representations made by local residents touch on the principle of developing the site for a house. The principle of erecting a house on the site was established when the Council granted planning permission for application 09/1888. This appeal focuses on the addition of a single storey side extension to the house already granted planning permission. Neither these nor the other arguments raised are sufficient to outweigh the considerations which have led to my conclusion on the main issue in this appeal.

### **Conditions/Obligation**

15. The Council has suggested that should the appeal be allowed then conditions similar to those attached to the previous planning permission (09/1888) be imposed in this case. I have considered these conditions in the light of the advice contained in Circular 11/95 "*The Use of Conditions in Planning Permissions*". Amongst other things, the Circular indicates that conditions should only be imposed if they are necessary, relevant to the development being proposed, enforceable and reasonable in all other respects.
16. I consider that the Council's suggested conditions meet the relevant tests set out in Circular 11/95 and I shall impose them, although I have made a number

of amendments to the wording of the suggested conditions in the interests of clarity and enforceability. In addition to the suggested conditions, I am imposing a condition linking the permission to the submitted plans. This is important because it is these plans which define the scope and nature of the development. There is now a formal procedure in place for considering amendments to the permitted scheme.

17. As further extensions, alterations to the roof and the erection of other buildings could affect the amenity of neighbours and detract from the appearance of the property and the locality; I am withdrawing a range of permitted development rights. As additional side windows, use of the roof of the rear extension as a roof terrace and change of rear first floor windows to glazed doors could lead to overlooking of neighbours, I am prohibiting the carrying out of such works. Separate planning permissions would have to be sought for these works. As the use of the property for flats could intensify pressures on parking within the street and lead generally to a level of activity that would be out of kilter with the locality, I am restricting the use of the property to a single dwelling. I have not found it necessary to limit the use of the property to a single family dwelling. It does not matter whether the property is occupied by a couple or a family. It is enough to limit the use to a single dwelling.
18. To assist the development in blending in with its surroundings, I am requiring a scheme of hard and soft landscaping to be submitted. As the approved plans lack some details, I am requiring these to be provided. These include details about the provision of refuse storage facilities. To ensure that the development blends in with No. 61, I am requiring details of external materials to be submitted. Similarly, I am requiring the previously permitted works to the roof of No.61 to be carried out in conjunction with the works to create the additional dwelling so that the roofs of the two dwellings merges one into the other. Finally, to safeguard the amenity of those living nearby during the construction process, I am requiring the submission of a construction method statement. This marks a different approach to that adopted by the Council, but I have doubts as to whether the Council is able to control parking within the street by a planning condition.
19. With regard to the Unilateral Undertaking, I consider that this satisfies the requirements of the Community Infrastructure Levy Regulations in that the amount and nature of the contribution is necessary and reasonably related to the proposed development and the demands that those occupying the development would make on local services and facilities. As such, the Undertaking that has been submitted is compliant with CS Policy CP18 and UDP Policies CF6, TRN2, TRN3 and TRN11.

### **Conclusion**

20. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*Alan D Robinson*

**Inspector**

## **ANNEX**

### **Schedule of conditions in respect of planning permission granted for the erection of a two storey, end of terrace dwelling house with single storey rear and side extensions and front porch, installation of vehicle access, provision of car parking, refuse storage to front and landscaping (alteration to previously approved scheme 09/1888 to include single storey side extension) at 61 Beverley Gardens, Wembley, HA9 9RB.**

- 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 plans (hereafter called the approved plans):
  - Plan No DS/513B S01a 1:1250 location plan
  - Plan No DS/513B S02c 1:200 existing site plan
  - Plan No DS/513B S03a 1:100 existing site as seen from Beverley Gardens
  - Plan No DS/513B S04b 1:200 existing site cross sections
  - Plan No DS/513B S05d 1:200 proposed site plan
  - Plan No DS/513B S06c 1:100 proposed layout plan
  - Plan No DS/513B S07e 1:100 proposed front elevation as seen from Beverley Gardens
  - Plan No DS/513B S08d 1:100 proposed side and rear elevations
- 3) Notwithstanding the provisions of Classes A, B, C, D, E and F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the dwelling shall not be extended, the roof altered or ancillary buildings erected.
- 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 or glazed doors, other than those expressly authorised by this permission, shall be constructed on the southern flank wall of the development hereby permitted.
- 5) The first floor windows on the western rear wall of the development hereby permitted shall not be converted to glazed doors.
- 6) The roof of the rear extension hereby permitted shall not be used for a roof terrace.
- 7) The whole of the site edged red on approved plan DS/513B S01a shall be used as a single dwelling house only and for no other purpose (including any other purpose in Use Class C3 specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 8) No development hereby permitted shall begin until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The details to be submitted shall include:

- (i) Measures to be taken for the protection during the course of construction works of the tree next to the proposed crossover of the kerb;
- (ii) Position, density and species of trees and shrubs to be planted, including trees to be planted along the rear boundary of the site and a low hedge, no more than 850mm in height, to be planted along the frontage of the site facing Beverley Gardens;
- (iii) Position, height and materials of walls and fences; and
- (iv) Timetable for the implementation of the approved hard and soft landscaping.

Any trees, shrubs or hedging plants which form part of the approved landscaping scheme and die, are removed, are seriously damaged or become diseased within five years of the initial planting shall be replaced with trees, shrubs or hedging plants of the same species and of similar height unless the local planning authority agrees in writing to any variation. Any walls and fences which form part of the approved landscaping scheme shall be retained thereafter.

- 9) No development hereby permitted shall begin until the following details have been submitted to and approved in writing by the local planning authority:
- (i) Design of windows to the proposed dwelling house;
  - (ii) Design of the chimney stack;
  - (iii) Existing and proposed ground levels on the site; and
  - (iv) Position and screening of the storage area for refuse bins.

Development shall be carried out in accordance with the approved details.

- 10) No development hereby permitted shall begin 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.
- 11) No development hereby permitted shall begin until written confirmation has been provided to the local planning authority that the works to the roof of No. 61 Beverley Gardens can be implemented in accordance with the approved plans and also the drawings of the approved Certificate of Lawfulness (09/0877). The works to the roof of No. 61 shall be carried out before or concurrently with the construction of the dwelling house hereby permitted. The dwelling house hereby permitted shall not be occupied until the works to the roof of No. 61 have been completed. Fourteen days written notice shall be provided to the local planning authority of the occupation of the dwelling house hereby permitted.
- 12) No development hereby permitted shall begin until a method statement has been submitted to and approved in writing by the local planning authority. The method statement shall include hours when construction shall take place, measures to be taken to minimise noise emissions during construction, means to be taken to suppress dust during construction, where vehicles and plant associated with the construction of the development are to be parked within the site and the means for dealing with waste arising from construction. Development shall be carried out in accordance with the approved method statement.



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# Appeal Decision

Site visit made on 2 June 2011

**by D Cramond BSc MRTPI**

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

**Decision date: 6 July 2011**

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**Appeal Ref: APP/T5150/A/11/2146208**  
**232 Ealing Road, Wembley, HA0 4QL**

- 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 Bebrak Ghany against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/1529, dated 15 June 2010, was refused by notice dated 16 August 2010.
  - The development proposed is to erect a single storey rear extension.
- 

## Decision

1. I allow the appeal, and grant planning permission to erect a single storey rear extension at 232 Ealing Road, Wembley, HA0 4QL in accordance with the terms of the application, Ref 10/1529, dated 15 June 2010, with plan Ref 272/01, subject to the following condition:
  1. The 'access area' indicated on the plans shall be retained for the storage of waste / recycling receptacles and shall not be used for any other purpose without the prior written approval of the Local Planning Authority.

## Procedural Matters

2. The development has been largely completed; this does not alter my approach to determining the merits of the proposal.
3. The views of local residents and other interested parties have been taken into account in reaching this decision.

## Main Issue

4. The main issue is the effect of the proposal on rear servicing and highway safety.

## Reasons

5. The appeal property is a mid terrace retail unit with residential accommodation over. It fronts the busy Ealing Road and there is a narrow cul-de-sac rear service lane shared with other commercial premises leading in off the secondary road, Braemar Avenue. The proposal is a single storey flat roofed rear extension with ground coverage a little under 12 square metres to act as a cool room for the appellant's shop.
6. The Council is concerned that this extension would remove the ability to accommodate a transit van sized vehicle on the site meaning that deliveries

would have to be via the busy main street with all its competing functions or from the lane but with resultant congestion, inconvenience and safety issues because any van would block the lane whilst present. The London Borough of Brent Unitary Development Plan 2004 (UDP) includes policies which are very pertinent to this matter. UDP policies SH19 and TRN34 are concerned with rear servicing and explicitly seek its retention. The proposal would clearly not accord with these policies.

7. An appreciable level of development has taken place at the rear of this commercial parade. This is such that off-lane servicing is not available or is extremely tight for most shops and there is clearly considerable reliance on co-operative short term parking on the lane or use of the main road to the front. The Council makes the point that most of this development appears to have been undertaken pre-UDP but, nevertheless, it is a factual context for the current proposal. It would be understandable for the appellant to feel the refusal of planning permission might be a case of 'closing the stable door after the horse has bolted'.
8. These tight long established urban situations do require mutual co-operation to function effectively and there is no doubt there would be reliance upon this at this lane whether or not the appeal proposal was allowed. The lane has no defined turning area in the public domain and the scheme would not alter that fact. It is a short cul-de-sac that is lightly used and its exit onto Braemar Avenue offers reasonable visibility and a relatively safe approach whether in forward or reverse gear. Some deliveries for any of the shops will no doubt be undertaken via the front and there is nearby space, albeit with competing parking demands, where this could reasonably take place.
9. The servicing demands of these small shop premises, taken in the context of this wider area with its extensive retail and commercial activities, community facilities and leisure opportunities would be modest. They would not run contrary to UDP policy TRN3 which seeks to protect an area from unacceptable environmental impact from traffic generation and the scheme would not conflict with policy TRN22 which relates to parking provision rather than servicing requirements. The appellant has determined that his business interests are best served by a cool store rather than a delivery space and given that the failure to have such a space would not cause unacceptable harm to the wider public good that is a factor in favour of the proposal.
10. In all the circumstances I conclude that the failure to comply with UDP policies SH19 and TRN34 is outweighed by other material considerations, most notably related to the physical characteristics of adjoining properties, the nature of the rear lane and the main road to the front and having regard to the small scale of the appeal property.

#### *Conditions*

11. The Council suggests a commencement condition; however, work is largely completed. Similarly the call for a condition to deal with external materials is unnecessary as those which have been used, and are in part shown on the submitted plan, are visually satisfactory. I agree with the Council that the open area to the rear of the site should be conditioned to be retained for waste storage and recycling receptacles in the interests of proper and convenient provision for this important aspect.



*Overall conclusion*

12. For the reasons given above I conclude that the appeal proposal would not have an unacceptable adverse effect on rear servicing and highway safety. Accordingly I allow the appeal.

*D Cramond*

INSPECTOR



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# Appeal Decision

Site visit made on 1 June 2011

by **D Cramond BSc MRTPI**

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

Decision date: 4 July 2011

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**Appeal Ref: APP/T5150/A/11/2148075**  
**91 Dyne Road, London NW6 7DR**

- 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 Miss Debbie Yap against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/2058, dated 29 July 2010, was refused by notice dated 24 September 2010.
  - The development proposed is external insulation to side and rear elevations, two-storey rear extension at lower and upper ground-floor level, creation of a sunken garden terrace and upper ground-floor balcony, insertion of side rooflight, enlargement of 2 existing rear dormer windows, replacement of roof tiles and insulation to side and rear roof, raising its height, installation of solar panel to roof, creation of vehicular access and formation of hard and soft landscaping to front, and reversion to dwellinghouse.
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## Decision

1. I allow the appeal, and grant planning permission for external insulation to side and rear elevations, two-storey rear extension at lower and upper ground-floor level, creation of a sunken garden terrace and upper ground-floor balcony, insertion of side rooflight, enlargement of 2 existing rear dormer windows, replacement of roof tiles and insulation to side and rear roof, raising its height, installation of solar panel to roof, creation of vehicular access and formation of hard and soft landscaping to front, and reversion to dwellinghouse at 91 Dyne Road, London NW6 7DR in accordance with the terms of the application, Ref 10/2058, dated 29 July 2010, subject to the conditions set out in the attached schedule.

## Procedural matters

2. I use the Council's description of development which is more extensive than on the application forms.
3. I am determining this appeal on the plans considered by the Council and not amendments submitted by the appellant during the course of the appeal.

## Main issue

4. I consider the main issue to be the effects of the proposal on the character and appearance of the host dwelling and the locality.

## Reasons

5. The appeal property is an early 20<sup>th</sup> century semi-detached house, in a street of similar properties creating a pleasant residential character. It has an

ornate and attractive front elevation and a more austere and plain rear elevation. The house backs on to a rail line screened by vegetation and at lower level. Part of the rear of the premises is open to glimpses from the nearby main road (Willesden Lane) lying at right angles to the south west along with its associated bridge over the railway. The side elevation is largely screened from view by the proximity of the adjoining dwelling.

6. The proposal, as noted above, is extensive. However by reason of a previous planning permission (ref 10/1221, dated 23 July 2010) the great majority of the list of works has been approved by the Council. The addition to this approved scheme relates to the proposed external cladding of the flank and rear walls by use of insulating material with a render type finish. It is this work which is of concern to the Council. Having considered all relevant issues including, amongst other matters, the planning history, living conditions for neighbours, the principle of a single family dwelling and the character and appearance of the property and the wider area, I am satisfied that I need only concern myself with this external cladding; the other elements are non controversial and there is a fall-back status for them.
7. The site lies within the North Kilburn Conservation Area. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The Brent Unitary Development Plan 2004 (UDP) includes policy STR 16 which broadly reflects S72(1). UDP policy BE26 calls for particular care to achieve sympathetic alterations and extensions in Conservation Areas and draws attention to the need to consider any relevant design guidance. More generally UDP policy BE9 seeks architectural quality and, amongst other matters, underlines the need for development to be appropriate to its setting, respect though not necessarily replicate, adjoining development and employ suitable materials for the context.
8. As previously indicated, the side elevation sits very inconspicuously. The proposal would see the cladding stopping well short of the front corner of the building. The projection of the cladding would be hardly discernable from the road and in any event the adjoining property has a projection in its brickwork construction; sides locally are not all flat elevations. Furthermore, a rendered or part rendered finish for an elevation would not be unique in this area as properties opposite make some use of this finish.
9. Turning to the rear elevation, the Council is right that the upper level of this can be viewed from Willesden Lane and is set amidst a scene of brick dwellings. I do not see a render finish as being intrinsically harmful to the streetscene on the rear of a building in a row of architecturally undistinguished rear elevations with only limited similarities between them. I say this especially when views of the scene are likely to be limited to glimpses and often filtered by the intervening vegetation. The cladding would change the proportion of the dormers somewhat but I am satisfied that they would not become out of scale and it is apparent that there are a range of dormer types and sizes locally. The appeal property is not even symmetrical at roof level with the adjoining semi-detached house as things stand. The cladding proposed for the sides of the dormers is a more modest 50mm rather than the 100mm thickness for the main walls.

10. No special features or notable detailing of the house would be covered; the focus on these dwellings and the major contribution to the qualities of the Conservation Area stems from the front elevations. The cladding with the altered main roof form would sit comfortably at the rear. Deeper window reveals would result and there would be a projection evident, if one looked carefully, relative to the brickwork on the neighbouring dwelling. However these need not be over-riding concerns as the eye will be looking at the wider scene with its range of window types, shapes and sizes and the built context which includes elevational stepping. I also note that some windows are to be replaced and there would be an opportunity to position these more closely to the external plane; this is an approach offered by the appellant and one which could be dealt with via planning condition.
11. In this instance the evidence put forward for the energy improvement merits of external cladding of these parts of this particular building, which does not have cavity walls and would present major difficulties and costs to deal with via overall and equivalent insulation internally, is persuasive. There would be compliance with the objectives of PPS1: *Delivering Sustainable Development* and its supplement, cited by both principal parties, particularly in terms of seeking to tackle climate change. Furthermore the scheme would accord with UDP policy STR 13 which seeks development with a reduced overall demand for energy and UDP policy BE12 which calls for built forms and technologies to contribute to reduced energy consumption and associated emissions.
12. There would be no conflict with S72(1) of the Act; there would be preservation of the character and appearance of the Conservation area. The scheme would also accord with the UDP policies cited in paragraph 7 above. The Design Guide for the Conservation Area which sets itself against rendering or cladding cannot be expected to cover every eventuality and the restoration work proposed to, for example, the front elevation will fully accord with the guidance and make a positive contribution to the streetscene.
13. In my support for the proposal I bear in mind that the render finish for the cladding is available in a range of colours. Selection of a suitable colour, more muted than the stark white shown on some illustrations, is something that both principal parties have indicated as a matter to be potentially dealt with via condition. I consider that this approach would be appropriate and I turn to the question of conditions below.

#### *Conditions*

14. In addition to the standard three year commencement condition I shall, for the avoidance of doubt and in the interests of proper planning, include a condition requiring that the development would be carried out in accordance with listed, approved, plans.
15. The Council suggests a number of conditions. Access to external areas should be suitably controlled in the interests of protecting residential amenity for neighbours. The call for a landscape scheme is appropriate in the interests of visual amenity within this Conservation Area and for the same reason it is reasonable that details of all external materials be submitted and agreed. This latter element shall, for the avoidance of doubt, include the colour of proposed render. Photovoltaic panels on the front gable and roof-lights should be flush with the roof covering to protect the appearance of the building and the area.

16. As noted above, I shall add a condition requiring the submission of details of any new windows and for sectional plans to show their relationship to the external plane to be submitted in the interests of visual amenity.
17. To assist with conciseness and precision, and bearing in mind advice in Circular 11/95, I shall not in every instance use the same wording for conditions as put forward by the Council.

*Overall conclusion*

18. For the reasons given above I conclude that the appeal proposal would not have unacceptable adverse effects on the character and appearance of the host dwelling and the locality. Accordingly I shall allow the appeal.

*D Cramond*

INSPECTOR

SCHEDULE OF CONDITIONS:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B3.G20:- E02A, E03A, P00A, P01A, P02A, P03A, P-01A, P-02A, S01A & S02A and B5.G20:- E01D, E02E, E03E, E04B, P00G, P01F, P03F, P-01D & S01F
- 3) Access to the roof of the single storey extension shall be limited to the terrace area designated by railings and no access, other than for maintenance, shall be provided to the area identified as a 'wild flower meadow'.
- 4) The areas so designated within the site, including the green roofs and the front garden, shall be landscaped in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority before any works commence on site, the landscape work to be completed during the first available planting season following completion of the development hereby approved. Any planting that is part of the approved scheme that within a period of five years after planting is removed, dies or becomes seriously damaged or diseased, shall be replaced in the next planting season and all planting shall be replaced in the same positions with others of a similar size and species, unless the Local Planning Authority first gives written consent to any variation.
- 5) Notwithstanding the approved plans the photovoltaic panels on the front gable and the roof lights shall be detailed to be flush with the roof covering.
- 6) Details of materials for all external work, including hardstanding material for the front garden and colour of render for the elevations, 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 and permanently retained as such thereafter.
- 7) Details of any new windows shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. Such details shall include sectional drawings to demonstrate the relationship of the window to the external elevation of the dwelling. The work shall be carried out in accordance with the approved details



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# Appeal Decision

Site visit made on 7 June 2011

**by Siân Worden BA DipLH MCD MRTPI**

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

**Decision date: 1 July 2011**

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**Appeal Ref: APP/T5150/A/11/2149142**  
**Flat 7, 88 Brook Road, London NW2 7DU**

- 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 Kersey Properties against the decision of the Council of the London Borough of Brent.
  - The application Ref 10/3195, dated 30 November 2010, was refused by notice dated 4 February 2011.
  - The development proposed is a single storey extension to Flat 7.
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## Decision

1. I allow the appeal, and grant planning permission for a single storey extension at Flat 7, 88 Brook Road, London NW2 7DU in accordance with the terms of the application, Ref 10/3195, dated 30 November 2010, 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: block plan (scale 1:1250) and 2129 12A plan and elevations.
  - 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.
  - 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development

## Main Issues

2. I consider that the main issues in this case are the effect of the proposal on the;
  - living conditions of neighbouring occupiers with regard, particularly, to its size, scale, proximity to boundaries and means of access, and on
  - the character of the existing building and surrounding area.

## Reasons

3. The existing building is located at the end of what was the garden to the main dwelling which is now converted to flats. It is single-storey with a gabled roof and is currently used as a dwelling. The proposed development would be an approximately 5m deep extension to the front which would continue the existing roof height and pitch, and the line of the side elevations. The existing form of the building is simple, its front and rear elevations would be little altered and, in my view, the increased length would not appear excessive or out of scale.
4. To each side, furthermore, are tall close-boarded fences which, as the building fits quite snugly between, would afford little opportunity for side-on views of the proposed extension. It would not, however, be any closer to the boundary fences than the existing dwelling. The reduction in depth and rearrangement of the proposed internal layout has dispensed with the criticism concerning the outlook of future occupiers which the previous inspector considered so serious as to justify dismissal.
5. The rear windows of the flats in the main building at No. 88 look towards the appeal building but the proposed extension would be some distance away beyond the garden. Although the building would be visible I do not consider that the proposed extension to it would be incongruous or harmful to the outlook from these windows. The windows proposed in the front elevation would allow light to emanate from the dwelling but to my mind this would not be at such a level as to be distracting, polluting or contrary to UDP Policy BE8.
6. The access way to the dwelling runs in a tunnel through the main house and alongside its fenced back garden. The proposed extension would enable Flat 7 to have three bedrooms but the accommodation overall would be modest and unlikely to lead to a considerable increase in the number of occupiers, whether in a single family or as individuals. Whilst there might be an increase in activity and traffic, including to and from the two parking spaces shown within the site, I do not, therefore, consider that this would be sufficient to harm the living conditions of the existing occupiers of the main house. The previous appeal would have resulted in a four bedroomed dwelling. Even then the inspector considered that, although there would have been an uncharacteristic level of activity which would have had a significant impact on existing occupiers, this did not in itself warrant dismissing the appeal.
7. In its backland location and being of a single storey the existing dwelling is atypical of the general character and traditional layout of the surrounding area, mainly semi-detached houses with front and back gardens. The rear boundary to the site is screened with mature trees although it is possible to see the building through these from Ainsworth Close behind. It can also be glimpsed along the access way from Brook Road. From neither of these viewpoints or from the surrounding dwellings, however, would the proposed development be a significant feature. It would not, therefore, make the uncharacteristic location and style of the existing dwelling more apparent than they are now, or result in it being obtrusive or harmful to the character of the existing property or wider area.
8. My overall conclusion is that the proposed development would be of a scale, massing and height appropriate to its setting and location, and would respect the characteristics of the adjoining development. It would also be laid out to promote the amenity of users and provide, in particular, a satisfactory level of



outlook for existing and proposed residents. In these respects it would thus conform with Policy BE9 of the Brent Unitary Development Plan 2004. The adopted Core Strategy is now part of the development plan and thus proposals must be in accordance with it. As I consider that the proposal would not erode the character of suburban housing or be an out-of-scale building which would fail to respect the setting of existing dwellings it would not, however, be contrary to Policy CS 17. In my view the changed definition of previously developed land in PPS3 *Housing*, which no longer includes private residential gardens, has little weight in this case.

9. In the light of Circular 11/95 *The Use of Conditions in Planning Permissions* I have attached conditions suggested by the Council which will protect the appearance of the existing buildings and surrounding area. I have not, however, required the flank windows to be obscure glazed or non opening as, in the absence of any evidence of potential overlooking or loss of privacy, I do not consider that to be necessary.
10. For the reasons given above I conclude that the appeal should be allowed.

Siân Worden

Inspector



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# Appeal Decision

Site visit made on 18 July 2011

**by Paul Crysell BSc (Hons) MSc MRTPI**

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

**Decision date: 4 August 2011**

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**Appeal Ref: APP/T5150/A/11/2150747**

**Adjacent to Woodcock Park Bowling Club, Shaftesbury Avenue, Harrow HA5 0RF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval for the siting and appearance of development permitted by part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development ) Order 1995 (as amended).
  - The appeal is made by Vodafone against the decision of The London Borough of Brent.
  - The application Ref 10/3175, dated 10 December 2010, was refused by notice dated 31 January 2011.
  - The development proposed is the installation of a 12.5 metre telegraph pole (telecommunications installation) with 1 No. equipment cabinet and I No. meter cabinet and ancillary development.
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## Decision

1. I allow the appeal and give approval for the siting and appearance of the development proposed in application Ref: 10/3175, dated 10 December 2010 in accordance with the submitted plans (Drawing Nos: 100B, 201B, 301B and 400B). The approval is for the installation of a 12.5 metre telegraph pole (telecommunications installation) with 1 No. equipment cabinet and I No. meter cabinet and ancillary development adjacent to Woodcock Park Bowling Club, Shaftesbury Avenue, Harrow HA5 0RF under the provisions of part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended) subject to the following conditions:
  - 1) The telecommunications mast shall be painted dark brown and the cabinets shall be painted dark green.
  - 2) No development shall take place until details of root protection measures have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with these proposals.

## Main issue

2. The main issue in this case is the effect of the proposed development on the character and appearance of the area including the Mount Stewart Conservation Area.

## Reasons

3. The proposed mast and cabinets would be sited at the back edge of the footpath between a bowling green and Shaftesbury Avenue at the southern end of Woodcock Park. The purpose of the installation is to improve 3G and mobile

broadband services in this part of Harrow where the present coverage is, according to the appellant, limited with interrupted services and dropped calls a common occurrence. The Council does not dispute the need for a mast and having regard to the appellant's coverage plots, I have no reason to disagree.

4. The area is predominantly residential with housing facing the appeal site on the opposite side of the road. There are two schools close to the proposed site which is also within 100 metres of the Mount Stewart Conservation Area (CA). Apart from the dense vegetation surrounding the bowling club this part of Shaftesbury Avenue is open and spacious, characteristics which are reinforced by the generous width of the road, the verge and the footpath. A number of trees flank the road and those next to the bowling club would provide a backdrop for the mast and help to moderate its impact.
5. The mast is designed to look like a telegraph pole but it would be noticeably higher than either the existing poles or the streetlights in Shaftesbury Avenue. The appellant explains that this is necessary to overcome obstacles that would otherwise affect coverage. Consequently, it would be possible to see it in longer distance views from both directions along Shaftesbury Avenue including from parts of the CA. Most of the mast would be seen against the trees next to the site although I accept that the effect would be reduced in winter because many of the trees are deciduous. Even so, the trunks would continue to provide a vertical emphasis and a foil to the man-made form of the camouflaged mast. The equipment and meter cabinets would, in some respects, have more impact because they are bulkier objects but I do not consider they would result in the visual clutter feared by the Council because there is no other street furniture nearby.
6. The appellant has provided information on alternative sites which have been investigated but rejected for various reasons. I appreciate that it would be preferable to locate the mast away from a residential neighbourhood but the site has the advantage of being on relatively high land and adjacent to a major area of open space. The installation would also have the potential to be used for shared services. In the context of the surrounding area, I do not consider the location would be result in the conspicuous form of development the Council fears.
7. A number of residents and a local councillor have raised concerns, some of which I have covered above. It is suggested that the installation could be a target for vandals although there is no information to show why it should lead to anti-social behaviour. Health and safety concerns have also been identified. This is not normally a matter for the planning system although I accept it can be a material consideration. In this instance the installation would meet the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Having regard to the advice in PPG8<sup>1</sup>, I consider there are no grounds to dismiss the appeal because of the risk to health.
8. My overall conclusion is that the need for improved coverage justifies the siting of the development in the proposed location. I am satisfied that the impact on the street scene would not be so severe to adversely affect the character and appearance of the area including the nearby CA. Consequently I find that the proposal would not conflict with policy CP17 of the Brent Core Strategy intended to protect the suburban character of Brent or policies BE2 and BE7 of

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<sup>1</sup> Planning Policy Guidance Note 8 *Telecommunications* (PPG8)

the Brent Unitary Development Plan (UDP) covering townscape and streetscape respectively. I also consider the proposal would comply with the objectives of policy BE19 of the UDP. This is the most relevant plan policy in relation to telecommunications development and sets out the criteria to be taken into account where telecommunication apparatus is proposed.

9. The Council has suggested two conditions if the appeal was allowed. The first covers the colour of the mast and the cabinets while the second requires details to be provided of root protection measures. I consider both are necessary to minimise the impact of the development and to avoid damage to nearby trees.
10. For the reasons given above and having regard to all other matters raised, I allow the appeal.

*P R Crysell*

INSPECTOR



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# Appeal Decision

Site visit made on 5 July 2011

by D A Hainsworth LL.B(Hons) FRSA Solicitor

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

**Decision date: 13 July 2011**

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## **Appeal Ref: APP/T5150/C/11/2150497**

### **6 Furness Road, London NW10 4PP**

- The appeal is made by Maha Ali under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: E/10/0180) issued by the Council of the London Borough of Brent on 28 February 2011.
  - The breach of planning control alleged in the notice is "change of use of the premises to eight self-contained flats".
  - The requirements of the notice are "Cease the use of the premises as eight self-contained flats and its occupation by more than ONE household, remove all items, materials and debris associated with the unauthorised change of use, including all kitchens, except ONE, and all bathrooms, except TWO, from the premises".
  - The period for compliance with these requirements is six months.
  - The appeal is proceeding on the ground set out in section 174(2)(b).
  - The planning application deemed to be made by section 177(5) does not fall to be considered, because the prescribed fees were not paid within the specified period.
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## **Decision**

1. The appeal is allowed and the enforcement notice is quashed.

## **Reasons for the decision**

2. The premises affected by the notice are stated to be "6 Furness Road" as outlined on the notice plan, but there are two separate properties here, Nos 6A and 6B, and no No 6 as such. No 6A consists of a ground-floor entrance and corridor leading to stairs to two upper floors. There are three studio flats and a one-bedroom flat on the first floor, numbered 1 to 4, and a studio flat and a one-bedroom flat on the second floor, numbered 5 and 5B. No 6B has its own ground-floor entrance, which gives access to a ground-floor shop unit at the front, currently used by a property company, and two ground-floor studio flats at the rear. Photographs taken by the Council indicate that Nos 6A and 6B were separate at the time when the notice was issued.
  3. The notice should separately identify each property and the flats in each of them if it is intended to apply to both Nos 6A and 6B, as appears to be the case. The description of the change of use should distinguish between Nos 6A and 6B and, in the case of No 6B, describe it in terms that recognise that there is a shop unit in the property. Precision about these matters is necessary for the notice to contain enforceable requirements appropriate to the property to which they apply.
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4. I can correct any misdescription in the notice and vary its requirements if I am satisfied that I can do so without causing injustice. I have not exercised this power on this occasion, for the following reasons: -
- the changes would be too extensive;
  - more information would be needed about the uses taking place;
  - Nos 6A and 6B are in different ownerships and persons would be affected by the changes who are not parties to the appeal; and
  - the appellant and other affected persons might have wished to raise other grounds of appeal and to pay the fees for the deemed planning application if the notice had been in different terms at the outset.
5. The notice is defective and cannot be corrected without causing injustice. The appeal has therefore succeeded and the notice has been quashed.

*D.A.Hainsworth*

INSPECTOR



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# Appeal Decision

Site visit made on 5 July 2011

**by R E Watson BA (Hons)**

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

**Decision date: 19 July 2011**

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**Appeal Ref: APP/T5150/C/11/2151201**

**1 Dicey Avenue, London, NW2 6AR**

- 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 A Khan against an enforcement notice issued by the Council of the London Borough of Brent.
  - The Council's reference is E/10/0397.
  - The notice was issued on 9<sup>th</sup> March 2011.
  - The breach of planning control as alleged in the notice is the erection of side dormer and rear dormer windows, raising of the height of part of the roof to provide a crown roof, installation of three front roof lights, two side roof lights and one rear roof light to dwelling.
  - The requirements of the notice are to remove the side dormer window and replace it with tiles which match the tiles used on the remainder of the roof.
  - The period for compliance with the requirements is 6 months after the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2)[a, c & f] of the Town and Country Planning Act 1990 as amended.
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## Decision

1. The appeal is allowed and the enforcement notice is quashed. I have taken account of the views of local residents and other interested parties in reaching this decision.

## Application for Costs

2. An application for a full award of costs was made by Mr S A Khan against the London Borough of Brent. An application for a partial award of costs was made by the London Borough of Brent against Mr S A Khan. These applications are the subject of separate Decisions.

## Appeal made under Ground (c)

### Planning Background

3. In June 2010 the Appellant submitted an application for a Certificate of Lawfulness for a roof extension which had been carried out at the appeal property. The detailed calculations made at the time, and agreed by both parties, revealed that the total volume of the extensions amounted to 54.606m<sup>3</sup>. This took the development beyond the limit below which planning permission was not required by virtue of the provisions of Schedule 2 – Part 1 – Class B to the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008. Accordingly, the Council refused to issue a Certificate.

4. After submitting and then withdrawing an application to retain the roof extensions when he was advised that the Council were unlikely to grant permission, the Appellant then decided to reduce the volume of the extensions below the 50m<sup>3</sup> permitted development limit by reducing the size of the rear dormer extension. This was carried out in February 2011. The extensions now total 48.535m<sup>3</sup>, a figure which the Council have not explicitly disputed.

### **Reasons**

5. I accept that the extensions, when originally undertaken, exceeded the permitted development limit. I have noted the Council's argument that it is not appropriate to redesign an unauthorised development so that it sits within the realms of permitted development. I have also taken account of their reference to a Court of Appeal decision in 1968 (*Garland v Minister of Housing and Local Government* and another) which established that the whole of an unauthorised extension is unauthorised, not just the part that was over the permitted development limits. However, in this case the arguments flowing from these references would only assume relevance if the enforcement proceedings had been initiated prior to the revisions being made to the original unauthorised development. In this case, therefore, the critical question is precisely when the Council took enforcement action.
6. The written evidence before me clearly demonstrates that the amendments to the extension were completed in February 2011, with a completion certificate issued by the Council's Building Control Department, dated 23<sup>rd</sup> February 2011. The Appellant's Agent wrote to the Council in a letter, accompanied by plans, dated 19<sup>th</sup> February 2011 confirming that the works had been carried out. The Notice was not served until 9<sup>th</sup> March 2011, after the alterations had been made to the original extensions.
7. I am satisfied from the evidence that what exists on site does not require planning permission and has not done so since February 2011, before the Notice was served. The earlier breach of planning control had been rectified prior to the service of the Notice. Accordingly, I am satisfied that the development to which the Notice relates is lawful by virtue of the provisions of General Permitted Development Order, as amended and is immune from enforcement action. I conclude that the appeal under ground (c) succeeds. Consequently, I intend to quash the enforcement notice. The appeals made under grounds (a) and (f) do not need to be addressed.

*R E Watson*

Inspector