



Appeal Decision

Hearing held on 16 November 2021

Site visit made on 16 November 2021

by Joanna Gilbert MA(Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/T5150/W/21/3269685

1-2 Court Parade, East Lane, Wembley HA0 3HY.

- 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 JM Partnership against the decision of London Borough of Brent.
 - The application Ref 20/2327, dated 31 July 2020, was refused by notice dated 30 October 2020.
 - The development proposed is development of existing hardstanding to provide a 3 storey building comprising of 5 residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It was confirmed at the hearing that the appellant is JM Partnership as referred to on the application form. This has therefore been used in the heading above.
3. The third and fourth reasons for refusal repeat the same content. It is agreed in the Statement of Common Ground that reference should only be made to the third reason for refusal.
4. Consultation on Main Modifications to the Draft Brent Local Plan 2020 (DBLP) took place in Summer 2021. Since the application was determined, the London Plan 2021 (LP) has been adopted and the National Planning Policy Framework (the Framework) was revised in July 2021. The main parties have been able to comment on these documents and I have considered the appeal on this basis.
5. The appellant submitted revised drawings with the appeal, indicating changes to the balconies and internal spaces for units 01-01 and 01-02; altered configuration of a bedroom and living room in unit 00-02; and alterations to cycle and refuse storage. The amended drawings were discussed during the hearing as Scheme B, while the drawings determined by the Council were referred to as Scheme A. Given the limited nature of the suggested changes between Schemes A and B, and having had regard to relevant case law¹, I am satisfied that no one would be prejudiced if the appeal were to be determined on the basis of the revised proposal. Where necessary, I have referred to both Schemes A and B in relation to living conditions and cycle and refuse storage.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL 1982]; Holborn Studios Ltd v London Borough of Hackney [EWHC 2823 (Admin)]

6. A signed legal agreement dated 9 December 2021 was submitted on 10 December 2021. I have had regard to this document in reaching my decision.

Main Issues

7. The main issues in this appeal are:
 - a) the effect of the proposed development on the living conditions of future occupiers, with particular reference to outlook, light, privacy, and external amenity space;
 - b) the effect of the proposed development on parking availability and highway safety in the area;
 - c) whether the proposed development would make adequate provision for cycle storage and for pedestrian and cycle movements; and
 - d) the effect of the proposed development on the character and appearance of the area, including the Sudbury Court Conservation Area.

Reasons

Living conditions

8. Policy DMP 19 of the London Borough of Brent Development Management Policies 2016 (DMP) and DBLP Policy BH13 require all new dwellings to have external private amenity space of a sufficient size and type, normally 20m² for flats. Notwithstanding differences between the main parties in how much private external amenity space would be provided, provision would be significantly below 20m² per unit.
9. The ground floor units would have small, enclosed courtyards. The appellant has sought to screen and separate spaces with louvres, brick planters, and vegetation. Despite the screening, the courtyards would feel overlooked due to comings and goings along the first floor communal decking and access, by other residents using balconies, and by neighbouring units along Court Parade. Notwithstanding the findings of the appellant's Daylight and Sunlight Assessment, the courtyards would also be likely to feel restricted due to the enclosing walls and their limited size. Furthermore, it has not been demonstrated that there would be sufficient light to the courtyards.
10. Part of the external space for unit 00-01 would be narrow and unduly close to cycle and refuse storage. This is not shown on plan as being secure and screened from the street or accessible via the unit itself. As such, and despite a proposed condition to provide access, it would not be private or usable.
11. The balconies proposed in both Schemes A and B are small and narrow and would fail to provide sufficient private amenity space for their respective upper floor units to allow residents to make effective use of them.
12. Meanwhile, the communal decking would predominantly form the shared access to the upper units. Not only would people walk along the communal decking to reach their flats, but the neighbouring occupiers of Court Parade would overlook the space at the head of the proposed staircase. Given its lack of privacy and use for access, the communal decking would not provide high quality amenity space for future occupiers.

13. The local policy position regarding private external amenity space allows some flexibility, factoring in communal amenity space and proximity to Elmwood Park, Vale Farm and Sudbury Court sports grounds. Furthermore, the proposed units would slightly exceed the minimum internal space standards set out in LP Policy D6. Scheme B would alter the level of external space provision for units 01-01 and 01-02 by altering the internal layout of those units slightly. However, despite these matters, my concerns about the quality and quantity of external amenity spaces, and the privacy of and light to those spaces remain.
14. Turning to outlook, ground floor unit 00-02 would consist of a two-bedroom three person flat. Both Schemes A and B would result in a habitable room window facing Wakeling Lane and a boundary fence beyond. Despite the one metre landscaped strip separating the window from the lane, the outlook for both Schemes A and B in respect of this window would be poor. This would not be mitigated by the provision of a glazed door to the living area in either scheme as the courtyard would be small and enclosed by walls and fencing.
15. The Council also has concerns about light to a bedroom within unit 00-02. However, the appellant's Daylight and Sunlight Assessment confirms that the proposed development would be compliant with relevant standards for daylight and sunlight. I see no reason to disagree with the appellant's assessment in this instance. If development were to occur on the neighbouring site, its effect would be considered in the context of any extant planning permissions.
16. In conclusion, while there would be no harm to the living conditions of future occupiers in respect of light to the bedroom of unit 00-02, there would be a harmful effect on the living conditions of future occupiers, with particular reference to outlook, privacy, and external amenity space. Additionally, it has not been demonstrated that light to the proposed courtyards would be adequate. Consequently, the proposed development would conflict with DMP Policies DMP 1 and DMP 19, DBLP Policies DMP1 and BH13 and LP Policy D6. Amongst other things, DMP Policy DMP 1 and DBLP Policy DMP1 state that development should provide high levels of internal and external amenity. DMP Policy DMP 19 and DBLP Policy BH13 are discussed above. LP Policy D6 sets out requirements for housing quality and standards.

Parking and highway safety

17. The site is presently a yard behind a shopping parade. The site lies close to the junction of Pasture Road with East Lane and adjoins the narrow access along Wakeling Lane. As well as providing servicing access to the parade, Wakeling Lane contains businesses, residential units, and associated parking.
18. East Lane is a classified road, with bus stops adjacent to the parade. There is some parking in front of the shops which is restricted to residents and businesses with valid permits on event days at Wembley Stadium. At the junction of East Lane and Pasture Road, double yellow lines continue for some metres beyond the junction on either side. Immediately beyond Pasture Road, East Lane has a single yellow line restricting parking on parts of the road. Beyond this, marked parking bays are restricted to permit holders from 8am to midnight on event days. I understand these restrictions are limited to between 35 and 40 events per year.
19. Pasture Road has on-street parking and private driveways beyond double yellow lines at the East Lane junction. There are no parking restrictions in the

form of a Controlled Parking Zone (CPZ), as event day parking restrictions for the Wembley Stadium Permit Zone cease at East Lane. Wakeling Lane has double yellow lines at its junction with Pasture Road, but is otherwise unrestricted. Pasture Close lies off Pasture Road. The close is a narrow cul-de-sac with multiple private driveways and parking on street.

20. DMP Policy DMP 1 and DBLP Policy DMP1 require development to be satisfactory in terms of means of access for all, parking, manoeuvring, servicing and that it would not have an adverse impact on the movement network. DMP Policy DMP 12 deals with parking standards and managing the availability of car parking. It requires, amongst other things, that developments should provide parking consistent with parking standards set out in DMP Appendix 1. In appropriate locations where there are high levels of public transport access (generally Public Transport Accessibility Level (PTAL) 4 and above), car-free development should be considered. Access to on-street parking should also be restricted in areas with CPZ and contributions to car clubs will be strongly encouraged. Furthermore, development should not add to on-street demand for parking where streets cannot meet existing demand or where on-street parking conditions are harmed. DMP Appendix 1 sets out residential parking standards as maximum standards. For 1-2 bedroom residential units, no more than 1 space per unit would be sought for development within PTAL 1 – 3.
21. DBLP Policy BT2 confirms that car free development should be the starting point in places well-connected by public transport, with developments elsewhere providing the minimum necessary parking. As for DMP Policy DMP 12, it strongly encourages contributions secured through a planning obligation to existing and new car clubs. DBLP parking standards are as set out in LP Policy T6.1, which confirms the standard for outer London PTAL 2 – 3 as being up to 0.75 spaces per 1 – 2 bedroom residential unit.
22. Additionally, paragraph 111 of the Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
23. The Council has confirmed that the site lies within PTAL 2, while the appellant considers it to be within PTAL 3. The difference between PTAL 2 and 3 does not alter the maximum parking standards for the proposed development in either the DMP or the DBLP, although the additional consideration of the 483 bus route would indicate that public transport accessibility may well be better than when the site was last assessed. The site is within walking distance of local services and facilities. It lies within a kilometre of train and tube services at North Wembley and Sudbury and Harrow Road stations and is close to stops for bus services 245, 483, and 182. A further stop for the 92 bus service is just over the PTAL maximum walking distance to bus stops of 640m. Even with a re-calculation to include the 483 bus route, the PTAL would remain under 3.
24. PTAL is an established tool in assessing the accessibility of locations. Additionally, the National Travel Survey considers stations within up to a mile's walk to be acceptable and some residents may well use public transport, including as part of a multi-stage trip. However, based on my observations of the site and its location, it is likely that future occupiers of the proposed development would wish to have access to a car for various purposes.

25. With car parking in mind, the appellant has provided a transport statement, which assesses local levels of car ownership and likely traffic generated by the proposed development. Moreover, the appellant has established that a viable scheme with amenity space and parking could not be accommodated on site.
26. The main parties have different views on the Census data provided in the transport assessment, with that difference appearing to stem from whether the data should be taken at a ward or super output area level. With regard to parking stress, the Council would only support the proposed development if it could be demonstrated that on-street car parking occupancy within the local vicinity (not including classified roads) would be less than 80% if the proposed development came forward.
27. There is a difference between the parties as to whether perceived parking capacity on Pasture Close and East Lane should be accounted for. Pasture Close is narrow and dropped kerbs preclude parking along much of the street. Any spare capacity within Pasture Close is therefore likely to be limited. While East Lane is classified, there are marked parking bays present. However, the manoeuvring of larger vehicles such as buses is already hampered in places due to parked vehicles. Further parking would be likely to contribute towards increased traffic queues along East Lane. Even with only a small increase in parking from the proposed development, I find that parking stress would be likely to be exacerbated.
28. A number of forms of mitigation have been put forward by the appellant. I shall address them in turn. The provision of an on-street parking space would involve amendment of the existing parking restrictions to remove double yellow lines and to lengthen on-street parking directly adjacent to the site. Not only are there understandable concerns about safety at the junction of Pasture Road and Wakeling Lane and regarding the length of the proposed on-street parking area, but it has not been adequately indicated on plan or secured by means of condition or obligation. I am therefore not certain that works to the highway would take place to allow for a further parking space to be provided.
29. In seeking to provide alternatives to use of the private car, the appellant has put forward a legal agreement providing for a car club scheme. The nearest existing car club location lies approximately 1.2km away. Though the nearest car club location is accessible by public transport, it is not sufficiently convenient for future occupiers to be used frequently.
30. The legal agreement addresses provision of a car club scheme, including a car parking space for the car club vehicle and three years' membership to the car club for the occupiers of the proposed development. However, the legal agreement omits Schedule 5 though reference is made to it in the definition of the car club scheme. Furthermore, paragraph 7 of the legal agreement is unclear in terms of implementation and refers to the car club vehicle being provided on site, which is not possible on this constrained site. Given these contradictory elements, the effect and enforceability of the legal agreement are uncertain. As a result, it would not be likely to successfully mitigate any negative effect on parking levels as a result of the proposed development.
31. The site does not lie within a CPZ. There are no plans to introduce a CPZ or any restrictions over and above the existing event day restrictions. Indeed, there is concern that local residents would not wish to see a CPZ implemented. The legal agreement confirms that all occupiers would be notified that they would

not be eligible to apply for parking permits within a CPZ unless qualifying criteria were met. However, it is not clear that a CPZ would be implemented here. It is therefore plausible that occupants of the proposed development would still look to park on surrounding roads which would contribute to parking stress. Adequate mitigation has not therefore been provided.

32. Concluding on this main issue, I find that the proposed development would have an unacceptable effect on parking availability and highway safety in the area. Consequently, it would conflict with DMP Policies DMP 1 and DMP 12, DBLP Policy BT2 and the Framework as set out above.

Cycle Storage

33. The proposed development within Scheme A would provide for eight cycle parking spaces adjacent to the proposed staircase and to the rear access to commercial floorspace on Court Parade. The refuse storage would be next to the cycle storage. Cycle racks within Scheme A would be semi-vertical within a secure brick structure. Though in a similar location, Scheme B would involve the re-positioning of the refuse storage to provide eleven cycle parking spaces accommodated horizontally within a secure brick structure.
34. DMP Policy DMP 1 and DBLP Policy DMP1 have been set out in the previous main issue. DMP Policy DMP 12 refers to Appendix 1 for parking standards, which confirms that the LP cycle parking standards are applicable. LP Policy T5 deals with cycling. Amongst other things, developments should provide cycle parking to at least the minimums in LP Table 10.2 and LP Figure 10.3. The London Cycling Design Standards (2016) (LCDS) requires cycle parking to be fit-for-purpose, secure and well-located. The minimum bay width for cycle parking is 2 metres. In terms of stands, the LCDS refers to tubular stands and two-tier stands, which allow for two-point frame and wheel locking.
35. Although the siting and size of the proposed cycle and refuse storage would differ between Schemes A and B, fundamentally both layouts would involve pedestrian and cycle movements occurring in a narrow area between the rear of the parade building and the proposed development. This would give rise to conflicting pedestrian and cycle movements when accessing the cycle or refuse storage or the neighbouring unit within the parade.
36. Furthermore, the level of cycle storage provision within Scheme A would not meet the LP's minimum expected standard of nine cycle parking spaces for this size and type of residential development. Scheme B would exceed the minimum requirements in this respect. However, both Schemes A and B would provide cycle storage which would not meet the LCDS's minimum depth requirement. Additionally, Scheme A's semi-vertical stands would not allow for all users to be able to easily manoeuvre bicycles in and out, while Scheme B would involve bicycles being parked in an overlapping manner. Overall, neither scheme would provide adequate cycle storage. This would not be satisfactorily addressed by means of conditions for cycle and refuse storage as the area demarcated for cycle storage is fundamentally problematic due to the conflicting movements previously identified.
37. Concluding on this main issue, the proposed development would not make adequate provision for cycle storage and for pedestrian and cycle movements. Accordingly, it would conflict with DMP Policies DMP 1 and DMP 12, DBLP Policy DMP1, LP Policy T5 and the LCDS as set out above.

Character and appearance

38. The site lies within the Sudbury Court Conservation Area (the conservation area). The statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (LBCA Act) sets out that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.
39. The significance of the conservation area is derived predominantly from its planned suburban nature as an inter-war housing estate, its street hierarchy, and its domestic architecture dating from 1927 to the late 1930s. Taking cues from the Garden Suburb movement, the conservation area contains mainly residential properties set behind front gardens and within generous plots.
40. Using repeated patterns along the streets, the two-storey detached and semi-detached houses have a mixture of brick, painted, render, and pebbledash finishes. Some houses have faux timber detailing at first floor level. The clay-tiled roofs are typically pitched and hipped with relatively low eaves. Many of the houses are in pairs, with either paired two-storey bay windows with front gables or paired steeply sweeping roofs down to ground floor level.
41. Turning the corner of Watford Road and East Lane, Court Parade is an imposing three-storey building comprising commercial and residential uses. The red brick parade has an Arts and Crafts style appearance with steeply pitched roofs, prominent chimneys, and black and white timber detailing. Behind the curving parade adjacent to Wakeling Lane and Pasture Road, the rear yards either remain open or have been infilled with extensions or separate buildings. At the other end of Court Parade, a more recent residential development provides a deeper L-shape to terminate the parade. Unlike this modern bookend, the site presently provides a gap between the taller three-storey parade building and the two-storey houses on Pasture Road.
42. At the corner of East Lane and Pasture Road, the site comprises a prominent end of terrace building on Court Parade at the edge of the conservation area. The building has a ground floor retail unit with residential units on the upper floors. It is constructed of brick with mock-Tudor timber framing. Within the site and adjacent to Pasture Road, there is a hard-surfaced yard enclosed by a brick wall and timber gates. An outbuilding and a single-storey extension with extract ducting project into the yard.
43. The appellant argues that the site's main positive contribution to the character and appearance of the conservation area is the building on Court Parade. I agree that the massing, height and form of the parade building marks its commercial nature and that the design and materials of the parade reinforce the Arts and Crafts inspired character of the conservation area. Furthermore, the continuation of the parade building's timbered façade onto Pasture Road assists in signposting the transition from commercial to residential area.
44. Functionally, it is to be expected that commercial uses within the parade would require servicing and that those servicing areas would generally lack greenery. The yards behind the parade would have been expected to serve this function. For the most part, they continue to provide an intermediate space between commercial and residential uses. Even where yards have been infilled, buildings are generally low, permitting views across the back of the parade. The site's rear yard and its boundary wall make a lesser contribution to the conservation

- area than the parade building itself due to their essential nature, overall condition, and quality of repair. However, there is no evidence before me to indicate that the condition of the yard and its boundary wall could not be improved. I find that the yard is a neutral feature within the conservation area.
45. The proposed development would comprise a three-storey residential building to the rear of the parade building. Set slightly behind a landscaped strip, it would front Pasture Road with three tall front gables seeking to echo the front gables along Pasture Road. However, housing along Pasture Road is primarily paired with two front gables per pair. Nearby houses at 5 and 7 Pasture Road have three gables as No 7 has previously been extended to provide a two-storey side extension. However, this is not representative of the repeated architectural patterns within the surrounding area. As the extension to No 7 does not appear to be subordinate to the main house, it does not comply with the Sudbury Court Conservation Area Design Guide 2015 requirements (SCCADG). Though it appears likely to pre-date the SCCADG, it would not be advisable to emulate this approach within the proposed development.
 46. Despite taking its cues from Arts and Crafts architecture and employing design devices such as different materials treatments to resonate with the Court Parade streetscape, the proposed building would have a tall and overly confident form for its location. It would use the site's entire width at a height of three storeys and would fill the majority of the site's footprint. This would be emphasised by the gable elements and the roof of the proposed development.
 47. As its eaves and ridge height would be more strongly aligned with the parade building, it would fail to transition sympathetically towards the houses on Pasture Road. When taken in tandem with the undulating nature of the roof design, the proposed building depth, and discordant front elevation facing Pasture Road, it would interrupt the rhythm of the existing streetscene.
 48. In visual terms, the grounds of the proposed development would not be spacious enough to accommodate such a large building successfully. This is most evident when considering the relationship between the proposed building and adjacent housing on Pasture Road. The proposed building's bulk and massing would significantly reduce the gaps between the buildings on Court Parade and Pasture Road. With both its horizontal and vertical bulk, it would not relate well to general building typologies along Pasture Road. This bulk would also be highlighted by it sitting forward of Pasture Road's main building line. To my mind, there would be insufficient defensible space to the frontage of the proposed development to reflect its surroundings on Pasture Road.
 49. While I recognise that the decked access to the rear of the existing parade has issues in terms of safety, security and the visual appearance of the area, the proposed decked access would at least maintain a small gap between the parade building and the proposed development. In my view, the visual impact of this would be relatively limited.
 50. The materials palette has not been confirmed, though mention is made of red brick with a grey base, cast stone and brick detailing. While materials could be addressed by means of condition, it would be preferable to understand how the materials proposed would reflect the consistent materials present in the conservation area. I also recognise that the appellant has sought to address the previous refusal Ref: 19/4466 and has sought pre-application advice.

51. Overall, the proposed development would fail to mediate successfully between the more commercial Court Parade and the more residential nature of Pasture Road. The harm to the significance of the conservation area would be less than substantial, but still important due to the effect of the proposed development on the conservation area. In line with paragraph 202 of the Framework, a balancing exercise should be undertaken between less than substantial harm to the designated heritage asset and the public benefits of the proposal.
52. The proposed development would deliver new homes on a windfall site. Furthermore, a brownfield site would be re-used and the streetscene would be improved. Additionally, notwithstanding my concerns about the effectiveness of the legal agreement, the appellant asserts that the proposed development would deliver a car club space which could be used by local residents. These matters would have only moderate weight and would be insufficient to outweigh the harm identified to the significance of the conservation area. The proposal would therefore fail to comply with national policy outlined in Section 16 of the Framework on conserving and enhancing the historic environment.
53. In conclusion, the proposed development would have a harmful effect on the character and appearance of the area, including the Sudbury Court Conservation Area. It would therefore be contrary to Policy CP 17 of the London Borough of Brent Core Strategy 2010 (BCS), DMP Policies DMP 1 and DMP 7, DBLP Policy BD1, LP Policy D3, SCCADG and Brent SPD1 – Design Guide 2018.
54. BCS Policy CP 17 seeks to protect Brent’s distinctive suburban character from inappropriate development. Amongst other things, DMP Policy DMP 1 requires development to be of a siting, layout, and design that complements the locality, and conserves or enhances the significance of heritage assets. DMP Policy DMP 7 states that a heritage asset’s significance should be sustained and enhanced, and that proposals should contribute to local distinctiveness. DBLP Policy BD1 seeks to deliver high quality design, while LP Policy D3, amongst other things, looks to respond to local distinctiveness. The SCCADG and the Brent SPD1 set out the need for development to respond to local context. The proposal would fail to comply with national policy outlined in Sections 12 and 16 of the Framework on designing high quality places and conserving and enhancing the historic environment. There would also be conflict with Section 72(1) of the LBCA Act.

Other matters

55. There was some discussion at the hearing about the effect of the proposed development on the occupiers of the upper floors of 1 – 2 Court Parade, as the proposed development would adjoin these properties. Habitable room windows are located on the building’s rear façade. Despite the provision of the EB7 Ltd Daylight and Sunlight document dated 15 November 2021, I have not addressed this matter further as it would not alter my overall findings.
56. Interested parties raised a range of concerns, including the provision of flats, existing extract ducting, living conditions of 2 Pasture Road, effect on the adjacent retail premises, discrepancies on plan, and fly-tipping. As I am dismissing the appeal, I have not addressed these matters further.

Conclusion

57. Overall, the proposed development would be harmful in respect of all main issues. As a result, it would conflict with development plan policies and the Framework as set out above. The benefits of the proposed development would be insufficient to outweigh the harm and the conflict I have identified. Therefore, for the reasons given above, and having had regard to all other matters raised, the appeal is dismissed.

Joanna Gilbert

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Thomas Copp	RPS Group
Jayten Patel	Appellant
Kieron Stephens	Auton Architecture
Ben Thomas	Savills
Andy Ward	Royal HaskoningDHV
Owen Weaver	Savills

FOR THE LOCAL PLANNING AUTHORITY

Nicola Blake	Planning Officer, London Borough of Brent
John Bowman	Transport, London Borough of Brent
Victoria McDonagh MTCP MRTPI	Team Leader, London Borough of Brent
John Stiles ARB	Principal Urban Design Officer, London Borough of Brent

INTERESTED PARTIES

Councillor Keith Perrin	Ward Councillor
George Vasdekys MRTPI	Salisbury Jones Planning on behalf of the Sudbury Court Residents Association

DOCUMENTS SUBMITTED DURING THE HEARING

1) EB7 Ltd Daylight and Sunlight document dated 15 November 2021

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1) London Cycling Design Standards (2016), Chapter 8 Cycle parking
- 2) Signed legal agreement dated 9 December 2021
- 3) Final schedule of conditions dated 10 December 2021
- 4) Email dated 10 December 2021 confirming appellant's agreement to pre-commencement conditions