

Appeal Decision

Site visit made on 18 July 2016

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/A5270/W/16/3147229

Boundary House, Boston Road, London, W7 2QE

- 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 Naveen Bhandari against the decision of the Council of the London Borough of Ealing.
 - The application Ref P/2014/5008, dated 28 April 2015, was refused by notice dated 29 September 2015.
 - The development proposed is the construction of an additional fourth and fifth floor and a three storey rear (northeast) extension to provide commercial floor space (B1(a)).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Additional documents, which did not form part of the planning application when decided by the Council, were submitted by the appellant at the start of the appeal: a daylight, sunlight and overshadowing assessment, and additional colour elevations and sketches. All parties have had the opportunity to view these and provide comments, and as they impart additional information rather than raise new issues, I am satisfied that no-one is prejudiced by my acceptance of them as additional evidence.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area, and the setting of a Grade-II listed building; and
 - The effect of the proposed development on the living conditions of surrounding occupiers, particularly in respect of privacy, outlook, and sunlight and daylight.

Reasons

Character and appearance, and the listed building

4. The appeal site is on the eastern corner of the intersection of Boston Road and Cawdor Crescent. It is bounded to the south-west and north-west by these two streets respectively, with the Underground Piccadilly Line Railway bordering the site to the south-east. The site is an 'L' shape, accommodating an existing four-storey rectangular office building aligned with and adjacent to
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Boston Road, with a lift/services tower in a smaller fifth floor projection close to the site's boundary with the railway. The rest of the site – formed as a narrow leg running eastwards from the building, alongside the railway – is presently used for car parking. A single row of semi-detached dwelling houses occupies the area between the car park and Cawdor Crescent.

5. The proposal incorporates the retention of the existing building, together with the addition of two further storeys of office accommodation, raising its height to match the existing fifth floor. Additionally, a new three-storey extension would abut the southern end of the building, adjacent to the railway boundary. This would also accommodate commercial-based uses.
6. The surrounding area is predominantly residential, comprising mostly single houses and some low-rise flatted blocks, with a commercial parade on Boston Gardens, north of Cawdor Crescent. The appeal building is clearly visible from many parts of the surrounding area, due to its height. Boston Manor Underground Station is opposite and slightly to the south of the site, above the railway bridge on Boston Road. The station is built over the running tracks and is grade-II listed, incorporating a distinctive tall tower, and a Charles Holden modernist design.
7. Despite the predominantly residential character of the surrounding area, the character of Boston Road, Boston Manor Road and Boston Gardens around the site and station, is one of greater built density and activity, compared with the more domestic nature of the streets leading away from the main road. Factors contributing to this are the increased pedestrian activity around the station and the scale and bulk of the buildings, not least the appeal building. Within the immediate setting of the listed building, both the appeal building and the listed building are clearly distinct and separately identifiable, or legible, within the context of their surroundings. From the south-eastern approach along the trunk road, the long view of the listed building is obstructed by vegetation and other neighbouring buildings, but its tower is dominant in the closer view, being the highest structure on its side of the road. The appeal building's proposed extra floors would not be mostly obscured, and although the smaller three-storey extension would add visible bulk when approaching the site over the railway bridge, it would appear on the eastern side of the existing building, away from the listed building and Boston Road and Boston Manor Road, which is on its western side. As such, approaching the site from the south, the proposed extensions' effect on the setting of the listed building would be minimal and not harmful.
8. The additional storeys would be visible in the opposite approach, from the Boston Gardens commercial/retail parade. From the perspective of a viewer approaching the site in this direction, the two new storeys above the existing structure would appear higher than the currently tallest part of the building. In this view, the appeal building appears taller than the listed building. Nonetheless, despite the larger scale, massing and height of the appeal building, compared with the listed building, the former does not dominate or detract from the latter. Similar to the view from the opposite direction, both buildings are distinctly identifiable, and separated by the busy trunk road. Their silhouettes remain clearly distinct in both approaches. As such, the additional massing of the two additional storeys would not overbear or encroach into space between the buildings, nor would it draw additional or unreasonable attention in the approach view, compared with the same effects

of the existing appeal building. As such, I consider that the listed building's setting would be satisfactorily preserved in the trunk road approach from the north.

9. I have considered the effect of the proposal on listed building's setting, from other locations in the surrounding area, including the local streets surrounding the site, the open space and allotment areas to the west and south, and the railway station itself. However, due to the smaller profile of the station, its obscuration by buildings and vegetation in the foreground of the views, and its spatial separation from the appeal building, there would be no harm to these parts of the listed building's wider setting.
10. The existing building is already distinctive within the area, due to its scale, massing, and architectural style, which contrasts with surrounding buildings. As such, it is incongruous within its context, but due to its visibility and distinctiveness, it is a significant contributor to the character of the area. The incremental effects of the extensions would alter the building's massing and architectural scale, but would not amplify the existing incongruity, nor alter its distinctiveness. The proposed extensions would be clearly visible from the surrounding streets, but would not directly affect or detract from lateral views of the street scene, and they would retain their predominantly residential/domestic character.
11. I therefore conclude that the proposed development would not have a harmful effect on the character and appearance of the area. I have applied the advice given in the *National Planning Policy Framework* (the Framework) and consider that the proposed development would not harm the particular significance of the grade-II listed building. There would be no conflict with the Council's adopted *Development Strategy 2026 Development Plan Document* (2012) (the Core Strategy) Policies 1.1 and 1.2, its *Development Management Development Plan Document* (2013) (the DM DMD) Policies 7.4 and 7C, or the strategic design policies of The London Plan (2015). Together, these policies encourage development that is appropriate to the existing design context of its area, and which conserves the significance of heritage assets, amongst other factors.

Living conditions

12. Policy 7B of the Council's DM DMP states that new development must achieve a high standard of amenity for users and adjacent uses, preserving good levels of daylight and sunlight, privacy, and a providing a positive visual impact. As part of the assessment of the proposal's impacts on daylight and sunlight access, and the potential overshadowing of surrounding properties, the appellant submitted a study undertaken in accordance with methodology developed by the Building Research Establishment (BRE)¹. This informal guidance is nonetheless generally accepted to be 'best practice' approach to these issues, and are widely accepted as such and used across the development industry. Accordingly, I consider that they are relevant to my assessment of this main issue.
13. The appellant's existing building shadow study indicates that the building casts a shadow onto several properties on Cawdor Crescent, during the darker

¹ As set out in *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice*, by PJ Littlefair for the Building Research Establishment (2011) (the BRE Guidance).

months of the year. This includes the overshadowing of the rear elevations of 2 and 4 Cawdor Crescent at 3pm GMT on the equinoxes, and the more substantial overshadowing of these properties, together with some of the neighbouring residential properties on Cawdor Crescent, at midday on the winter solstice. As such, the existing building directly affects the levels of sunlight able to penetrate these properties, and it thus has a negative effect on the living conditions of their occupiers.

14. The additional massing of the extended property would cast additional shadows across these properties, and would also reach the rear elevations of 6 and 8 Cawdor Crescent during the mid-afternoon of the two yearly equinoxes, overshadowing of the greater part of the rear garden of No. 2 during the afternoon of the summer solstice. There would also be some additional winter afternoon overshadowing of several other Cawdor Crescent properties. The harm in the latter instance is less pronounced, due to the lower position of the sun and the quality of the light at that time of the year.
15. The overshadowing of residential properties not previously affected, and the extension of existing effects over those properties which are already overshadowed, would result in a reduction of direct sunlight on these properties. Nonetheless, despite this negative impact, it would not exceed the tolerances set out in the BRE Guidance. Thus, despite the detrimental effects that the extensions would have with regard to overshadowing sunlight, thereby affecting the living conditions of the occupiers of these properties, I do not consider that the impacts, in respect of this matter alone, would result in a level of harm that would justify dismissal of this appeal.
16. The proposal's impact on the daylight of several properties closest to the appeal site was also measured. Although the proposed extensions would detrimentally affect the levels of daylight on some of these properties, with the greatest impact on the side and rear windows at No. 2, these reductions would also not exceed the BRE Guidance tolerances.
17. There would be limited visibility of the proposed extensions in direct views from the rear habitable rooms of Cawdor Crescent's even-numbered properties, although the additional storeys would be visible on the periphery of these views, to a greater or lesser extent depending on the proximity of the dwelling to the appeal site. The new three-storey element of the building would be visible in rearward views from No. 2, however, it would not be obtrusive in these views, given that the two structures are separated by a domestic rear garden, garden fence, existing vegetation and the open car-park area, which together would temper the impact of the extension.
18. I have also considered the views that occupiers of these properties would experience from their rear gardens. The existing building terminates views across the row of gardens. The appeal building's new additional floors would result in an enlargement of this building that terminates this view, creating a larger 'wall' that would appear at odds in when seen from the domestic rear gardens. As such, the increased massing of the building would also intensify the enclosing effects of the building on the row of gardens, and appear both overbearing and incongruous. This would have a negative impact on the sense of enclosure experienced by occupiers of these properties, especially those in close proximity to the appeal site.

19. The proximity, orientation and height of the existing building, when considered in the context of its predominantly residential surroundings, results in a significant overlooking of these homes from the appeal building. The even-numbered residential properties along Cawdor Road are subject to a particularly high amount of overlooking, in the north-eastern views from the upper storeys along the full length of the existing building. Its large windows allow clear views along the line of dwellings and their rear gardens. Views from these windows allow direct overlooking of into these rear gardens, and clear visibility of the dwellings' rear- and side-facing windows, including some oblique views into habitable rooms.
20. The overlooking, and resultant effect on the occupiers' ability to enjoy the privacy of their homes, is already substantial. The additional storeys would create new, higher vantage points, but these would be the same general views as those which already exist, and would not overlook any areas not already affected. Although views from the upper levels of the proposed new three-storey rear wing would be directed towards the rear of No. 2, the significant spatial separation between the new wing and No. 2, and its neighbour dwellings, would protect habitable room internal environments from direct overlooking.
21. Nonetheless, I am concerned about the effects that such additional overlooking could have on Cawdor Crescent occupiers' perceptions of privacy, and the possibility that resultant encroachment of the building's presence into their home environment would be detrimental to their enjoyment of their properties. Despite the existing overlooking of these dwellings, an incremental increase of this nature would negatively affect residents' perception of their privacy within their home environment, negatively affecting impressions of their dwellings as private places of sanctuary and solitude.
22. Considering all of these matters together, the increased overlooking from the appeal building, the proposal's impact on occupants' impressions of privacy, increased enclosure and detrimental effects on residents' outlook from their homes, together with the reduction in levels of sunlight and daylight, would have a significantly negative impact on the living conditions of occupiers of the even-numbered properties on Cawdor Crescent. I therefore conclude that the proposed development would have a harmful effect on the living conditions of surrounding occupiers, particularly in respect of privacy, outlook, and sunlight and daylight. It would conflict with DM DMP Policy 7B, for the reasons given above, as well as Core Strategy Policy 1.1 and the corresponding strategic London Plan policies, which together seek to ensure that occupiers' living conditions are not unreasonably affected by development.

Other issues

23. The Council's assessment of the proposed development concluded that the development would not result in any harm in respect of other matters, including traffic and pollution impacts. I recognise that the proposal would provide additional employment floorspace in an area of existing activity and good accessibility, along with the associated benefits of job creation. Although I have given substantial weight to these these and the other beneficial effects of the development within the balance of my decision, I do not consider that these sufficiently outweigh the significant amount of harm that I have identified in respect of the main issues.

24. Representations were made to the effect that rights of surrounding occupiers under Article 8 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. However, as I have decided to dismiss the appeal, my decision would not lead to any violation.

Conclusion

25. The proposal would not have a detrimental effect on the character and appearance of the area, nor would it harm the setting of the nearby listed building and designated heritage asset. It would also benefit the local community, in the ways that I have previously identified. However, the absence of harm in relation to the first main issue, together with the additional matters and benefits considered above, and not sufficient to outweigh my significant concerns about the effects of the proposal on the living conditions of occupiers of surrounding residential properties.
26. The development would conflict with the policies of the adopted development plan for the area. As such, it does not constitute sustainable development in accordance with the definition set by the Framework. Accordingly, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Rollings

INSPECTOR