
Appeal Decision

Site visit made on 26 June 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 30 June 2017

Appeal Ref: APP/A5270/W/16/3158158
79 Beaconsfield Road, Southall UB1 1BU

- 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 Sundeep Saxena against the decision of the Council of the London Borough of Ealing.
 - The application Ref 162103FUL, dated 10 May 2016, was refused by notice dated 6 July 2016.
 - The development proposed is "*Retention of hot-food takeaway use on ground floor (A5 Use Class); part single storey and part two storey rear extensions (following partial demolition); and rear roof extension to provide four residential units*".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development provided by the application form has been updated in subsequent documents. The description of development given by the appeal form is accurate with respect to the proposal before me and I adopt it accordingly.
3. From appeals I am determining elsewhere in London, I am aware that the London Plan Housing Supplementary Planning Guidance document (2012) referred to in the Council's evidence has been superseded by the publication of the London Plan Housing Supplementary Planning Guidance (Housing SPG), March 2016. However, the relevant guidance within the Housing SPG remains similar and so the parties have not been prejudiced by this change in circumstances.

Main Issues

4. The main issues are:
 - The effect on the character and appearance of the host building and the area;
 - Whether the development would provide a satisfactory living environment for its future occupiers, with particular regard to internal living space, outlook, privacy and external amenity space, and;
 - The effect on the living conditions of occupiers of neighbouring properties, with particular regard to 81 Beaconsfield Road and matters of outlook and light.
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Reasons

Character and appearance

5. The appeal site consists of a semi-detached property which has been converted to a hot food takeaway at ground floor level with residential accommodation at first floor level and within the converted roofspace. The property has a shared rear outrigger with the adjoining 81 Beaconsfield Road (No 81), together with a substantial single storey rear extension, which consists of a mostly flat roof design with a monopitch roof located at its furthest extent. The extension is in separate commercial use (a workshop and solicitors office) and covers almost the totality of the original rear garden. The evidence indicates that the hot food takeaway use (A5 Use Class) and single storey rear extension although well established, do not benefit from planning permission.
6. The Council have offered no objection to the principle of residential development or the retention of the hot food takeaway, as the previous use was as a restaurant (A3 Use Class) and would not result in a loss of retail (A1 Use Class). Based on the evidence before me, I have no reason to take a different view on those matters in terms of the character and appearance of the host building and the area. However, the Council have expressed concern in terms of the effect of the extensions proposed.
7. As previously stated, the existing extensions to the property do not benefit from a previous planning permission. However, the evidence before me indicates that they have been in-situ since at least 1995. Furthermore, there is no evidence before me that the extensions or the current uses are subject to ongoing enforcement action seeking their removal. Consequently, the extensions, although excessively large and incongruous when compared to residential properties immediately surrounding, have potential to remain if the appeal were to be dismissed which constitutes a fallback position that is a material consideration.
8. Having regard to the above, the appeal proposal consists of a replacement rear extension which would reduce the overall footprint of built form at the rear of No 79 and remove part of the existing extension that is in declining condition. However, in doing so, it would increase the height, scale, bulk and massing of part of the existing rear outrigger. Furthermore, toward the rear boundary of the site, the extension would be increased to two storeys in height. The increase in height and massing of built form when compared to the modest height of the existing single storey rear extension would emphasise the incompatible cumulative depth and insubordinate nature of additions at the rear of No 79. The extensions would not be visually prominent from public vantage points. Nevertheless, the increased prominence of the incongruous scale, form and pattern of development at the rear of No 79 would have a harmful effect on the character and appearance of the host building and the area which would be visible from the rear elevations and rear gardens of surrounding properties.
9. The appellant has drawn my attention to examples of development elsewhere where it is stated that bulky and out of character designs have been permitted by the Council. However, the precise locations, together with the circumstances which may have led to those proposals having been accepted, are not before me. Based upon the evidence, I cannot be certain that the examples reflect circumstances that are comparable with the proposal before

me or the harm which I have identified. I, therefore, offer little weight to the examples and consider this appeal based upon its individual merits.

10. I conclude that the development would significantly harm the character and appearance of the host building and the area. The proposal would, therefore, conflict with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (DMP), adopted December 2013 and Policies 7.4 and 7.6 of The London Plan, March 2016 in that respect. The policies seek to ensure new development respects local context and distinctiveness by creating places and buildings of a high quality design which complement local character through coherent development of sites including respect for the scale, proportions, materials, detailing and pattern of surrounding buildings. The policies are consistent with the National Planning Policy Framework (the Framework) which seeks to promote and reinforce local distinctiveness.

Living environment – future residents

11. The internal layout of Flat A would consist of a single storey 1-bedroom flat. Although the submitted plans indicate the provision of a double bed, the floor space, proportions and configuration of the bedroom would appear to be that of a single bedroom. The internal floor space proposed within Flat A of 48 sq.m would exceed the minimum requirements of the nationally described space standards¹ as adopted by The London Plan, for 1-storey 1-bedroom 1-person accommodation. The nearest window would be distant from the main part of the bedroom and partially screened by a partition wall. However, due to the window positions and their south east facing aspect, together with the configuration of the bedroom and living area with roof lights and a roof lantern, the occupier of Flat A would have adequate privacy, sunlight, daylight and ventilation. Although, the single aspect outlook would be distanced from the bedroom, on balance, the accommodation in Flat A would provide a satisfactory living environment for an occupier as 1-storey 1-bedroom 1-person accommodation.
12. In terms of Flat B, similarly to Flat A, although a double bed is indicated within bedroom 1 on the submitted plan the internal space does not appear to be of sufficient size to constitute a double bedroom and instead should be assessed as a single bedroom. In such circumstances, Flat B would consist of a 2-storey 2-bedroom 3-person dwelling and the floor area of 74 sq.m as indicated would exceed the minimum requirements in the nationally described space standards for that type of accommodation. In addition, the habitable rooms would be served by appropriate light and ventilation. Furthermore, the outlook onto amenity spaces at ground floor level, although close to boundary treatments at the rear and less than the guided distance within the Ealing Planning New Garden Space SPD, and across an expanse of flat roof at first floor level would be satisfactory given the constraints of the site. Nevertheless, the inadequate separation distance of approximately 10m from bedroom 2 at first floor level to the bedrooms of Flat C and Flat D would result in harmful overlooking despite the indirect relationship of the windows. The inadequate privacy afforded to bedroom 2 of Flat B would not provide a satisfactory living environment for its future occupiers.
13. In terms of Flat C as proposed at first floor level of No 79, although a double bed is indicated within the bedroom on the submitted plan the internal space

¹ Technical housing standards – nationally described space standard, DCLG 2015

does not appear to be of sufficient size to constitute a double bedroom and instead should be assessed as a single bedroom. In such circumstances, Flat B would consist of a 1-storey 1-bedroom 1-person dwelling and the floor area of 51sq.m indicated would exceed the minimum requirements in the nationally described space standards for that type of accommodation. Furthermore, the habitable rooms would be served by windows providing adequate outlook, light and ventilation for Flat C comparable to that of existing first floor accommodation. However, as previously mentioned, the inadequate separation distance between bedrooms of Flats B and C would result in harmful overlooking. The inadequate privacy afforded to the bedroom of Flat C would not provide a satisfactory living environment for a future occupier.

14. Flat D would be a 1-storey, 1-bedroom 1-person studio flat in the roofspace of No 79. The additional height of Flat D relative to Flat B would prevent any loss of privacy to its bedroom and adequate outlook, light and ventilation would be available to habitable rooms. However, due to the design of the roofspace accommodation and based on the evidence before me, it would fail to achieve a minimum floor to ceiling height of 2.3m for at least 75% of the gross internal floor area as required by the nationally described space standards. Consequently, the inadequate internal living space would not provide a satisfactory living environment for a future occupier of Flat D.
15. The Housing SPG guides that a minimum of 5 sq.m of private outdoor space should be provided for 1-2 person dwellings and an extra 1 sq.m should be provided for each additional occupant. The form of amenity space required to serve flats can reasonably include communal space as an alternative. In that respect, the size, shape and utility of the communal amenity space serving Flat A and the private amenity space serving Flat B would be adequate despite being contrary to the guidance within the Ealing Planning New Garden Space SPD. However, Flats C and D would be accessed from the street and separately from Flats A and B with no direct access to private or communal amenity space. Whilst, the circumstances are similar to the provision available to existing upper floor accommodation within No 79, the intensification of its use as two flats would worsen the deficit of outdoor amenity space relative to the needs of residents of the building. The resultant harm would be an indication of over-development and an over-intensive use of No 79 with the inadequate provision of amenity space worsening the already substandard living environment of Flats C and D that I have identified.
16. I conclude that the proposal would not provide for a satisfactory living environment for the future occupiers of the development, due to substandard accommodation relating to Flats B, C and D. The proposal, therefore, conflicts with Policies 3.5 and 7B of the DMP and Policies 3.5 and 7.6 of The London Plan, the adopted nationally described space standards and guidance within the Housing SPG and Ealing Planning New Garden Space SPD in that respect. The policies are consistent with the core principle of the Framework that seeks a good standard of amenity for all future occupants of land and buildings.

Living conditions – neighbouring properties

17. The existing single storey extension at the rear, despite its largely flat roof with only a single monopitch roof at its furthest extent, is already a considerable expanse of built form that is an overbearing feature creating a sense of enclosure upon the outlook of No 81 and its rear garden. It also has a current

overshadowing effect, particularly in winter months when the sun is in a lower position, due to its location to the south and east resulting in a loss of sunlight and daylight to ground floor windows and the rear garden of No 81 until early afternoons. The increase in height, scale and massing of the proposed extension would exacerbate those adverse effects and, therefore, would have a detrimental impact on the outlook from No 81 and the enjoyment of its rear garden. Consequently, the proposal would have a harmful effect upon the existing living conditions of occupiers of No 81.

18. The separation distance from the development to other surrounding properties would be sufficient to ensure no adverse effect upon their outlook. In addition, the design of the development would ensure that the windows at ground floor level would be adequately screened by boundary treatments and the submitted plans indicate that the first floor windows of Flat B facing properties at the side and rear would be obscure glazed. Consequently, there would be no undue overlooking or loss of privacy to neighbouring properties to the side or rear. Furthermore, the activity associated with the development would not substantially increase noise and disturbance to No 81 or other neighbouring properties when compared to the other commercial uses which are taking place within the site. However, the absence of concern in those respects does not justify the harm otherwise identified.
19. My attention has been drawn to examples of development which the appellant considers to have an overbearing effect, sense of enclosure and loss of light to neighbouring properties which are stated as having been approved by the Council. However, the precise locations, together with the circumstances which may have led to those proposals having been accepted, are not before me. Based upon the evidence, I cannot be certain that the examples are comparable with the proposal and, therefore, offer little weight to them. I have necessarily considered this appeal based on its individual merits.
20. I conclude that the development would have an unacceptable impact upon the living conditions of the occupiers of No 81. The proposal would, therefore, conflict with Policy 7B of the DMP and Policies 7.4 and 7.6 of The London Plan in that respect. The policies are consistent with the Framework.

Conclusion

21. The development would contribute to the supply of housing with associated social and economic benefits to which I attach significant weight. However, I have identified harm in terms of the character and appearance of the host building and the area. Furthermore, the development would not provide a satisfactory living environment for future residents and would have an unacceptable impact on the living conditions of occupiers of No 81. The harm arising from the development in those respects both individually and in cumulative reflects conflict with the development plan and the Framework, when taken as a whole, which outweighs the benefits and therefore, is overriding.
22. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR