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## Appeal Decision

Site visit made on 22 May 2017

**by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC**

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

**Decision date: 4 July 2017**

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**Appeal Ref: APP/A5270/W/17/3168500**  
**16 Lanark Close, Ealing W5 1SN**

- 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 Shaun Fernandes against the decision of the Council of the London Borough of Ealing.
  - The application Ref 162214FUL, dated 13 May 2016, was refused by notice dated 1 August 2016.
  - The development proposed is a residential dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of development in the heading above is taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. The description on the Council's decision notice refers to two residential dwellings which differs from both the appellant's descriptions.
  3. However the plans on which the Council took its decision clearly show the construction of two dwellings; one a two storey, five bedroom house and one a three storey, four bedroom end of terrace house. Nevertheless, the Council's officer report notes that the end of terrace house would be identical to that which had previously been granted planning permission and their objections relate only to the two storey house. I have determined the appeal on that basis.
  4. In support of his appeal the appellant has provided revised drawings showing the two storey dwelling occupying a smaller footprint with altered internal and external configuration in an attempt to overcome the Council's objections. However, these show a materially different scheme to that upon which interested parties were consulted and the Council took its decision.
  5. In the interests of fairness I am obliged to determine the appeal on the basis of the application considered by the Council and this is what I have done. Not to do so could prejudice the interests of interested parties as I have no evidence to suggest that the implications of such a significant change to the scheme has been considered by the Council or that interested parties, including those objecting to the scheme, have had the opportunity to comment on them.
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## **Main Issues**

6. The main issues raised by this appeal are the effect the proposed two storey dwelling would have on: i) the character and appearance of the area, with particular reference to whether it would be overdevelopment; ii) the living conditions of occupiers of adjoining residential properties, with particular reference to visual impact, privacy and enclosure, and; iii) the living conditions of future occupiers of the development, with particular reference to external space and internal light levels.

## **Reasons**

### *Character and appearance*

7. The appeal site includes No 16, its forecourt and an irregularly shaped area to the south which is currently partly occupied by an attached garage and a large shed, with the remaining space given over to a garden with some smaller outbuildings. The site is largely bordered by the gardens of surrounding residential properties. The landscaped character of the existing garden area shares a verdant character and appearance with much of this setting, notwithstanding the outbuildings on the site. Together, this group of gardens provide a predominantly undeveloped green space which provides relief between the more built up character of the buildings which surround it on Mount Avenue and Lanark Close.
8. The proposed flat roofed, two storey dwelling would occupy much of this space and reflect its irregular shape albeit with a modest outdoor space being provided adjacent to the boundary with the proposed three storey end of terrace house's garden. As a result this garden character of the south west part of the site would be largely lost and would erode the wider garden character of the area. Although the ground floor would be largely subterranean the built form of the dwelling, particularly at first floor, would be apparent from surrounding gardens as a result of its height and proximity to the site's boundaries.
9. Whilst it would be more discreet from public views, which would reduce any harm arising to the streetscape of Lanark Close itself from the design not being similar to the proposed three storey building or its neighbours, this would not diminish its effect on the area's character.
10. Furthermore, by extending right up to the site's boundaries the proposed building would harmfully contrast with the established pattern of development on Lanark Close, which has a terraced form set between gardens and outdoor space to front and rear, as well as that of adjoining properties on Mount Avenue with their generous rear gardens.
11. The building would result in an overdevelopment of the site with consequent harmful effects on the character and appearance of the area. This would be contrary to London Plan (LP) Policies 7.1 and 7.4, Development Management<sup>1</sup> (DM) Policy 7.4 and Development Strategy<sup>2</sup> (DS) Policy 1.1. Together these require development to have regard to and complement the pattern and grain of existing green spaces and buildings, create a positive relationship between urban structure and landscape and protect suburban communities, amongst

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<sup>1</sup> Development Management Development Plan Document, 2013.

<sup>2</sup> Development Strategy 2026 Development Plan Document, 2012.

other criteria. The proposal would not accord with the National Planning Policy Framework's (the Framework) requirements that development is of high quality which responds to local character.

*Neighbours' living conditions*

12. The first floor windows serving Bedrooms 4 and 5 would enable occupiers of the proposed dwelling to have a clear view into the rear gardens of the proposed end of terrace house and that of No 16 beyond. This arrangement would be in contrast to the more limited mutual overlooking of parallel gardens which exists to the rear of properties on Lanark Close.
13. The relative angle of the window serving Bedroom 5 and the internal configuration of that room relative to the window would avoid overlooking of windows in the rear elevations of the proposed end of terrace house and No 16. However, the window to Bedroom 4 would be angled to a lesser extent and persons within the room would be afforded clear views at close proximity into the rear windows in those adjoining properties. Although the appellant points out that there would be no windows directly facing those within the proposed dwelling this would not avoid overlooking of adjoining gardens or windows to habitable rooms which are situated at an angle to one another.
14. This would result in a significant loss of privacy to occupiers of those existing and proposed adjoining properties. The intrusive effect of the proposed dwelling on users of the adjoining gardens to the rear of the proposed end of terrace house and No 16 would be compounded by the two storey built form of the house effectively wrapping around to the side in close proximity, creating an intrusive enclosing effect.
15. The proposed dwelling would, at first floor, be set slightly back from the boundary with the rear gardens of properties on Mount Avenue to the south. Those parts of the surrounding gardens closest to the site currently have a degree of seclusion as a result of their relative remoteness from surrounding dwellings.
16. Notwithstanding this setback and their single storey height, the combined effect of the height and situation of the proposed building along the boundaries of these surrounding gardens would make it clearly apparent. This would result in an intrusive and overly dominant form of development on the users of those gardens in a manner which existing outbuildings on the site do not. This harmful effect would be exacerbated by the row of windows facing the boundaries.
17. Although set back slightly from the boundary and potentially masked for much of their height by boundary treatments, their situation would nevertheless give rise to an unacceptable level of intrusion to users of adjoining gardens, an effect which would be amplified when windows are open. Mitigation suggested by the appellant in the form of obscure glazing to upper parts of the windows would prevent actual overlooking but would not significantly reduce the intrusive impression their proximity to adjoining gardens would give rise to.
18. To the west, the building would immediately abut the boundary with Nile Lodge and the grounds around it. The window facing Nile Lodge could be obscure glazed and being at a high level would avoid any overlooking of that property or the grounds. Nevertheless, the proximity of the proposed dwelling right up

to the boundary and the extent to which it would be apparent above the boundary wall would result in an intrusive effect on occupiers of Nile Lodge and users of the grounds.

19. This would result in material harm to the living conditions of occupiers of existing properties and future occupiers of the proposed end of terrace house. This would be contrary to London Plan Policy 7.6 which, amongst other criteria, requires development not to cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, including in relation to privacy. The proposal would not accord with the Framework's core planning principle of always seeking a good standard of amenity for all existing and future occupants of land and buildings.

*Future occupiers' living conditions*

20. The ground floor of the proposed dwelling would be largely subterranean albeit with the large kitchen and living space opening onto a modest outdoor area. This area would be enclosed by the boundary wall with the adjacent Nile Lodge and the three storey built form of the proposed end of terrace house and No 16. This arrangement, combined with the north and north west aspect of those windows, would limit the levels of daylight entering the building, particularly at ground floor and those parts of the deep rooms farthest from those windows, and all but prevent any direct sunlight reaching the interior.
21. A series of rooflights would provide additional natural light to the living areas and would be the only source of natural light to the ground floor bedrooms. However, these would be set within a narrow gap bounded by the external walls of the first floor and the boundary fences. Combined with large trees in adjoining gardens, this would significantly limit the levels of natural day and sun light which they would allow into the building. As well as the likely lack of sunlight reaching the ground floor of the property this would leave the main living spaces dark throughout much of the day with occupiers having to rely on artificial light during the day.
22. Whilst the first floor would be served with windows which would ensure adequate levels of daylight, this would comprise bedroom accommodation and less likely to be used by future occupiers as their main living accommodation during the day. This does not lead me to consider that, overall, the dwelling would have adequate access to natural light.
23. The living conditions of future occupiers would be materially harmed as a result. This would be contrary to London Plan Policies 3.5 and 7.6 which require buildings to have high quality indoor spaces, amongst other criteria. It would not accord with the Framework's aforementioned core planning principle in this respect.
24. Although only limited details of the opening arrangements of the various windows and rooflights have been provided, there would appear to be sufficient openings to have the potential to provide a degree of natural cross ventilation. The outside space would be modest in relation to the large, five bedroom house. However, it would not be so small that it would prevent future occupiers from being able to relax or perform outdoor domestic tasks in the space. It would not be significantly smaller than the rear gardens of other properties on Lanark Close or that proposed for the adjoining end of terrace house.

25. The Council advise this space would have an area of 24m<sup>2</sup>. This would exceed the minimum requirement for a house with a notional occupancy of ten persons required by DM Policy 7D and the accompanying table 7D.2. Supporting text qualifies this requirement by suggesting that in most circumstances this would need to be supplemented depending on established character and context, and that such space should avoid being overshadowed. Nevertheless, this aspect of the proposed development would not, considered by itself, have an effect that would be unacceptably harmful to future occupiers' living conditions. However, this would not be a positive consideration in support of the appeal.

### **Other matters**

26. Although local and national policy encourages the delivery of new homes which is an important consideration, the harm to the character and appearance of the area and to occupiers' living conditions is such that it would outweigh any benefits of delivering a single dwelling.
27. Notwithstanding that the block plan indicated that much of it would be occupied by car parking or access, any benefits of improving the appearance of the area arising from the landscaping of the space to the east of No 16 would not outweigh the harm set out above.
28. In support of his appeal the appellant has referred to a development nearby which he considers has resulted in the loss of trees and overlooks his house and garden. However, I do not have any details of this scheme and so cannot be certain that the circumstances or effects are the same as that of the proposal before me. In any case I have considered the appeal proposal on its own merits. These other matters do not, therefore, lead me to consider that the proposal would be acceptable.
29. The Council's reasons for refusal cite London Plan Policy 6.9, DS Policy 3.1 and DM Policies 3.4 and 3.5. HOWEVER, these relate to cycling, development and enhancement potential in the A40 Corridor, density and internal space standards. As such they are less relevant to the main issues raised by the appeal.

### **Conclusion**

30. For the above reasons, and having had regard to all other matters raised, the proposal would harm the character and appearance of the area and the living conditions of occupiers of adjoining residential properties and future occupiers of the development, contrary to the development plan and the Framework. The appeal is therefore dismissed.

*Geoff Underwood*

INSPECTOR