
Appeal Decision

Site visit made on 27 June 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 31 July 2017

Appeal Ref: APP/A5270/W/17/3172703

4 Cherington Road, Hanwell, London W7 3HJ

- 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 Lee Wilkinson against the decision of the Council of the London Borough of Ealing.
 - The application Ref 165651FUL, dated 3 November 2016, was refused by notice dated 23 December 2016.
 - The development proposed is described as a single storey self-contained flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - Whether the proposed development would provide adequate living conditions for the future occupiers with particular regard to outlook, light and privacy.
 - The effect of the proposed development on the living conditions of the occupants of neighbouring properties with particular regard to outlook and privacy.

Reasons

Character and appearance

3. The appeal site comprises a 'L' shaped plot that forms part of the side and rear garden of a two storey, semi-detached property at No 4 Cherington Road. Properties on the south side of Cherington Road in the vicinity of the appeal site comprise predominantly of traditionally designed two storey, bay fronted terraced and semi-detached dwellings with many having accommodation in the roofspace. These properties have relatively long rectangular shaped rear gardens. Immediately to the west is a car park which the Council indicates has recently been granted planning permission for a four storey apartment block.
 4. The proposed development would involve the construction of a modest sized, single storey, flat roof, one bedroom dwelling which would be located in the south western corner of the existing garden at No 4. The proposed dwelling
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would be positioned in close proximity to the property boundary with the adjacent car park and slightly to the south of the host building. A modest sized garden would be provided to the east with a small triangular shape bin and cycle storage area located to the north (front) elevation of the proposed dwelling. Access would be via the existing gated access at the side of No 4 that provides access to the existing rear garden.

5. Policy 3.5 of the London Plan indicates that 'Boroughs may in their Local Development Frameworks introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified'. However, the appellant indicates that there is no policy within the Borough's development plan documents that provides any presumption against such backland development.
6. Notwithstanding the lack of any policy regarding backland development, the proposed dwelling due to its modest size, height and roof design would not be reflective of the existing scale of residential development in the locality. In addition, the simple contemporary design of the dwelling would contrast markedly with that of the predominant traditional appearance of nearby residential dwellings. Consequently, the proposed dwelling would appear at odds with the scale, mass and design of the established residential development in the area.
7. Although the development would provide an adequate area of useable private amenity space to serve both the proposed dwelling and No 4, the shape and size of the resultant gardens would not be reflective of the pattern and grain of existing garden spaces on this side of Cherington Road. As such, in comparison to surrounding residential development, the proposal would result in a cramped and contrived form of development which would erode the established size and pattern of rear gardens in the area.
8. Views of the proposed development would be predominantly restricted to those from the rear of properties on this side of Cherington Road and from those on the north side of Uxbridge Road. In such views, owing to its design and scale, the proposed dwelling would appear as an incongruous feature in the rear garden of No 4 that would be out of character with the existing form, pattern and grain of development in the area.
9. Taking the above factors into account, the proposed development would cause demonstrable and unacceptable harm to the character and appearance of the surrounding area. It would therefore conflict with Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) (DMDPD) and Policy 7.4 of the London Plan (2015). These policies, amongst other things, require that development should complement the existing building pattern, scale and detailing and provide an appropriate level of development on the site having regard to the pattern and grain of existing spaces.

Living conditions - occupants

10. The proposed dwelling would have an internal floor area of 70sq m which exceeds the minimum internal space standard of 50sq m for a one bedroom, two person unit as set out in Policy 3.5 of the London Plan. In addition, the proposed garden area of 77sq m would also exceed the required minimum area of private amenity space of 50sq m asset out in Policy 7D of the DMDPD. The

Council's concerns relate to the outlook and light from the windows serving the proposed living/kitchen area and the overlooking of the proposed garden from adjacent properties.

11. The proposed living/kitchen area would be served by two windows, one facing north and one facing east. The window in the north elevation would have an outlook towards the flank elevation of No 4 and over a triangular area of land formed by this flank and the site boundary with the adjacent car park. The Council suggest that this proposed window would be sited within 2m of the existing dwelling. The window in the east elevation would have an outlook towards the remaining rear garden boundary to No 4. Although, I have no details of any boundary treatment that would be provided to the remaining garden area of No 4, the Council suggest that the window would be located within 1m of this boundary.
12. Given that the proposed living/kitchen area would be served by two windows these would provide for adequate light to enter this space. However, the outlook from the proposed window in the north elevation would be primarily towards the existing flank wall of No 4 which would be seen as an unacceptable dominant feature in views from the window.
13. Notwithstanding the absence of any details of boundary treatment to the remaining garden area of No 4, in order to maintain the privacy of the users of this garden from direct overlooking from the proposed window in the east elevation, substantial boundary treatment would be necessary between the existing and proposed properties. Although this could be secured by means of a planning condition, were I minded to allow this appeal, the proximity of this window to the boundary treatment forming the property boundary with No 4 would provide little, if any, outlook. As a consequence, the proposed development would provide an unacceptable outlook from the proposed windows serving the living/kitchen area.
14. The proposed garden would be overlooked to a degree from the upper floor windows of neighbouring properties. However, I agree with the appellant that the overlooking of gardens is not uncommon within dense suburban residential areas and that existing gardens in the area are already subject to overlooking from nearby properties. There is nothing unusual in the relationship of the proposed garden to existing development to suggest that the degree of overlooking would be any different to that which already exists between existing properties and gardens. Consequently, I do not consider that any overlooking of the proposed garden would be of an extent to cause any significant loss of privacy.
15. Taking the above factors into account, the proposed development would result in an unacceptable level of outlook from the windows in the kitchen/dining area. This would cause significant harm to the living conditions of the future occupiers of the dwelling. Consequently, the proposed development would be contrary to Policy 7B of the DMDPD. This policy, amongst other things, requires that development must achieve a high standard of amenity for its users.

Living conditions – neighbouring properties

16. Although the windows in the proposed dwelling would be positioned in close proximity to those at No 4, there would be no direct views into any windows.

The proposed dwelling would not be sited in the direct line of sight from any of the windows at No 4 and would only be visible in oblique views from the rear windows.

17. Owing to the existing ground levels at the rear of No 4, the windows in the rear elevation of the host property have a relatively high cill level above the ground level of the rear garden. Consequently, views from the ground floor windows at the rear of No 4 would be retained over the roof of the proposed dwelling. Taking this factor into account and the modest height and position of the proposed dwelling, the development would not cause any significant loss of daylight or sunlight received at the windows of No 4 nor would it cause any loss of outlook that would harm the living conditions of the occupants of the host property.
18. As outlined above, the window of the living/kitchen area would have an outlook over the remaining garden area of No 4. However, any loss of privacy that this would cause can be mitigated by appropriate boundary treatment that could be secured by a planning condition.
19. The Council has also expressed concern that the proposed dwelling would create a loss of outlook and sense of enclosure for the occupants of a proposed four storey apartment building that would be sited on the existing car park to the west of the appeal site. However, I have no evidence to indicate when, or if, this proposed development would be constructed and as such I attach little weight to these concerns. The appellant has provided plans showing the design and layout of the proposed apartment block which demonstrate that no windows to habitable rooms would be located in the eastern elevation of the block facing the appeal site. Notwithstanding the limited weight that I can attach to the Council's concerns, the proposed dwelling would not cause any loss of outlook or sense of enclosure for the occupants of the proposed apartment block.
20. I therefore conclude that the proposed development would not result in any loss of outlook or privacy that would cause unacceptable harm to the living conditions of existing or future residents of nearby properties. Consequently, there would be no conflict with Policy 7B of the DMDPD or Policy 7.6 of the London Plan. These policies, amongst other things, require that new development should ensure good levels of privacy and should not cause harm to the amenity of surrounding residential buildings.

Other matters

21. I have taken into account the modest contribution that the proposed development would make to the supply of housing in the Borough. However, this benefit does not outweigh the harm that I have identified above that the proposed development would cause to the character and appearance of the surrounding area and the living conditions of the future occupants of the proposed dwelling.

Conclusion

22. Although I have found that the proposed development would not cause harm to the living conditions of the occupants of existing and proposed properties, this does not outweigh the harm that would be caused to the character and appearance of the surrounding area and the living conditions of the future

occupants of the proposed dwelling. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR