



Appeal Decision

Site visit made on 12 August 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2019

Appeal Ref: APP/A5270/W/19/3228150
121-123 Wood End Lane, Northolt UB5 4JP

- 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 S Chauhan against the decision of the Council of the London Borough of Ealing.
 - The application Ref 190773FUL, dated 19 February 2019, was refused by notice dated 16 April 2019.
 - The development proposed is described on the planning application forms as the 'erection of a detached part basement part ground floor rear building accommodating a pair of self contained duplex dwellings with onsite walkway access, bins and cycle provision'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the living conditions of occupiers of the development and the nearby properties, with regard to privacy and overlooking.

Reasons

Character and Appearance

3. The appeal site is within a predominantly residential area that is characterised by a mix of two storey detached, semi-detached or small rows of terraced properties facing the highway and set within linear plots of varying lengths.
4. The appeal site is occupied by a large building located towards the front of the site with open undeveloped land to the rear. This land is in an unkept condition and is slightly elevated above the hard-surfaced area around the existing building. Within the building there are two retail units, fronting on to Wood End Lane, and a number of residential flats above and to the rear of the retail units.
5. The development proposed comprises a pair of semi-detached dwellings and associated garden area to serve each. The plots for each dwelling would be

located on the land to the rear of the existing building and orientated at a right angle to the rear elevation of that building and the adjoining properties along Wood End Lane. The slab of the dwellings would be below the existing ground level, resulting in only the first floor and part of the ground floor being above the existing ground level. The dwellings would be located towards the rear of the appeal site and close to the side boundary shared with properties along Russell Road. The new dwellings would be separated from these neighbouring properties by a walkway and retaining wall.

6. There is an existing prevalent pattern of development in the area with the principle elevation of properties facing on to the highway network. Within the vicinity of the appeal site the rear gardens are generally open and are either undeveloped or accommodate incidental domestic outbuildings.
7. The orientation of the new dwellings and their position within a rear garden plot would be at odds with the existing grain of development. The plots would fail to follow the linear form that is prevalent in the area and the dwellings would sit uncomfortably close to the rear boundaries of the properties on Russell Road. The proposed layout would be awkward and would leave an odd arrangement of outdoor space to serve the host property and the flats it contains.
8. In addition to the above, the extent of development proposed in this rear garden location would be significantly greater than that generally found in the immediate vicinity of the appeal site. An attempt has been made to mitigate the overall bulk and scale of the scheme by the use of a flat roof and sunken slab level. The height of the development above ground level and the resultant form of the development has been compared by the appellant to a domestic outbuilding that would in other circumstances be permitted development¹. However, the development, including the proposed engineering works required to achieve the sunken slab level, would still result in a substantial building that would be out of character with other incidental domestic development in the vicinity.
9. Whilst views of the development from the public realm would be limited, the extent of harm to the character and the appearance of the area, as set out above, would be unacceptable. Furthermore, the harm caused would be prominent when viewed from the surrounding properties.
10. To conclude, the development would have an unacceptable effect on both the character and the appearance of the surrounding area in conflict with Policy 7.4 (Ealing Local Variation – Local Character) of the London Borough of Ealing's Development Management Development Plan Documents Adopted 10 December 2013 (EDPD). The policy requires, amongst other matters, that development complements the existing building pattern of an area.
11. In addition, Policy 7.4 (Local Character) of The London Plan 2016 (the LP) requires development to 'have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings'. In planning decisions it requires, amongst other matters, that proposals have regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass. Furthermore, Policy 7.6 (Architecture) of the LP informs that the design of development should be

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015.

appropriate to its context. Having regard to my findings above, the development would be in conflict with policies 7.4 and 7.6 of the LP.

Living Conditions

12. As noted above, the principle elevation of the proposed dwellings would sit in close proximity to rear boundaries of the adjoining properties that face onto Russell Road. Despite the sunken slab level, bedroom windows in the principle elevation of both dwellings and the side elevation of the southernmost dwelling would allow for uninterrupted views into the adjoining rear gardens at an elevated level. The adjoining gardens of the Russell Road properties are not extensive, particularly those closer to the junction of Russell Road with Wood End Lane. Accordingly, the degree of overlooking into these adjoining properties would be harmful to the living conditions of the occupiers of those properties.
13. The appellant has suggested mitigation measures, including obscure glazing, non opening windows and roof lights. Such measures would, however, be to the detriment of the living conditions within the dwellings and would still result in a perception of overlooking at close quarters from the obscurely glazed units. Furthermore, it would not mitigate overlooking from the side elevation window, referred to above.
14. Having regard to the above, the development would conflict with Policy 7B (Ealing Local Policy – Design Amenity) of the EDPD which requires development to achieve a high standard of amenity for users and adjacent uses by ensuring, amongst other matters, good levels of privacy.
15. With regard to the garden space serving the development, the Council have indicated that each dwelling would be provided with a garden space of 25 square metres. The Council have suggested that the development would not provide sufficient private garden space for its occupiers and that the requirement of 50 square metres per dwelling should be applied in this case, as suggested in the supporting text of table 7D.2 under Policy 7D (Ealing Local Policy – Open Space) of the EDPD.
16. Regardless of whether or not it is appropriate to apply the Policy 7D minimum or maximum requirements for private garden space in this case, fundamentally the outdoor space to be provided should be in a form that would be acceptable, having regard to its function and the wellbeing of the occupiers of the dwelling.
17. Whilst the space provided would be sufficient to meet the basic outdoor needs of the occupiers of the dwellings (for example for bin storage, cycle storage and drying washing), it would be at a sunken level, more than half a storey below the existing ground level. The retaining structure required to achieve the proposed ground level, together with the enclosure that would be required to make this space sufficiently private, would result in an enclosure of a substantial height which would dominate this outdoor space.
18. Having regard to the limited area of the outdoor space to be provided, there would be an overbearing sense of enclosure when this outdoor space is used by occupiers of the proposed dwellings. In this regard, the development would provide unacceptable living conditions for its occupiers in conflict with Policy 7D (Ealing Local Policy – Open Space) of the EDPD, which recognises the importance of open space to an individual's health and wellbeing.

19. Turning to the matter of the outdoor space that would remain for the occupiers of the existing flats on the appeal site, on my site visit I saw the area of shared open space to the rear and side of the existing building. Although much of this area was overgrown, it was enclosed, it was sufficiently private and was not an insubstantial area of open space. It could also be accessed from the building and from Wood End Lane via a solid gate to the side of the building.
20. There is disagreement between the parties and a degree of confusion with regard to the area of outdoor space that should be provided to serve the existing seven flats in compliance with development plan policy. Furthermore, neither party has indicated the area of garden space that would remain following the construction of the development proposed. Nor have they indicated what areas of the appeal site they have taken into account when concluding whether or not the development would comply with the standards they have quoted.
21. Notwithstanding this, the proposed development would occupy less than half of the space I observed on my site visit. Having regard to the substantial area of open space that currently exists, what would remain following the development would still be sufficient in terms of its area. This remaining space would be usable, open in character, sufficiently private and would still meet the basic outdoor needs of the occupiers of the existing flats.
22. Accordingly, I cannot conclude that the development would result in harm to the living conditions of the occupiers of the existing seven flats within the appeal site. I do not, therefore, find conflict with EDPD policies 7B or 7D in this regard.
23. My attention has been drawn to several appeal decisions in support of the appellant's case. I have not been provided with the full details that would have been available to the previous decision makers in each of the cases referred to. As such, I am unable to make an informed comparison between the proposed development in those cases and that subject of this appeal. Nevertheless, in the case that is before me I have identified harm in respect of the main issues, having considered the particular circumstances of the case.

Other Matters

24. The provision of two homes would contribute towards the Council's housing provision targets, particularly as a windfall site. The development would increase the choice of homes in the area and would also result in the appeal site as a whole being a higher density scheme in an accessible location. However, these benefits of the scheme would be outweighed by the harm I have identified on the main issues in this case.

Conclusions

25. Notwithstanding my conclusions with regard to the effect of the development on the living conditions of the occupiers of the existing flats at the appeal site, I find the development harmful in terms of the effect it would have on the character and appearance of the area, the living conditions of the neighbouring occupiers and the living conditions of the occupiers of the development itself. For these reasons the development would not accord with the development plan.

26. Accordingly, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

J Moss

INSPECTOR