



Appeal Decision

Site visit made on 25 October 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2020

Appeal Ref: APP/A5270/W/19/3233885

Greystoke Court, Hanger Lane, Ealing W5 1EN

- 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 Ray Green against the decision of the Council of the London Borough of Ealing.
 - The application Ref 178056FUL, dated 30 October 2017, was refused by notice dated 22 March 2019.
 - The development proposed is described as construction of a 5th floor to create 5 self-contained flats (1 x studio, 2x1 bed, 1x2 bed and 1x3 bed) with associated terraces and balconies and alterations to the parking layout on site to provide 5 extra parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a fifth floor to create five self-contained residential units (1 x studio, 2 x 1 bed, 1 x 2 bed and 1 x 3 bed) with associated terraces and balconies; alterations to the parking layout, cycle and refuse storage, hard and soft landscaping at Greystoke Court, Hanger Lane, Ealing W5 1EN in accordance with the terms of the application, Ref 178056FUL, dated 30 October 2017, subject to the conditions set out in the schedule to this decision notice.

Application for costs

2. An application for costs was made by Mr Ray Green against the London Borough of Ealing. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form. However, the appeal form includes different wording which reflects the description in the Council's decision notice and better reflects the plans submitted with the appeal. I have therefore used this revised description as it better captures the scope of the proposed development.
4. The evidence before me indicates that a previous decision by the Council to grant planning permission for a similar development at the site was quashed following a legal challenge. Accordingly, it has no bearing on my consideration of this appeal.
5. Amended plans were submitted prior to the Council determining the planning application now the subject of this appeal. From the evidence before me, including a number of consultation responses referring to the amended plans, I am satisfied that the Council consulted on the amended plans prior to determining the planning application. Accordingly, I have made my decision based on that set of plans.

6. Those plans contain some minor discrepancies, such as differing cycle store locations. Concerns have also been raised by neighbours that the plans are not to scale and the Design and Access Statement (DAS) was not updated when the plans were amended. However, the plans and DAS are sufficient for the purposes of determining the appeal, while the drawing inconsistencies are not significant and can be resolved where necessary by imposing suitable planning conditions.
7. During the course of the appeal, it became apparent that some of the appeal documents had not been published and were therefore not available for neighbours to review. Once this was resolved, the deadline for third parties to submit comments on the appeal was extended. The appellant and Council were then given the opportunity to submit any final comments. Consequently, no parties have been prejudiced. Given the location of the site, Transport for London (TfL) were also offered the opportunity to comment on the appeal proposal. I have taken their comments into account in reaching my decision.
8. During the appeal, an updated version of the Draft London Plan¹ was published. The main parties were given the opportunity to comment on this, and I have taken the comments received into account in reaching my decision.

Main Issues

9. The main issues are the effect of the proposed development on the living conditions of adjoining occupiers and highway safety.

Reasons

Living conditions

10. The appeal site contains a large building, Greystoke Court, which is an established block of flats. Greystoke Court consists of a pitched-roof four-storey building (the main building) and centrally-positioned pitched-roof rear projection (the rear projection) which has been extended with a flat-roof rear extension. Approved in 1962, that rear extension (the 1962 extension) includes a narrower recessed element where it adjoins the rear projection. Some flats in the rear projection therefore have windows which face towards the 1962 extension.
11. The final set of plans do not include new marked out parking spaces next to existing flats on the site. The proposed parking arrangements would not therefore result in loss of soft landscaped amenity space nor be likely to give rise to unacceptable levels of noise and air pollution, light disturbance or loss of light and outlook for existing occupiers. With the proposed bin store separated by the site's vehicular track and some soft landscaping near the existing building, it would not give rise to significant disturbance to existing occupiers in relation to noise and smells or loss of light and outlook.
12. A new cycle store would be located near to some existing flats in Greystoke Court. However, the store would only accommodate up to ten cycles and I observed on my site visit that the two possible locations for it, as shown on drawings 15995/B/01 Rev D and 15995/B/09 Rev E, would be in areas where existing residents are currently able to access. Accordingly, the store would not result in a significant change in relation to noise and disturbance.
13. The development would create five additional flats above the 1962 extension and contain windows and balconies that would face towards existing residential units. However, separation distances and the screening provided by soft landscaping and

¹ The Draft London Plan – Consolidated Suggested Changes Version July 2019.

- trees indicate that the appeal proposal would not result in significant overlooking or loss of privacy to occupiers in nearby Greystoke Lodge and Garth Mews. The layout of the development, including its balconies, and its position above existing flats indicates that any views from the new flats would be limited to oblique angles. Furthermore, the numerous existing residential units on the site have views towards other flats in both Greystoke Court and neighbouring buildings. Accordingly, the addition of five flats would not result in a significant change in overlooking and privacy compared to the existing situation.
14. The proposed roof extension would be well separated from the residential units in Greystoke Lodge, Garth Mews and the main building. Consequently, its effect on outlook, daylight and sunlight levels in those units would be minimal and acceptable. Located above flats in the 1962 extension and with the limited size and depth of the proposed balconies, the development would not unacceptably diminish the outlook for occupiers of those existing flats nor materially affect the amount of daylight and sunlight reaching them and their balconies.
 15. The development would be a storey higher than the flats situated within the rear projection. However, the flats on the north side of the rear projection would not directly face the development and would therefore experience little change in their outlook, daylight and sunlight. The flats on the south side include windows which face towards a wall of the 1962 extension and are also close to the side of the recessed element. The additional storey, increasing the height of this part of the building, would therefore reduce the amount of sky visible from those windows.
 16. However, the additional height from one extra storey would not be substantial. This is especially so in the context of the existing nearby staircore which currently protrudes above the flat roof and, as I observed on my site visit, is visible from the bedrooms of the top floor flat, 24 Greystoke Court. Although the development would be wider and have a greater mass than the existing staircore, it would have a similar height to it. The proposed lift overruns would also be smaller and positioned further away from the flats in the rear projection, and the appeal proposal does not propose an additional stairwell to the roof. The development would therefore not result in a significant change compared to the existing situation. From the evidence before me, I note that the existing flats which would face towards the additional storey, including No 24, also have windows facing to the south, away from the development. Consequently, the development would not be overbearing nor result in an unacceptable reduction in outlook and the amount of daylight and sunlight reaching those flats. The Council's previous decision that the 1962 extension should have a flat rather than pitched roof in relation to overshadowing considerations does not lead me to a different conclusion.
 17. For the above reasons, I conclude that the development would not harm the living conditions of adjoining occupiers. I therefore find that it would accord with Policy 7B of the Ealing Development Management Development Plan Document (2013) (DMDPD), Policy 1.1(g) of the Ealing Development Strategy 2026 Development Plan Document (2012) (DSDPD), and Policies 7.4 and 7.6 of the London Plan 2016. Amongst other aspects, these seek to protect communities and ensure people feel comfortable with their surroundings by requiring development to provide a high standard of amenity for adjacent uses and not harm the amenity of residential buildings. The proposal would also be consistent with the provisions in the Framework in relation to achieving a high standard of amenity for existing users.

Highway safety

18. The available evidence indicates that the site has 18 marked-out parking spaces. Vehicles also park elsewhere around the site, on unmarked sections along the

vehicular access and sections of footway. This was the case at the time of my site visit. Parking is managed and restricted to residents only.

19. The relocation of the existing bin store would allow for the creation of three additional marked-out parking spaces, as per drawings 15995/B/01 Rev D and 15995/B/09 Rev E. These show that the new spaces would be of a standard size, sufficient to accommodate a car in each marked space. The plans also show that the three new marked-out spaces and the relocated bin store would not interfere with vehicular access from the highway, access to the sub-station building and, with the exception of the gated access to the park, existing separated pedestrian paths through the site. No other parking spaces would be provided and the proposed plans do not include the marking out of other parking spaces.
20. The relocated bin store would mean that the existing pedestrian access to the park – which allows residents to enter the park without having to walk along the busy highway – would no longer be useable. However, the appellant has indicated a willingness to relocate the access and it could be positioned on the other side of the bin store/sub-station, next to the new parking spaces.
21. Existing site access may be substandard, such as with regards to the limited pavement width running down the southern-side of the building and the opposite side of the vehicular track containing soft landscaping rather than providing a dedicated pedestrian path. However, for the above reasons, the development would not significantly change existing access for highway users, including pedestrians and emergency, refuse and delivery vehicles.
22. The new cycle store would accommodate up to ten bikes. Subject to full details of it being secured by condition, it would provide sufficient cycle storage in relation to the number and size of the proposed flats.
23. The cycle store would be accessed via a narrow path which may not be as wide as Building Regulations guidance. However, I observed on my site visit that there is space either side of the path. It could therefore be widened if required, and I have little substantive evidence that the Vodafone power cables would prevent this. With space on both sides, it seems to me that the path is sufficient to avoid significantly hindering access to the cycle store in any event.
24. I recognise that the site is heavily parked, some spaces may have been removed in the past and some existing spaces may not be usable in icy conditions. The on-site parking spaces – which are not allocated – are also in high demand, some vehicles may be larger than the marked spaces, residents often struggle to find a space, particularly in the evenings and at night, and parking does occur in unmarked positions. However, the site has a public transport accessibility level of 4, there are local bus routes nearby and Hangar Lane underground station is approximately 500 metres away. It is therefore reasonably accessible by other transport modes, and the cycle store would provide residents of the new flats with another mode of transport as an alternative to the private car.
25. It seems reasonable to me that car ownership levels are typically likely to be lower for smaller properties. With three of the proposed units being one bed flats, the development would therefore not necessarily result in more than the three new parking spaces being required by future occupiers of the development. The evidence before me also indicates that the London Plan 2016 sets out maximum parking standards, with Policy 6.13 specifying that sites in locations such as this should have a maximum parking allowance of less than 1 space per unit. On this basis and for the above reasons, an additional three parking spaces would be justified and acceptable for the five proposed flats.

26. Accordingly, the development would not significantly exacerbate on- or off-site parking pressure and a legal agreement restricting future occupiers from obtaining parking permits within the site is not necessary. Given the scale of the development, a full Transport Assessment is also unnecessary, and TfL have not objected. However, on the basis of existing on-site parking pressure and in relation to relevant guidance, including the Ealing Council document 'Sustainable Transport for New Development' (2013), a Travel Plan, including details relating to the management of all on-site parking, should be secured by condition. The Travel Plan could also cover the provision of electric vehicle charging and disabled parking. However, because it would be unreasonable for current standards to be retrospectively applied to the site as a whole, these two matters would be in relation to the new parking spaces only.
27. Given the limited scale of the development and in the context of the existing number of flats on the site, the appeal proposal would not result in a significant change in traffic generation and flows nor delivery and servicing requirements, and I have little substantive evidence to indicate otherwise. A condition could be imposed to secure suitable management of construction works, including traffic movements and parking. Despite the constrained nature of the site and the proximity of TfL interests, I have little substantive evidence that highway-related construction matters could not be sufficiently dealt with by condition, particularly given the relatively limited scale of the development.
28. Concerns have been raised about changes to the site's access to the highway and parking bays being proposed adjacent to ground-floor flats, on amenity space and resulting in loss of safety rails. However, the final set of plans do not include these aspects and, as such, they are not matters to be considered in this appeal.
29. For the above reasons, I conclude that the proposed development would not harm highway and pedestrian safety. I therefore find that it would accord with DSDPD Policy 1.1(g) and Policies 6.9 and 7.1 of the London Plan 2016. Amongst other aspects, these seek development to contribute to safety, improve cycle links and provide accessible cycle parking facilities. The proposal would also be consistent with the provisions in the Framework in relation to highway safety.
30. The Council also alleges a conflict with regards to this matter with DSDPD Policy 3.1(c), DMDPD Policies 3.4, 3.5 and 7.4, and Policies 3.5, 7.4 and 7.6 of the London Plan 2016. However, my attention has not been drawn to any words in these policies that are relevant to this main issue. These policies have therefore not been determinative in relation to my findings on highway safety.

Other matters

31. In relation to the Draft London Plan, the Council have directed my attention to draft Policy H2A, which covers small housing developments, including the upward extension of flats. Setting out that such proposals should be approved unless they would give rise to an unacceptable level of harm, I find that the proposed development would not conflict with this draft policy in relation to the main issues.
32. My attention has been drawn to previous planning applications on the site. As well as the recently quashed decision for a similar development, this includes the proposed installation of a radio antenna on the roof of the rear block and a proposal in 1964 for three new flats. However, it seems to me that those schemes are not particularly comparable given the former was for a very different development while the latter was determined many years ago. I also do not have the full details of those proposals and am therefore unable to draw a direct

comparison between them and this appeal proposal. In any case, I have determined the appeal on its own merits.

33. It has been put to me that the gross internal area of two of the proposed flats would fall short of the nationally described space standards. The proposed floor plan (drawing 15995/B/03 Rev C) does include some figures suggesting a small shortfall in the internal floorspace of Flats A and E. However, I have not been presented with any clear evidence to indicate that the table setting out the gross internal areas of each flat on the drawing is incorrect. The Council has also not raised concerns regarding the living conditions of occupiers of the proposed flats, and the floorspace calculations in the Officer Report confirm the flats would comply with the above standards. Given there would be sufficient floorspace, adequate built-in storage could be provided. With a range of unit sizes being proposed, the development would also accord with Draft London Plan policy H12.
34. Residents have raised concerns about accessibility, including around the site and into the new flats. Some existing paths around the site may be below current standards and the building does not have step free access. Be that as it may, I have little substantive evidence that the development would harm residents' safety, that access to the new flats would be unsafe, and that the new flats could not be adapted to improve access for people with reduced mobility within the limits of the existing access into the building. Changes during construction works to accessibility, such as with regards to elevators, would also only be temporary.
35. The relocated bin store and the new cycle store and patio area would result in some loss of soft landscaping and amenity space. However, the loss would not be significant and would not affect the character of the local landscape. I observed on my site visit that a reasonable amount of soft landscaping, including trees, and grassed amenity space would remain. The Council's proposed condition to secure a tree survey would also ensure that the bin store would not harm trees in the adjoining park.
36. Residents have raised concerns about the size of the bin store and access to it. However, shown as accommodating ten bins accessed via a number of doors, I have little substantive evidence that the bin store would be insufficient and the Council have not indicated otherwise. Details relating to the appearance and management of the store can be secured by condition.
37. Concern has been raised about structural matters and the need for a structural survey. However, I have little evidence that the existing building is not structurally sound, and structural matters are dealt with separately and commonly covered by other legislation. It has been put to me that solar photovoltaic panels should also be provided. However, I have little substantive evidence that this is necessary in this instance and the Council have not suggested otherwise.
38. The appeal proposal does not include any affordable housing. However, the Council's Officer Report confirms that affordable housing is not required for a scheme of this scale, and Draft London Plan policy H5 relates to affordable housing provision in major development of providing 10 or more new units. Given only five new flats would be created, the effect on local services such as a schools and doctor surgeries would be limited.
39. It has been put to me that the development would exacerbate existing damp and drainage problems, and that existing drainpipes have capacity problems. However, the appeal proposal would not result in a significant change in the surface area of the building's roof and the bin and cycle stores would not be of a significant size.

Accordingly, it seems to me that the development would not increase existing damp or drainage issues.

40. Residents have raised concerns that the development would reduce property values. However, this is not a planning matter. With no existing housing being lost, the proposal would not conflict with Draft London Plan policy H10.
41. The site is located next to the park, which is identified as a site of importance for nature conservation. However, I have little evidence that the appeal proposal and associated construction works would harm protected wildlife or habitats.
42. Construction works would be likely to cause some disturbance to existing residents, including in relation to matters such as noise and dust/air quality. I recognise that construction noise would be a particular issue for residents who work shifts and may sleep during the day. However, construction works would be short-term and a condition requiring the submission of a construction management plan would ensure that the works were suitably managed and disturbance effects minimised.
43. The roof extension would have a different appearance to the existing building, and I note residents' concerns regarding the replacing of the existing fibreglass with alternative roofing materials and uPVC rather than aluminium windows. However, subject to a condition securing full details of proposed external materials, including in relation to the windows and roof, I am satisfied that it would not harm the character and appearance of the building or the locality nor appear dominant.
44. Existing residents have raised concern about fire risk and the development hindering emergency exits. However, fire safety is covered by Building Regulations and is not a matter for me in relation to a section 78 planning appeal.

Conditions

45. I have had regard to the various planning conditions that have been suggested by the Council, including the list submitted during the appeal and the conditions referenced in the Officer Report and by other Council officers. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and to ensure that details are submitted to and considered by the Council where relevant.
46. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. However, given some of the inconsistencies between drawings, I have where necessary identified specific aspects in some drawings which should not be followed.
47. The Council suggested that all external materials should match those indicated in the approved plans. However, as the plans do not provide details of the proposed materials, I have amended the condition to require such details are provided and approved by the Council. This condition is necessary to ensure that the development would be appropriate in relation to its surroundings.
48. The Council suggested conditions requiring a noise assessment and details relating to enhanced sound insulation above Building Regulations, while its Pollution team suggested a condition relating to meeting noise targets through installing sound insulation measures. Conditions relating to the installation of an air ventilation system and boilers with a maximum NOx emission level were also suggested. However, I have little substantive evidence before me to suggest that such conditions covering such issues, including those covered by other legislation including Building Regulations, would be necessary to make the development

acceptable. Consequently, I do not consider that they pass the test of necessity as set out in the PPG and have thus declined to impose them.

49. I have amended the Council's suggested cycle and bin store conditions because details are first needed to confirm matters such as the location and size of the cycle store and the appearance and management of the bin store. These conditions are necessary to ensure that both stores would be suitable. However, providing cycle storage for the existing flats would be beyond the scope of the development and it would be unreasonable to require it in this case. The suggested condition preventing use of the flat roof of the development as a balcony, terrace or similar amenity area is necessary to protect the living conditions of existing residents and future occupiers of the new flats.
50. Given existing parking pressure on the site and considerations relating to disabled and electric vehicle parking for the proposed parking spaces, I find that it is reasonable and necessary to impose a condition requiring a Travel Plan. Due to the nature of the site, the access and proximity to residential units and TfL interests, a construction management plan is also necessary in the interests of highway safety and residential amenity. A condition requiring submission of details relating to the relocated pedestrian access to the park is reasonable and necessary because the existing access provides residents with a safe alternative to having to walk along the busy highway. I have also imposed a condition requiring the submission of an arboricultural report and tree survey, as suggested in the Council's Officer Report. However, given the limited scale of the cycle store, this condition is only necessary in relation to the proposed relocated bin store to ensure that it does not harm trees in the adjoining park.

Conclusion

51. For the above reasons, the appeal is allowed.

Tobias Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15995/B/00 Rev D; 15995/B/01 REV D, except in relation to the cycle store; 15995/B/02 REV C; 15995/B/03 REV C; 15995/B/04 REV C; 15995/B/05 REV C; 15995/B/06 REV C; 15995/B/07 REV D; 15995/B/08 REV D; and 15995/B/09 REV E, except in relation to the cycle store.
- 3) Prior to above ground works, full details of proposed external materials of the roof extension hereby approved, including in relation to its roof and windows, shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until details of a secure, enclosed cycle store have been submitted to and approved by the local planning authority in writing. The approved store shall be provided prior

to occupation of the development hereby approved and shall thereafter be retained and kept available for the parking of cycles.

- 5) Prior to demolition of the existing bin store, details in relation to the external appearance and management of the replacement bin store shall be submitted to and approved by the local planning authority in writing. The approved replacement bin store shall be provided prior to occupation of the development hereby approved and shall thereafter be retained and kept available for the storage of refuse and recycling.
- 6) No part of the flat roofs of the development hereby permitted shall be used as or altered to form a balcony, roof terrace/garden or similar amenity area.
- 7) Prior to occupation of the development hereby proposed, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include details relating but not limited to the management of on-site vehicular parking spaces and any provision of disabled parking and electric vehicle charging in the three new parking spaces. The Travel Plan shall be implemented upon occupation of the development hereby approved.
- 8) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include details regarding but not limited to the following matters:
 - i. site management and access, including any displacement of existing vehicle parking and the erection and maintenance of security hoarding and signage for construction traffic, pedestrians, residents' vehicles and other users of the site
 - ii. the routing, parking and turning manoeuvres of vehicles of site operatives and visitors
 - iii. the specification of vehicles and machinery, and the timing, frequency and estimated number of deliveries
 - iv. loading, unloading and storage of plant and materials
 - v. measures to control the emission of dust and dirt during construction
 - vi. compliance with noise limits and vibration mitigation measures
 - vii. procedures for on-site operatives to deal with complaints from local residents
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) Prior to construction of the replacement bin store, details of the relocated pedestrian access to the park shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details and the relocated pedestrian access shall be retained and kept available for residents' use.
- 10) Prior to demolition of the existing bin store, an arboricultural report shall be submitted to and approved by the local planning authority in writing. Relating to the replacement bin store, the arboricultural report shall include a tree survey and measures to ensure that the replacement bin store does not harm existing trees. Construction of the replacement bin store shall be carried out in accordance with the approved arboricultural report.

END OF SCHEDULE