



Appeal Decision

Site visit made on 8 September 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2020

Appeal Ref: APP/A5270/W/20/3249412

1 Madeley Road, Ealing W5 2LA

- 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 Eamon Rayez and Mr Josh Narinder against the decision of the Council of the London Borough of Ealing.
 - The application Ref 190611FUL, dated 1st February 2019, was refused by notice dated 12 December 2019.
 - The development proposed is construction of a single storey detached 3-bedroom dwellinghouse (C3) plus basement, with associated garden and off-road parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application form did not include a named applicant. However, it has been confirmed by the parties that the applicants were Mr Eamon Rayez and Mr Josh Narinder.
3. Amended plans were submitted during the application, the main alterations consisting of bringing the side walls of the proposed dwelling away from the boundaries of neighbouring properties and sloping the top edge of these elevations away from neighbouring dwellings. I have made my decision based on the amended plans.
4. The appellant has submitted a plan with the appeal that was not one of the plans the Council made its decision on, Ref ER001 DP(9)000 B. The plan includes proposed boundary treatment that would be positioned along the southern boundary of the site and along part of the western edge of a pedestrian path which would lead to the site, ie the section that passes what would be the communal garden for occupants of No 1. The boundary treatment has been proposed as a means of addressing the Council's second reason for refusal. As boundary treatment could be secured by condition should the appeal be allowed, I consider no one would be prejudiced by me accepting this plan at this stage. I have therefore made my decision on this basis.
5. The appellant has also submitted some Computer Generated Images (CGIs) and a drawing entitled Sun Path Analysis, Ref DP(0)005, neither of which were submitted to the Council during the application. The CGIs are simply illustrations of the plans the Council made its decision on. The Sun Path Analysis drawings are also based on these plans. The Council has had the

opportunity to comment on the Sun Path Analysis drawings during the appeal process. As the drawings show that the proposal would not have any negative impact on the living conditions of existing occupiers of neighbouring properties in respect of shadowing, I consider no one would be prejudiced as a result of me accepting these drawings at this stage. I have therefore made my decision on this basis.

Main Issues

6. The main issues are:

- the effect of the proposal on the living conditions of occupiers of existing neighbouring properties, with particular regard to overbearing, overshadowing, privacy and security;
- the effect of the proposal on the character and appearance of the area and whether it would preserve or enhance the setting of the Haven Green Conservation Area, with particular regard to design and the pattern of development in the area.

Reasons

The effect of the proposal on the living conditions of existing occupiers

7. The appeal site comprises the northern half of the rear private outdoor space associated with the property number 1 Madeley Road. The north-western boundary of the site abuts the rear boundaries of the rear gardens of several residential properties located on Haven Lane. The rear boundaries of the gardens of properties on the eastern side of Haven Lane form the boundary of the Haven Green Conservation Area (CA). The southern site boundary of the site abuts what would be the remaining private outdoor space associated with No 1.
8. There is a brick wall along the boundary of the rear gardens of the properties on Haven Lane that abut the site. These rear gardens are relatively shallow, at around 9 m deep. The section of boundary wall that the proposed dwelling would be closest to is around 1.7 m high.
9. The proposed dwelling would have one storey above ground level and one storey below. It is designed such that it would have 4 main flat roofs of varying heights. The roofs would be covered with a green sedum covering, with the edge of each roof section being capped with a buff coloured material. The lowest roof, which would be closest to the properties on Haven Lane, would be around 2.6 m high. The highest roof section, which would be broadly positioned within the centre of the building's front elevation, would be around 3.5 m high. Hence, the nearest part of the proposed dwelling to the boundary wall of properties on Haven Lane would extend around 0.9 m above the wall; the highest part would extend around 1.8 m above the wall.
10. Although the side elevations of the proposed dwelling would be set in a little from the site boundary walls, as the width of the gap between the proposed north-western elevation and the rear boundary wall of properties on Haven Lane would be quite narrow, I consider the gap would barely be perceptible when viewed from the rear gardens, or through rear windows, of the properties on Haven Lane.

11. Contrary to the appellant's viewpoint, I consider that when occupants of the 4 properties on Haven Lane that would be closest to the proposal were in their rear gardens, or looking through rear ground floor windows, the extent of the elevations that would extend above the rear boundary wall would be quite prominent and dominant. Additionally, when the occupiers of such properties looked through rear first floor windows, they would see an incongruous mass of geometrically shaped roof tops squeezed between the side boundaries of the site. Consequently, overall, for existing occupiers of the 4 properties on Haven Lane that would be closest to the proposed building, I conclude that the proposal would be perceived, and experienced, as being overbearing.
12. As noted in the procedural matters section above, the submitted sun path analysis illustrates that the proposal would not result in any harmful overshadowing of neighbouring properties. As regards the relationship between the proposal and what would be the rear private outdoor space of No 1, I consider that suitable boundary treatments could be installed to ensure the privacy and security levels currently enjoyed by the occupants of No 1 would be retained. Hence, I conclude that the living conditions of the existing occupants of No 1 would not be harmed by the proposal.
13. Notwithstanding my conclusions regarding shadowing, privacy and security, as I have found that the living conditions of occupiers of some of the properties on Haven Lane would be harmed, due to the proposal being overbearing, the proposed development does not accord with Policy 7B of the Development Management: Development Plan Document (2013), (DPD), which requires development to achieve a high standard of amenity for future and existing users, including a positive visual impact.
14. I consider policies 7A of the DPD, which is concerned with emissions and amenity, and 7D, which is concerned with public open space, are not relevant to the determination of the appeal.

The effect of the proposal on the character and appearance of the area and setting of the Conservation Area

15. Except for a few blocks of flats, the properties to the east and north of the site, along Madeley Road, Westbury Road and Woodville Gardens, are mainly relatively large 2-storey properties, several of which have a third storey in the roof space. The properties along Haven Lane, in the CA, are virtually all 2-storey terraced properties, many of which also have a third storey in the roof space. The surrounding dwellings have pitched roofs, covered primarily with slates or tiles and the predominant form of the dwellings consists of generally square and oblong blocks. Most of the rear gardens of properties along Madeley Road are relatively deep, whereas the rear gardens of the terraced properties on the eastern side of Haven lane are quite shallow. The rear gardens of the properties on the streets referred to collectively form a green space behind them, with many having mature trees sited within them.
16. The proposal would create a scalene triangle shaped plot with a single storey (above ground level), irregular shaped building erected within it, designed with flat sedum roofs. The dwelling would be sited at, and tucked into, the far end of the rear garden of No 1, some distance from Madeley Road and the rear of the host property, but very close to the rear of several properties on Haven Lane. I acknowledge that the design is contemporary, and the approach has sought to design a building that could be accommodated within the site, given its

constraints. However, I consider the proposal, which would be visible from numerous rear gardens and properties on Haven Lane and Madeley Road, would erode the pattern of development in the area, and the design of the dwelling would be out of keeping with the surrounding properties and incongruous within its location. As such I conclude that the proposal would be harmful to the character and appearance of the area.

17. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area, which is therefore a matter of considerable importance and weight. In addition, the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. Green spaces and trees within the CA are an important part of its significance. I consider the green space to the rear of the properties on the eastern side of Haven Lane, formed by the collection of rear gardens, and the mature trees that are located within them, form part of the immediate setting of the north-eastern section of the CA. The proposal would erode the verdant character and appearance of the space referred to. Consequently, I conclude that the proposal would harm part of the immediate setting of the CA, and therefore would not preserve this heritage asset. As such, the proposal does not accord with policies 3.5, 7.4, 7.6 and 7.8 of The London Plan (March 2016), (the LP), or Policy 7C of the DPD. Collectively, these policies require, among other things, development to be of the highest quality, appropriate to its context, having regard to the pattern and grain of existing spaces and streets and to preserve the significance of heritage assets.

Other considerations and planning balance

19. I acknowledge that the proposal, although only for one dwelling, would support the Government's objective of significantly boosting the supply of homes, as identified in the Framework. However, as the proposal is only for one dwelling, I attach limited weight to this matter. I also note that the site is located within easy access to services and facilities required to meet the day to day needs of residents, employment opportunities and public transport options. This also weighs in favour of the proposal; though given the small-scale nature of the proposal I also attach limited weight to this factor.
20. I note the Framework identifies and states that: small and medium sized sites can make an important contribution to meeting the housing needs of the area; to meet these needs planning decisions should promote the effective use of land, support the development of under-utilised land and give substantial weight to the value of using suitable brownfield land in settlements for homes. The appellant considers the existing rear garden to be under-utilised space, capable of accommodating the proposal. Although the site is located within a settlement, I note that the definition of previously developed land (PDL) in the Framework excludes "land in built up areas such as residential gardens." Hence, as the site is within a built-up area, the garden does not constitute PDL.
21. The appellant asserts that there are other backland developments across London and in Ealing, drawing my attention to 2 examples in other parts of London. I am not aware of any Council policy precluding development of dwellings on garden land; and it appears that the Council is not opposed in

principle to backland development. However, I do not have full details of the cases the appellant refers to and cannot be sure of the extent to which they may be comparable. That said, from the information that has been submitted it appears to me that the site locations and circumstances differ to the appeal site. Additionally, I must assess each proposal on its own merits.

22. Considering the above, I conclude that there are no other considerations that lead me to conclude against the development plan.

Other Matters

23. The appellant has raised some concerns regarding pre application advice received from the Council and suggests that the Council did not deal with them in a positive manner during the application (as advised in the Framework). The appellant also considers there to be inconsistencies and contradictions in the Council Officer's Report. These comments are noted, though I consider them to be matters for the appellant to take up with the Council.

Conclusion

24. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR