



Appeal Decision

Site visit made on 9 March 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2021

Appeal Ref: APP/A5270/W/20/3253950

Site to the rear of 31 South Ealing Road, Ealing, London W5 4QT

- 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 Michael Alfandari, Cloisters Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref 192068FUL, dated 9 May 2019, was refused by notice dated 9 December 2019.
 - The development proposed was originally described as 'construction of six new one bedroom flats arranged over two floors, with associated landscaping'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form. However, amended plans were submitted during the Council's consideration of the application including a reduction in the total number of dwellings to 5, and updating the mix of properties. The amendments are reflected in the revised description used on the Council's decision notice and entered on the appeal form which refer to the development as 'construction of a two-storey building to accommodate 5no self-contained flats with associated landscaping'. I have determined the appeal with reference to the amended plans and description.
3. The London Plan 2021 (LP) was published on 2 March 2021, at which point it became an operative part of the development plan and superseded policies of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011. The main parties referred to policies of the then emerging London Plan within their evidence, including Policy D2 (now Policy D1 of the LP) noted on the Council's decision, but insofar as these relate to the current proposal, the overall approach within the LP has not significantly changed from that of the previous plan. The appeal must be determined on the basis of the development plan as it exists at the time of my decision, and I have therefore considered the appeal against the relevant policies of the LP and make no further reference to the previous London Plan.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area; and (ii) the effect of the proposal on the living conditions of the occupiers of 29D and 31 South Ealing Road with particular regard to outlook and light.

Reasons

Character and Appearance

5. The main part of the appeal site comprises an area of parking between the rear of a four-storey block of flats at 31 South Ealing Road and the rear of two-storey dwellings on Church Gardens. Buildings near to the site are in a mix of uses, and there is significant diversity in their scale, form and appearance. However, those on this section of South Ealing Road are for the most part arranged on fairly generous plots with areas of soft landscaping or parking to their frontages, and sizeable gardens to the rear providing a setting to the buildings, albeit that I note that the space to the rear of 31 and 33 South Ealing Road is in part used for parking. As a result, buildings sit comfortably on their plots, and despite their sometimes large scale, there remains a general sense of spaciousness.
6. In my view, the two-storey scale and proportions of the proposed building would not be out of keeping with the development in the vicinity of the site. With regard to the mix of buildings nearby, I also agree with the appellant that the appearance, materials and flat roof design of the building would be generally compatible with its surroundings.
7. However, separation between the building and the rear of No 31 would be fairly small. It would be positioned immediately adjacent to the boundary to the retained amenity space at the rear of No 31, and would also be set very close to the boundaries to the sides and rear of the appeal site. While the scale of the building would be subordinate to No 31 and other nearby development, the resulting very limited extent of spacing around it would nevertheless be at odds with the characteristically more generous overall plots to buildings in this area. This would cause the development to appear somewhat cramped and hemmed in on the site, and would deprive it of a proper setting. The shallow depth of the gardens to the ground floor flats, and orientation of these spaces running towards the boundary between the sides of Nos 31 and 33 would also contrast awkwardly with the typical arrangement of relatively deep spaces extending to the rear of buildings nearby.
8. As a consequence, I find that the development would relate poorly to the characteristic layout and spaciousness around buildings which make up the urban grain and define the area, and it would appear as an intrusive and incongruous feature to the rear of buildings fronting South Ealing Road.
9. For these reasons, I conclude on this main issue that the proposal would result in unacceptable harm to the character and appearance of the area. It would therefore conflict with Policy 7.4 of the Development Management Development Planning Document 2013 (DMDPD) which includes requirements that development complements the building pattern of existing built areas. For the same reasons, it would conflict with requirements within the National Planning Policy Framework (the Framework) seeking high quality design and development that is sympathetic to local character.

Living Conditions

10. Even at the greatest point, separation between the proposed building and windows to the rear of No 31 would be fairly limited, and it would be positioned directly beyond the retained amenity space to the rear of the flats here. The

development would fill a significant proportion of the width of the site, and its two-storey height would be much taller than the current fence to the rear of No 31, and would not be obscured by trees within the site. Despite the flat roof design of the building, I consider that its depth and height would present a dominant feature when seen at such close range from the neighbouring amenity space and ground-floor level windows, and would be overbearing. In addition, the three-storey side elevation of 29D South Ealing Road already extends along much of the depth of the amenity space in very close proximity. In combination with this neighbour, the development would result in a significant degree of enclosure to the rear of No 31, and I find that it would notably restrict outlook for occupiers.

11. Interested parties have also raised concerns over the effects of development on other neighbouring properties. Given the close relationship, No 29D is in my view most sensitive to development on the site. No 29D is set-back considerably relative to No 31, and the development would be positioned very near to its rear elevation and the windows there. Although the closest part of the building to the boundary would be of slightly lesser depth, separation to the remainder of the building would not be significant. It would extend for a substantial distance along the depth of No 29D's garden at much greater height than the boundary fencing, with the existing vegetation offering little in the way of screening against its overall height and bulk. Taken together, I consider that the height, depth and proximity of the development would form a dominant and severely overbearing feature when seen from the garden and ground floor of No 29D, and would unacceptably enclose the garden.
12. The appellant has provided a Daylight, Sunlight & Overshadowing Impact Assessment (DSOIA) to consider the effects of the development on light. This is based on guidance by the Building Research Establishment (BRE), and suggests no adverse impact on neighbouring windows. However, it does not consider the effect of the proposal on light to the retained amenity space to the rear of No 31, and I am therefore unable to determine that effects of the development on light levels to this space would be acceptable.
13. The DSOIA does consider light to the garden of No 29D, and highlights that the proposal would be likely to result in a reduction in the percentage receiving direct sunlight for at least 2 hours on 21 March. I note comments that the areas of the garden affected would be fairly narrow and would not immediately adjoin the dwelling, but with regard to sensitivity criteria outlined within the BRE guidance, the change would be noticeable to occupiers. It would therefore be likely to have some effect on the attractiveness of the space, albeit that the overall effect on the quality of life experienced by occupiers in addition to that noted above would not in my view be great.
14. However, as highlighted by interested parties, representation within the DSOIA of the development assessed does not appear wholly consistent with the layout shown on the proposed plans, indicating the building position much closer to the rear boundary of the site. I am as a result concerned that the reduced separation between 29D and the development as it is actually shown on the submitted plans could exacerbate the reduction in light to the garden of 29D already identified, and I find that I cannot rely on the findings of the DSOIA as an accurate assessment of the appeal proposal.

15. I accept that the Framework advises a flexible approach to guidance relating to daylight and sunlight which would inhibit making efficient use of a site for housing. However, outlook is a separate and additional consideration. In any event, the flexible approach to light is subject to a requirement that acceptable living standards are provided, and applies alongside requirements within the Framework for a high standard of amenity for existing and future users, and development that does not undermine quality of life.
16. The development would be lower than neighbouring buildings, including Nos 29D and 31, but that in itself does not prevent the development from causing a harmful change on the site, nor determine that any effects are of no significance. I have considered whether the unacceptable impacts that I have identified could be addressed through use of planning conditions or obligations. However, the harm largely results from the scale and position of the development, and these are not matters that I consider could be appropriately modified through such means.
17. For these reasons, I conclude on this main issue that the proposal would cause unacceptable harm to the living conditions of occupiers of 29D and 31 South Ealing Road through a loss of outlook, and it has not been demonstrated that there would not be further harm as a consequence of light loss. While not cited within the reason for refusal, both main parties refer to Policy 7B of the DMDPD which seeks a high standard of amenity for adjacent users. The proposal would conflict with this requirement, as well as with similar requirements within the Framework.

Other Matters

18. I have had regard to additional concerns raised within the representations of interested parties, including that pressure for parking in the surrounding area would be increased. However, none of the matters raised either individually or collectively alter my conclusions on the main issues.
19. The appellant comments that the number of objections to the proposal is small relative to the total number of residents within the local area, but I cannot assume that this signifies wider support for the proposal without explicit comments to that effect. In any event, whether a proposal attracts comments in support or opposition is not in itself a ground for granting or refusing planning permission unless founded upon valid planning reasons.
20. I have considered examples of other developments which the appellant has referred to in support of the appeal. Those at 1A and 9 South Ealing Road, Carlyle House and 2A Golden manor all concern redevelopment of sites which contained existing structures, and the development at 31 South Ealing Road proposes additional storeys to an existing building. From the information before me, their circumstances are not directly comparable to the appeal development, and I have considered the proposal on its own merits.

Planning Balance

21. Delivery of housing is a key objective within the LP which additionally recognises a significant role for small sites in delivering these homes. The Framework also seeks to significantly boost the supply of housing to meet needs. It further advises that substantial weight should be given to the value of

using suitable brownfield land within settlements for homes, with support for development of under-utilised land including car parks.

22. The proposal would make effective use of the previously developed site to provide 5 additional dwellings within an existing built-up area. These would contribute to the mix of available homes, the supply of housing and to meeting targets. There would also be some economic benefits associated with both the construction and occupation of the development. Occupiers of the dwellings would have access to nearby local services and public transport links, helping to support a reduction in private vehicle use resulting in environmental benefits, and I note the inclusion of energy efficiency measures as well as proposed photovoltaic panels and a sedum roof.
23. However, the proposal's contributions in these regards would be qualified by the modest scale of the development. In this context, I do not find that these other considerations would be sufficient to outweigh the significant harm that I have identified would be caused to the character and appearance of the area and to the living conditions of neighbouring occupiers, and the conflict with the development plan.

Conclusion

24. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR