



Appeal Decision

Site Visit made on 19 April 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Appeal Ref: APP/A5270/W/20/3265119

27 Avenue Gardens, Acton, London W3 8HB

- 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 PCFG Properties Limited against the decision of the Council of the London Borough of Ealing.
- The application Ref 202005FUL, dated 24 May 2020, was refused by notice dated 25 August 2020.
- The development proposed is conversion of existing five flats building into seven self-contained residential units; excavation to provide a basement level with associated lightwells; single storey, part three-storey, side extension and two-storey rear extension (following demolition of existing side and rear extensions).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal The London Plan was published¹, which replaced all previous versions. The parties were provided with an opportunity to comment on its relevance to this appeal, and I have taken the comments received into account in my determination of this appeal.
3. The Council's decision notice refers to Policy 3.5 of the Ealing Development Management Development Plan Document (adopted 2013) (DPD). However, that policy relates to space standards for residential development, which has not been specifically identified as a concern by the Council. In their submitted comments, the Council referred to Policy D10 of The London Plan but that policy relates to the establishment of policies in development plans. The Density Matrix referenced by the Council in their Officer's Report, which refers to habitable rooms, has been superseded by the new London Plan. Therefore both those policies and the Density Matrix are not relevant to my assessment of the proposed development and the determination of the appeal.

Main Issues

4. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the surrounding area, including the Mill Hill Park Conservation Area;
 - the living conditions of the occupiers of neighbouring properties, with particular reference to noise and disturbance;

¹ The London Plan (published 2021)

- the living conditions of the occupiers of the existing property, with particular reference to noise and disturbance; and
- the on-street parking in the locality.

Reasons

Character and appearance

5. The appeal site comprises a three-storey semi-detached property, with a two-storey side wing and two single-storey extensions to the rear. It is situated in a very pleasant and attractive residential area, in the Mill Hill Park Conservation Area (CA). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The significance of the CA as a designated heritage asset is derived in part from the abundance of period properties which exhibit high standards of architectural design and craftsmanship, and its quiet residential character.
6. The host property currently contains 5 flats, with a total of 8 bedrooms. Although the appellant has mentioned that both properties to either side of the host property are in use as flats, with No 29 Avenue Gardens (No 29) and No 31 Avenue Gardens each comprising 6 flats, the appellant has not disputed the claims of a number of local residents, who have described the area as predominantly comprising properties in single family occupation. I observed that, apart from the properties already mentioned, there was little evidence of flatted development nearby, and in the absence of evidence to indicate otherwise, and based on what I saw, I consider that the local residents' description of the character of the area in this respect is apt.
7. The appeal scheme seeks to reconfigure the internal layout of the host property together with the addition of a basement and an attached house which would increase the number of units on site to 7 and the total number of bedrooms to 12 bedrooms. Consequently, there would be a material uplift in both the number of households and the number of people present on site. This would generate far more activity than at present, including greater comings and goings, an increased level of movements from delivery vehicles, and a more intensive use of the garden area when considered as a whole. In particular, the domestic paraphernalia and increased numbers of people resulting from the new attached 4 bedroom house would significantly intensify the use of the site.
8. The three-storey element of the proposed side extension would be an incongruous addition which would add bulk to the existing property and it would detract from the established symmetry that exists between the host property and its attached neighbour in public street level views. However, it has been drawn to my attention that a recent planning permission² for this element is already in place. The proposed basement would be very large in comparison to its host property but apart from the front light-wells proposed there would be little to indicate that the property contained a basement in views from Avenue Gardens. The two-storey rear extension proposed would be subordinate to the host property and its design would be in-keeping with it. As

² Local Planning Authority reference: 200856FUL

such, in my view all these elements of the proposal would not be harmful to the appearance of the area.

9. There are already two existing planning permissions for the appeal site. I have no evidence before me to indicate that any works have begun to implement either permission and the intentions of the appellant with respect to the likelihood of their being implemented have not been put before me. One planning permission³ would increase the number of units on site to 6 and would increase the number of bedrooms to 10. As such, it is noted that the principle of the intensification of the residential use of the site has been established.
10. However, although the increase in the number of units in the proposal before me would only be 1 more than granted through that permission, that permission does not involve an attached house, as is proposed in this appeal. In my view, the creation of a new house with the associated comings and goings and domestic paraphernalia, marks the proposal as significantly different to that previous permission.
11. An alternative scheme also has planning permission which maintains the existing 5 units but increases the number of bedrooms to 10 (as for this proposal, one of the units would be an attached 4 bedroom house)⁴. As the proposal would involve a further 2 units than that permission, with a corresponding increase in the number of unrelated households, the intensification of the use of the site would be materially greater in the proposal before me.
12. There would be localised changes in the appearance of the host property, but taking into account the two 'fall-back' alternative options the harm to the appearance of the CA as a whole would be limited. However, the cumulative amount of change in character arising from the appeal proposal would in my judgement be harmful to the existing quiet residential character which contributes to the significance of the CA. As such the proposal would not comply with the guidance given in the Conservation Area Management Plan⁵ that all forms of over-development will be resisted. Whilst the harm that would be caused to the significance of the CA would be less than substantial, this harm must be weighed against the public benefits of the proposal.
13. The proposal would create two new residential units in an established residential area, thereby making a small contribution to the Government's objective of significantly boosting the supply of homes. The provision of the new accommodation proposed would also make a limited contribution to the mix of housing types in the local area. However, considerable importance is placed on conservation areas as they are a designated heritage asset, and in accordance with the Framework⁶, great weight should be given to their conservation. Collectively, the public benefits of the proposal are limited and I find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the CA.
14. Notwithstanding that on balance the proposal would be acceptable with respect to its built form and appearance, thereby complying with Policy 7.4 of the DPD

³ Local Planning Authority reference: 191035FUL

⁴ Local Planning Authority reference: 200856FUL

⁵ Mill Hill Park Conservation Area Management Plan (September 2007)

⁶ National Planning Policy Framework 2019

which seeks, amongst other things, that development in Ealing's existing built areas should complement their street sequence, the proposal would have an unacceptable and harmful effect on the character of the surrounding area, including the CA. Accordingly, it would conflict with Policy 1.1 of the Ealing Development Strategy 2026 (adopted 2012) (Development Strategy) which aims to, amongst other things, ensure care for the borough's historic character.

Living conditions of neighbouring occupiers

15. The proposal would entail a material uplift in the numbers of households and persons on site. As only one new flat is proposed, and due to the position of the new attached house relative to No 25 Avenue Gardens (No 25), the proposal would be unlikely to affect the living conditions of the occupiers of No 25. Nevertheless, the new attached house would be located very close to the boundary with No 29. As such, the occupiers of that property would be subjected to a much greater level of external noise and disturbance than currently, due to comings and goings via the side door, to the rear light-well, and through use of the rear garden. This would particularly be the case if the new attached house were to be occupied by a family with children.
16. Accordingly, the proposal would have an unacceptable and harmful effect on the living conditions of the occupiers of No 29, with particular reference to noise and disturbance. There would be conflict with Policy 1.1 of the Development Strategy which aims to, amongst other things, ensure a healthy and safe place to live. It would also not comply with Policies 7A and 7B of the DPD which collectively provide that, amongst other things, development must not erode the amenity of surrounding uses, and that new development must achieve a high standard of amenity for adjacent uses by ensuring appropriate levels of development on site. Furthermore, it would not accord with Policy D14 of The London Plan which provides that, amongst other things, development proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life.
17. Local residents have raised a number of other concerns regarding the proposal, including (amongst others) in relation to overlooking / privacy, and loss of light. However, as I have found that the proposal would be unacceptable for the reasons set out above, I have not addressed those other objections in detail.

Living conditions of the occupiers of the existing property

18. The proposal would create 6 flats in the main part of the property, each using the common hallway / stairs. This would not be an unusual arrangement, or involve an excessive number of flats on site. The appellant has mentioned that the 5 flats currently on site have been in use for many years, and this has not been disputed by the Council. Consequently, the new arrangement of flats and the internal layout proposed would be unlikely to cause undue harm to the living conditions of the occupiers of the flats.
19. The new attached 4 bedroom house would occupy 4 floors, including rooms in a basement, and the addition of a new dwelling alongside a number of flats (including flats in a basement) would be likely to create a certain amount of noise and disturbance to the occupiers of the flats in the existing part of the property. However, there is no substantive evidence to clearly demonstrate that the level of internal noise and disturbance likely to be created by the

occupiers of the new attached house would be greater than for a semi-detached property. I am also mindful of the Building Regulations requirements, which would safeguard the living conditions of the occupiers of the new attached house from noise and disturbance arising from the occupiers of the flats.

20. As such, I find that the proposal would have an acceptable effect on the living conditions of the occupiers of the existing property, with particular reference to noise and disturbance. It would comply with Policy 1.1 of the Development Strategy which aims to, amongst other things, ensure a healthy and safe place to live. It would also accord with Policies 7A and 7B of the DPD which collectively provide that, amongst other things, development must not erode the amenity of the site itself, and that new development must achieve a high standard of amenity for users by ensuring appropriate levels of development on site.
21. It would also not conflict with Policies D6 and D14 of The London Plan which collectively provide that, amongst other things, the qualitative aspects of a development are key to ensuring successful sustainable housing, and that development proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life.

Parking

22. I observed that Avenue Gardens is heavily subscribed, with respect to on-street car parking. Although a 'snapshot' in time, there is nothing before me to suggest my observations were untypical. Indeed, the street is within a Controlled Parking Zone. The proposal, through its creation of two additional residential units, with no additional car parking spaces provided off-street, would be likely to increase the demand for on-street car parking. However, due to the nature of the residential units, the numbers of additional vehicles likely to accrue would not be significant. Furthermore, the development proposes bike stands / storage for 12 bikes, and the property is in a moderately accessible location which would enable occupiers of the appeal property to have a choice of modes of transport.
23. I am mindful of paragraph 109 of the Framework, which provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The evidence does not demonstrate that highway safety or severe impacts on the road network would occur. Although the appellant has stated that they would not be averse to entering into a planning obligation regarding parking permits, as one has not been provided to me, I am unable to consider this matter further.
24. Accordingly, I find that the proposal would have an acceptable effect on the on-street parking in the locality. There would be no conflict with policies in the development plan, including Policy 1.1 of the Development Strategy which aims to (amongst other things) support sustainable, safe and convenient transport networks; and Policies T6 and T6.1 of The London Plan which collectively provide that, amongst other things, car-free development should be the starting point for all development proposals in places that are well-connected by public transport.

Other Matters

25. It is recognised that the principle of the excavation of a basement, and the demolition and replacement of the side wing, has been established via a previous planning permission⁷. Nevertheless, as explained above, the proposal is materially different to the previous grants of planning permission specified. The new residential units would be acceptable in relation to daylight, outlook, and access to outdoor amenity space. However, these matters would be expected of any well-designed development. Accordingly, these are all neutral factors, which do not weigh in favour of the proposal or overcome the harm that I have found.

Conclusion

26. Whilst I have found that the proposal would be acceptable with respect to both the effect of the proposal on the living conditions of the occupiers of the existing property and on the on-street parking in the locality, this does not overcome the conflict with the development plan in relation to the effect of the proposal on the character of the surrounding area and on the living conditions of the occupiers of No 29. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

⁷ Local Planning Authority reference: 200856FUL