



Appeal Decision

Site Visit made on 24 August 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/F5540/W/21/3271256

1 Fernside Avenue, Feltham, TW13 7BJ

- 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 I Jamil against the decision of London Borough of Hounslow.
 - The application Ref 00442/1/P4, dated 17 August 2020, was refused by notice dated 17 December 2020.
 - The development proposed is the construction of new build 1 bedroom house on the land adjoining 1 Fernside Avenue.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.

Main Issues

3. The main issues in this appeal are:
 - Whether future occupiers would be likely to experience acceptable living conditions in terms of amenity space provision,
 - The effect of the proposed development on the character and appearance of the surrounding area with regards to the likely effect on trees adjacent to the appeal site; and,
 - Whether or not the proposal would suitably address energy requirements, with regard to carbon dioxide emissions.

Reasons

Living Conditions

4. The original plans submitted in support of the planning application included an area of garden to the rear of the proposed dwelling and which would cross into the rear garden area at 1 Fernside Avenue. Such an arrangement would, given the proximity and position of windows on the rear elevation of 1 Fernside Avenue, have resulted in unacceptable living conditions for future residents by reason of overlooking and loss of privacy. Nonetheless, during the course of the appeal, the Appellant has submitted amended plans which would alter the

- proposed layout of the garden such that the external amenity space would now be located directly to the front and rear of the proposed new dwelling.
5. In considering the amended plan submitted within the appeal, I have had regard for the principles laid out in the case of *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37], and in respect of whether the amended plan materially alters the proposal before me. Whilst having the opportunity to provide comments on the submitted amended plans as part of the appeal process, The Council have not provided any submissions with regards to the acceptability or otherwise of the amended plans.
 6. In light of the evidence before me, I conclude in this case that the amended proposal is not so changed, that to grant permission would not deprive those who should have been consulted on the changed proposal, of the opportunity of such consultation. Consequently, I will consider and determine the appeal on the basis of the amended plans which were submitted during the appeal.
 7. Amongst other things, Policy SC5 of the London Borough of Hounslow Local Plan 2015 – 2030 Volume One (the Local Plan) requires that development provides private external amenity space that is usable with regards to a benchmark of external space standards. In addition to other matters, Policy CC2 of the Local Plan provides that developments are expected to function well in themselves and in their effect on surrounding areas and have a positive impact on the amenity of current and future residents.
 8. In terms of external amenity space, the amended plans indicate that approximately 36 square metres of private external amenity space would be provided to the rear of the proposed new dwelling, with a further area of approximately 17 square metres being located to the front of the proposed new dwelling and labelled on the amended plans as 'vegetable garden'. In this respect the provision of amenity space would accord with the amount of space as required by Policy SC5 of the Local Plan.
 9. However, whilst noting that the inclusion of the 'vegetable garden' would provide external amenity area in excess of the standards given under Policy SC5 of the Local Plan, the role of the 'vegetable garden' as amenity space for future residents would be very limited, providing no privacy for such residents. In respect of the rear garden area, whilst such an arrangement would provide privacy for users, the space would be extremely constrained, being comparable in terms of size of area to the parking space for a single vehicle which is proposed to the front of the new dwelling. In my view, such an arrangement would not provide an acceptable level of usable private amenity space as required by Policy SC5 of the Local Plan and would result in a form of development that would result in harm to the living conditions of future residents.
 10. For the above reasons, the appeal scheme would conflict with Policies SC1, SC5 and CC2 of the Local Plan which, together and amongst other matters requires, that development provides acceptable levels of usable, private external amenity space.

Trees

11. To the rear of the proposed dwelling and separating the appeal site from development at Parr Court, is an area of land used for the siting of an

electricity substation. As I observed on my site visit, within that parcel of land and adjoining the boundary of the appeal site, there are a number of mature trees which are substantial in terms of their height and spread. In my view, by reason of their position, scale and spread, these mature trees make a significant positive contribution to the character and appearance of the area.

12. The proposed new dwelling would be located in very close proximity to these trees with the extremely constrained external amenity space described above being dominated by the height and spread of these trees. Given the proximity of these trees, development of the site could have an adverse impact on the long term health of these trees. However, there does not appear to be any substantive information before me as to how these trees, which make a significant positive contribution to the character and appearance of the surrounding area, would not be adversely affected by the construction of the appeal proposal.
13. Furthermore, given the proximity, height and spread of the mature trees that would dominate the rear elevation of the proposed dwelling and the very limited external amenity space, there is likely to be pressure to lop, top or even remove these trees. Consequently, and in the absence of any evidence to the contrary, the appeal scheme would be likely, in my view, to have an adverse effect on the long term health of these mature trees which make a significant positive contribution to the character and appearance of the surrounding area.
14. For these reasons, the appeal proposal would conflict with Policies CC1, CC2 and GB7 of the Local Plan which, amongst other matters, requires that development conserves and takes opportunities to enhance particular features that contribute to an area's character such as mature trees.

Energy

15. Policies EQ1 and EQ2 of the Local Plan promote sustainable design and construction, with proposals needing to demonstrate that minimum specified levels in Local Plan, London Plan or national standards are met including carbon emission reduction. Policy SI 2 of the London Plan (2021) concerns minimising greenhouse gas emissions.
16. The Council's submissions in this regard maintain that Policy SI 2 of the London Plan requires that residential development achieve a minimum on site reduction of at least 35% beyond Building Regulations. However, it clear from the wording of that policy that such as requirement applies in relation to 'major development'. The appeal scheme is not major development and consequently this level of reduction would not be required.
17. Nonetheless, and whilst acknowledging the Appellant's submissions in this regard, Policy SI 2 of the London Plan does provide that other residential development should achieve a reduction of 10% beyond Building Regulations.
18. The application was accompanied by an Energy Statement that outlined aims for construction, heating, ventilation and lighting. Even in the event that further details are required, then such matters could satisfactorily be secured by condition, and which included the required elements with regards to demonstrating compliance with the relevant target, as evidenced by the Council's submitted suggested conditions in the event that the appeal was allowed. Consequently, I am satisfied that the appeal proposal would not fail to

accord with the requirements of Policy EQ1 and EQ2 of the Local Plan, nor would conflict with the aims or objectives of Policy SI 2 of the London Plan.

Other Matters

19. The appeal scheme would provide benefits in terms of a contribution on a single bedroom dwelling towards housing supply whilst adding to the mix of housing types available. The proposal would make use of previously developed land and would be located with convenient access to services and facilities. Very limited economic benefits would arise in terms of employment opportunities during construction and through the future spend of residents within local businesses. Cumulatively, I attach limited weight to these benefits of the appeal scheme by reason of the scale of the proposal.
20. Weighed against these benefits, the proposal would, for the reasons given above, conflict with the policies of the development when taken as a whole and would result in harm to trees which make a significant positive contribution to the character and appearance of the surrounding area and significant harm to the living conditions of future residents with regards to usable external amenity space. Given the importance placed within both local and national planning policy with regards to the provision of acceptable living conditions for residents, I attach significant weight to these consideration in the determination of this appeal. The identified harm resulting from the conflict with the development plan weighs significantly against the proposal. Consequently, I find that the harm that would result from the appeal proposal as identified in the main issues above, would collectively outweigh the benefits of the appeal scheme.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR