



Appeal Decision

Site visit made on 31 August 2021

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29th September 2021

Appeal Ref: APP/A5270/W/21/3274654

14 Sutherland Road, West Ealing W13 0DT

- 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 Kieran Hartnett against the decision of Ealing Council.
 - The application Ref 210016FUL, dated 3 January 2021, was refused by notice dated 26 March 2021.
 - The development proposed is the conversion of building from two self contained flats into nine self contained flats; 4 storey rear and side wraparound extension incorporating rear/ side facing balconies; insertion of 1 window to the first floor front elevation; single storey outbuilding in rear garden, insertion of 2 rooflights to the front roof slope; associated landscaping, car and cycle parking and refuse storage (following demolition of existing extensions and outbuilding)
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Decision

1. The appeal is dismissed.

Procedural Matters

1. The description of development has been taken from the Council's decision notice, which is agreed between the parties as the appropriate description. The same description appears on the appeal form and I agree that it best describes the proposed development in more precise terms. The decision notice also included a reason for refusal relating to car parking, in that it exceeded expressed maximum standards. The appellant has since accepted this and reduced parking provision to an acceptable level and to the satisfaction of the Council. I have no reason to disagree. This is therefore no longer a matter in dispute and consequently not a main issue in this appeal.
2. The Government published a new version of the National Planning Policy Framework (the Framework) in July 2021. Accordingly, and in light of the reference made to the previous iteration of the Framework in the evidence, the parties have been provided with an opportunity to make submissions. Any comments received have been taken into account.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the host dwelling and surrounding area; and the living conditions of neighbouring occupiers at Nos. 12 and 16 Sutherland Road, with regard to outlook and privacy.

Reasons

Character and Appearance

The appeal building is a four storey detached Victorian dwelling in a residential area. It has been divided into separate flats. It retains much of its traditional detail and proportions such as bay windows, roof detailing and entrance arches and decreasing scale to the upper floors. Large and extended dwellings are common to the area, including such that cover the width of their plots. Whilst there is variety in the set back of buildings from the street and building styles, the retention of traditional elements prevails.

4. The character of the appeal building would be significantly altered by the proposed extensions. Their large scale would be non subservient and, in regard to their width and depth specifically, the extensions would result in an overly bulky profile to the building which would accordingly jar with its traditional proportions and detailing.
5. A significant amount of glazing would be introduced in a variety of window sizes. Although reflecting the current window arrangement, this level and mix of glazing, as well as the addition of balconies, would change the fundamental design of the dwelling, failing to cohesively integrate with the existing glazing. While other front balconies are present in the street, their specific siting and design in this case would appear out of place. Combined with the overall bulk and other glazing proposed, the proposed development would negatively impact on the traditional features. It is admirable that the design attempts to retain such features, but their prominence and thus contribution to the quality of the street scene would be dramatically diluted against the backdrop of the proposal.
6. The proposed development would therefore have a significant adverse effect on the character and appearance of the host dwelling. As such, it would fail to accord with SPD 4, Policy D3 of the London Plan 2021, Policies 7.4 and 7B of the Ealing Development Management Development Plan Document, December 2013 (the DPD) and the Framework, which together seek to promote good design.

Living Conditions

7. Few windows at No. 12 directly face the site. While there is uncertainty over which windows serve habitable rooms, these all currently have a diminished outlook due to obscured glazing or the proximity of the existing boundary wall and side projection of the appeal property. Similarly, windows at No. 16 facing the site are of obscured glazing or located at a lower level than the boundary wall, limiting their current outlook.
8. Many of the south facing windows of these properties offer an open outlook towards their respective rear gardens. Even with the introduction of the proposal, this principal outlook would remain. In addition, the gardens themselves would remain sufficiently open such that the proposal would not appear unduly overbearing when viewed from these locations.
9. However, the rear first floor balcony, while some distance from the site boundaries, would project beyond the rear building lines of neighbouring properties, therefore having clear views into the gardens of both. Views of No. 16's gardens from the east balconies would be largely screened by intervening built form. However, these balconies would provide clear views into the gardens of No. 12. This would result in the loss of the current privacy levels experienced by the neighbouring occupiers in these locations.

10. I have been provided with an appeal decision¹ and officer report² showing that some overlooking can be common in residential areas, and rear balconies were permitted elsewhere in the street. However, each proposal must be dealt with on its own circumstances. The surrounding context referred to in the appeal decision is not comparable to that of this appeal site. In addition, the location of the balconies at No. 2 Sutherland Road in relation to the site boundaries and neighbouring building lines differs from the appeal proposal.
11. The appellant has suggested this harm could be overcome by side screening at the balconies and has provided information. However, the screening height necessary to avoid overlooking would have amenity impacts on the useability of the balconies. This would particularly be the case for the east balconies where, in addition to screening at one side, there would be a tall expanse of built form on the other. Similarly, while the appellant would accept a condition that the balconies are not used, I feel this would be a difficult matter to enforce.
12. Whilst the proposed development would not adversely affect outlook, it would unfairly impinge on the privacy of neighbouring occupiers, as such it would fail to accord with Policy D6 of the London Plan 2021, Policy 7B of the DPD and the Framework, which together seek to ensure adequate living conditions. The Council has also referred to Policy 7.4 of the DPD and Policies 1.1(g) and (h); 1.2(h) and 4.1(d) of the Ealing Development Strategy 2026 Development Plan Document, April 2012 but these do not appear to be directly related to living conditions for the purposes of this main issue.

Other Matters

13. I have had regard to appeal decisions³ provided to me in regard to balancing the harm against the benefits of a given development. I am also mindful of the comments of Ealing Civic Society who suggest that a precedent has been set for similar extensions. Whilst I shall return to balancing considerations, each development proposal is considered on its own merits.
14. The appellant's frustration with regards to the Council's administration of the case is also acknowledged. However, this does not affect my considerations of the planning merits of this case. It has also been raised that no objections were received by neighbouring occupiers. This does not however absolve me from making a full assessment of the impacts of the proposed development.
15. The appellant states there is no bar to an application for prior approval for the demolition of the appeal property. However, I have no evidence before me of such an application, such that there is no greater than a theoretical possibility of it being made and approved. Limited weight is therefore attached to any fallback position in this regard.

Planning Balance and Conclusion

16. Whilst the proposal would provide new housing on previously developed land, I attach significant weight to the harms I have found in regard to the character and appearance of the area and the living conditions of neighbouring occupiers. Harms that would also result in conflict with the development plan and the Framework.

¹ APP/A5270/W/19/3227828

² Application Ref 181775FUL

³ APP/A5270/W/18/3212646 and APP/A5270/W/19/3220955

There are no relevant material considerations that would indicate a decision otherwise in accordance with the development plan. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR