

Appeal Decision

Site visit made on 10 May 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2022

Appeal Ref: APP/A5270/W/21/3289882

Garages rear of 10-24 Byron Court, Boston Road, London W7 2AY

- 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 Camden Court Management Ltd against the decision of the London Borough of Ealing.
 - The application Ref 212247FUL, dated 1 March 2021, was refused by notice dated 28 June 2021.
 - The development proposed is described as 'Demolition of existing garages and construction of a part one, part two storey block comprising 9 new self-contained apartments (Class C3 Use) with associated parking, landscaping, refuse and recycling and cycle storage provision at the rear of 10-24 Byron Court, Boston Road, Hanwell'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, following discussions between the appellant and nearby residents a revised scheme was submitted. The main changes incorporated in the revised scheme were the reduction of the number of dwellings from 9 to 7, comprising a mix of 2 x 1-bedroom/2 person dwellings and 5 x 1-bedroom/1 person dwellings. This revision involved the removal of the first floor elements of the scheme. Amendments were also made with regards to the provision of landscaping, refuse, recycling and cycle storage.
3. The Council made their decision based on the revised scheme and amended the description of development to read 'Construction of single storey building comprising 7 self-contained apartments (Class C3 Use) with associated parking, landscaping, refuse and recycling and cycle storage provision' on their decision notice. Whilst I have no written confirmation that a change in the description has been agreed between the parties, I note that the appellant, in their statement, refer to the refusal to grant planning permission for demolition of existing garages and construction of 7 no new dwellings at the rear of 10-24 Byron Court, Boston Road, Hanwell. Consequently, I am satisfied that the scheme considered by the Council and the one referred to by the appellant are one and the same. I will therefore proceed on that basis.

Main Issues

4. The main issues are:

- i) the effect of the proposed development on the character and appearance of the surrounding area;
- ii) whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to outlook, internal space and outdoor amenity space; and
- ii) on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and outlook.

Reasons

Character and appearance

- 5. The appeal site comprises a row of lock up garages, and a drying area, located to the rear of 10-24 Byron Court. Byron Court is a long 3 storey high block of flats, running parallel to Boston Road, set a modest distance behind a landscaped area. On the opposite side of Boston Road, the dwellings are predominantly 2 storey semi-detached houses set behind modest sized front gardens, most of which are used for parking purposes. A short distance to the south there is a parade of shops, beyond which is the Boston Manor underground station. Immediately to the north of the appeal site is a public house set within its own grounds, with a clubhouse used for boxing to the east.
- 6. Despite the varied plot and building sizes, and their set back from the road, the presence of mature trees and green spaces help to unify the appearance of the area.
- 7. The proposed development would not be clearly visible from Boston Road but would be visible from the neighbouring properties, particularly Byron Court. I noted on my site visit that the existing lock up garages have fallen into disrepair and do not appear to be in active use. They do not contribute positively to the visual appearance of the area. That said, the scale and mass of the garages, and the activity associated with them, is limited. As a result, the impact they have on their immediate surroundings is restricted.
- 8. The proposed development would increase the area of the appeal site occupied by buildings and would introduce enclosed private gardens, thereby reducing the accessible space around them. This would result in a more cramped appearance to the site, which would be out of character with the more spacious environment that currently exists at the appeal site and within the surrounding area.
- 9. Furthermore, the introduction of single storey dwellings in a backland location, with no recognisable frontage to a public highway, would not be characteristic of other properties in the immediate locality and would fail to reflect the prevailing pattern of development in the area.
- 10. As such, the proposed development would harm the character and appearance of the area contrary to Policy D3 of the London Plan (2021) (LP) policies 7.4 and 7B of the Ealing Development Management Development Plan Document (DPD), and Section 12 of the National Planning Policy Framework (the Framework). These policies, amongst other matters, seek developments that

enhance local context by delivering buildings and spaces that respond to local distinctiveness, whilst also providing active frontages and positive reciprocal relationships.

Living conditions – Future occupiers

11. Policy D3 of the LP seeks developments that deliver appropriate outlook, privacy and amenity. It is amplified by Policy D6 which seeks residential units that provide dual aspect living accommodation that provides better daylight, a choice of views and natural cross ventilation for future occupiers.
12. There is no dispute between the main parties that all of the units are dual aspect. However, the Council are concerned that the elevation facing the existing flats contains obscured glass windows up to 1.8m high and then narrow, clear glass, windows above that. Whilst acknowledging the appellants desire to orientate the windows to face towards the eastern boundary, the outlook towards the west would be very limited due to the high level of the clear glazed windows. Moreover, it would result in a development that turns its back on the existing flats and would limit any visual interaction within the space between the buildings.
13. The Council indicate that the units should comply with DCLG Technical Standards and the London Plan Housing SPG (Annex 4). In this regard I note that these requirements match those contained within table 3.1 as set out in Policy D6 of the LP.
14. The appellant asserts that all of the units within the proposed development comply with the requirements, whereas the Council consider that flats 3 and 4 fall short of requirements. More particularly the Council suggest that as these units 'appear' to have bathrooms (with a bath) they would not comply with the minimum standards. Insofar as this matter is concerned it is not clear from the plans whether it is intended to provide a bath or a shower for these units, and no clarification is provided by either party. If a shower was to be provided the proposed development would meet requirements with regards to internal unit size.
15. The main parties agree that all of the units are provided with sufficient private amenity space to meet the requirements of the LP and DPD. That said, the Council are concerned that in certain instances the gardens would not receive adequate sunlight, particularly where they abut the Hanley Boxing Club premises. However, contrary to what is said within the Council's Officer report, I note that the Daylight, Sunlight and Overshadowing Assessment (DSO) concludes that all of the amenity spaces would receive at least two hours of sunlight on the 21st of March, with varying levels of coverage below the criteria set out by the BRE. Moreover, I note that the DSO was produced in association with the original scheme for 9 units and the revised details provided more generous private amenity areas.
16. Whilst on balance the proposed development would provide acceptable living conditions for future occupiers, with regard to internal space and outdoor amenity space, I find that the outlook towards the existing flats would be limited. This lack of outlook would represent an oppressively confined form of residential development.

17. I therefore find that the proposal would fail to provide acceptable living conditions for future occupiers, with regard to outlook. Therefore, in this respect the proposed development would be contrary to Policies 3.5, 7A, 7B and 7D of the DPD and Policies D3 of the LP. These policies, amongst other matters, supports development that provides appropriate outlook for future occupiers. They are consistent with paragraph 130 of the Framework which, amongst other matters, seeks to create places that provide a high standard of amenity for existing and future users.

Living condition – neighbours

18. The area between Byron Court and the proposed development currently provides pedestrian access to the ground floor properties and, access via 2 stairs and a balcony that runs the length of the building, to the flats on the first and second floor. During my site visit I noted that this area was being used by existing occupiers to socialise and there was evidence that children used the area for play activities. Windows serving habitable rooms front onto this area.
19. The front doors to the proposed development would face towards the existing flats, and consequently there would be an increase in the use of the communal space between the respective buildings resulting from comings and goings. This increased activity would be in close proximity to the windows serving the ground floor flats. In this regard I note that the appellant has proposed new walls projecting from Byron Court aimed at reducing overlooking by pedestrians. However, I find that this would not prevent the loss of privacy for other occupiers that reside on the ground floor.
20. The proposed development would include land currently used as a drying area and would result in a building of greater length than currently exists. As a result, the long narrow communal space between the respective buildings would be extended which would increase the sense of enclosure. I acknowledge that the impact would be tempered to a degree by the introduction of more attractive buildings and a slightly increased distance between the respective buildings. However, these factors would not outweigh the overbearing sense of enclosure that would arise from the proposed development.
21. I also note that environmental improvements, including landscaping works, are indicated on the submitted plans and indicative drawings. However, I have only limited evidence as to what these works might entail. Therefore, I am unable to conclude, with any certainty, if they would help mitigate any of the impacts that I have identified above.
22. In light of the above, the proposed development would not provide acceptable living conditions for existing occupiers, with regard to privacy and outlook. Therefore, in this respect the proposed development would be contrary to Policies 7.4 and 7B of the DPD and Policies D6 of the LP which, amongst other matters, supports developments that provide a good level of privacy, outlook and amenity. These policies are consistent with paragraph 130 of the Framework which, amongst other matters, seeks to create places that provide a high standard of amenity for existing and future users.

Other Matters

23. I acknowledge that the appellant has tried to work with existing residents, and the Council in an attempt to overcome any issues that have been raised. That

said, for the reasons set out above, I find that the proposed development before me would cause harm to the character of the area and would not provide reasonable living conditions for existing and future occupiers.

24. I also note reference to the boxing club that operates from premises to the east of the appeal site, and concern for the welfare of children that attend the facility. In the event that I was to allow the appeal this matter could be addressed by the introduction of appropriate boundary treatment which could be secured by a planning condition.
25. I agree that the proposed development would provide opportunities for downsizers, and those seeking to move out of shared accommodation or into their first home, as emphasised in the LP. However, I have not been advised that the Council is in a housing undersupply in this regard, and in any event the proposed development would give rise to planning harm and would conflict with the development plan. Matters to which I attach substantial weight.

Conclusion

26. There are no material considerations of sufficient weight to indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude the appeal should be dismissed

John Gunn

INSPECTOR