



Appeal Decision

Site visit made on 14 February 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2023

Appeal Ref: APP/A5270/D/22/3309163

5 Heathcroft, Ealing W5 3BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Ahmed Hussain against the decision of the Council of the London Borough of Ealing.
 - The application Ref 221098HH, dated 13 March 2022, was refused by notice dated 22 September 2022.
 - The development proposed is retrospective application for the existing patio/terrace and brick boundary wall 2m high and new small outbuildings to contain boiler room and external W.C.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, work was taking place at the property. I noted that the works carried out appear not to accord with the submitted plans for the proposed development. I need to consider the appeal based on the development applied for and the plans submitted with it.
3. In determining this appeal involving development within a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - Whether the development would preserve or enhance the character or appearance of the Hanger Hill (Haymill) Estate Conservation Area; and,
 - The effect of the development on the living conditions of the adjacent occupiers of no. 3 and 7 Heathcroft, with regards to outlook.

Reasons

Heritage Asset

5. The Hanger Hill (Haymill) Estate Conservation Area (CA) is predominately a residential area. The CA has a hilly aspect, and the trees and green hedges contribute to the leafy, suburban character of the estate. Boundary treatments within the area comprise primarily of a mix of low brick walls, hedges and timber fences. There are a number of styles of house design within the CA and properties are mainly detached or semi-detached, sited in narrow, large plots.

The conservation area's significance, insofar as relevant to this case, is derived from the topography of the area, landscaping and boundary treatments and the variety of house designs.

6. 5 Heathcroft is a two storey detached property, located within the CA. It sits within a relatively large, narrow plot, and comprises one of the varied house styles found within the CA. Its rear garden slopes down, away from the property, as a result of the hilly topography of the area. The property, through its design, layout and site topography, contributes towards the character of the conservation area.
7. There are very limited public views of the rear garden serving no. 5, as it is surrounded by the rear gardens of neighbouring properties. Therefore, most of the views of this area are primarily private views from neighbouring properties.
8. The brick wall is to be sited along the side and rear boundaries of no. 5, enclosing its rear garden. Due to the topography of the rear garden, land levels are to be raised to provide a level patio area from the rear of no. 5. The terrace to the front of the patio area is to be faced in brick. Two brick outbuildings would each form part of the respective side boundaries and would be higher than the wall they are to adjoin.
9. Due to the height, length and proposed materials, the patio and terrace, wall and outbuildings would result in a hard, dominant and visually intrusive form of development. This would be at odds with the character and appearance of the CA and with the guidance contained within the Hanger Hill (Haymill) Estate Conservation Area Management Plan 2008 (MP). The impact would be further exacerbated by the topography of the area.
10. It has been brought to my attention that there are other boundary walls within the area, and I observed a number during my site visit. I have limited information before me relating to the history of these other walls. Also, the walls I observed were generally lower than the proposed development. I have dealt with the proposal on its own merits and in the context of its surroundings.
11. For the reasons above, I conclude that the patio and terrace, wall and two outbuildings would fail to preserve or enhance the character or appearance of the Hanger Hill (Haymill) Estate Conservation Area. As a result, the development would result in harm to the significance of the designated heritage asset.
12. As required by paragraph 199 of the National Planning Policy Framework (the Framework), great weight should be given to the conservation of designated heritage asset, irrespective of the amount of harm identified.
13. Nevertheless, the harm to the character and appearance of the conservation area in this instance would be less than substantial.
14. Paragraph 202 of the Framework states that if a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal.
15. The appellant states that the previously existing fence did not offer any sense of protection, security or privacy from occupiers of neighbouring development. The appellant also states that the proposed brick wall offers the family security and protection from fear of crime and intrusion. There is limited evidence

before me to demonstrate the specific privacy, protection and security issues faced by the appellant and how the proposed brick wall would overcome them. Similarly, there is limited evidence to demonstrate that these issues could not be met through an alternative appropriately designed boundary treatment.

16. The benefits before me are primarily private rather than public. As a result, they would be insufficient to outweigh the great weight I must attach to the harm I have identified to the significance of the designated heritage asset.
17. For these reasons, the patio and terrace, wall and two outbuildings would conflict with Policies 1.1 and 1.2 of the Ealing Development Strategy 2026 Development Plan Document 2012 (DS), Policies 7.4, 7B and 7C of the Ealing Development Management Development Plan Document 2013 (DM), Policies D4 and HC1 of the London Plan 2021 (LP), the MP and National Planning Policy Framework (the Framework). Collectively, these policies seek, amongst other things, to support the proactive conservation of heritage assets, avoid development that undermines the significance of the conservation area, complement local character, deliver good design and ensure a positive visual impact. The Framework seeks to protect and enhance the historic environment.

Living conditions

18. Both 3 and 7 Heathcroft are two storey detached properties, which sit within narrow plots. They are therefore sited within close proximity to their respective boundaries with no. 5. Due to the topography of the area, the rear gardens serving nos. 3, 5 and 7 slope down, away from the properties they serve.
19. The proposed patio and terrace are proposed to extend the full width of the site, to adjoin the side boundaries with nos. 3 and 7. Due to the topography of the site, the land levels will need to be raised in order to provide a level area from the rear of no. 5.
20. The wall is required, in part, to provide privacy screening to the patio and rear garden of no. 5. The wall is shown on the submitted plans at a height of 2m along both side boundaries with nos. 3 and 7, stepped down in height from the rear edge of the patio to account for the site topography. The submitted plans show the wall height relative to the raised patio level. The two outbuildings, accessible from the patio, would be a greater height than the wall.
21. Having regards to the topography of the area and increase in land levels to provide the patio, the wall and outbuildings will be significantly greater in height when viewed from the neighbouring properties, nos. 3 and 7. This would result in a dominant and overbearing form of development, creating a greater sense of enclosure, for the occupiers of nos. 3 and 7.
22. The appellant has stated that the previous fence was no higher than the wall proposed. I observed during my site visit that the fence has largely been removed. However, the submitted plans indicate that part of the wall, primarily adjacent to the patio, would be higher than the fence. Due to its height and substantial construction, the wall would have a greater impact upon the living conditions of the occupiers of nos. 3 and 7 than the previous fence.
23. For the above reasons, the proposed patio and terrace, wall and two outbuildings would have a harmful effect on the living conditions of the occupiers of nos. 3 and 7 Heathcroft, through poor outlook. Accordingly, the development would conflict with Policy 1.1 of the DS, Policy 7B of the DM,

Policies D3 and D6 of the LP and the Framework. These policies collectively seek, amongst other things, to deliver appropriate outlook, and provide a high standard of living conditions for existing and future users.

24. I note that the Council referred to Policy 7.4 of the DM in their reason for refusal. This policy seeks to ensure developments complement the local character of the area. As this policy does not refer to living conditions, it is not relevant to this matter.

Other Matters

25. The appellant has highlighted the importance of taking into consideration the principle of the development. I note that the Council have not raised any concerns regarding this point, and I see no reason to disagree.

Conclusion

26. For the above reasons, having considered all the policies drawn to my attention, the conflict with Policies 1.1 and 1.2 of the DS, Policies 7.4, 7B and 7C of the DM and Policies D3, D4, D6 and HC1 of the LP lead me to conclude that there is conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR