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## Appeal Decision

Site visit made on 1 August 2023

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 August 2023**

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**Appeal Ref: APP/A5270/W/22/3312622**

**Land to the rear of No. 8-12 South Road, Southall, Ealing, London UB1 1RT**

- 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 Pal Singh (Blackstone City Ltd) against the decision of the Council of the London Borough of Ealing.
  - The application Ref 210197FUL, dated 15 January 2021, was refused by notice dated 15 July 2022.
  - The development proposed is described as "erection of a two-storey building to provide hostel accommodation for use by extended family members or associates of the local community on a short-term basis (Sui Generis)".
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Pal Singh (Blackstone City Ltd) against the Council of the London Borough of Ealing. This application is the subject of a separate Decision.

### Procedural Matter

3. The appeal documents include revised Site, Ground Floor, First Floor and Elevation B-B drawings from those originally submitted with the planning application. The changes to the scheme mainly relate to a reduction in the building footprint as a result of the removal of two ground floor bedrooms. The appellant has confirmed that these plans were submitted to the Council, following discussions with the Planning Officer, prior to the refusal of the planning application.
4. The amended plans are not listed on the decision notice, and details within the Officer Report indicate that the Council considered the originally submitted drawings. The planning appeals procedural guidance<sup>1</sup> (Section 16), confirms that, if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. Accordingly, and having regard to the Wheatcroft Principles<sup>2</sup>, I have determined the appeal on the basis of the

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<sup>1</sup> Procedural Guide. Planning Appeals – England. The Planning Inspectorate 13 June 2023

<sup>2</sup> Wheatcroft (Bernard) Ltd v Secretary of State for the Environment (1982) JLP 37

scheme that was refused by the council. I have not considered the merits or otherwise of the amended proposal submitted with the appeal.

## **Main Issues**

5. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of the occupiers of Nos. 1 and 3 Herbert Road, having particular regard to outlook and light impacts;
- Whether the proposal would provide appropriate living conditions for future occupiers, having regard to communal living space provision, ventilation and bin storage provision; and
- Whether the proposal would provide appropriate facilities for cycle parking.

## **Reasons**

### *Character and appearance*

6. The appeal site comprises a hard-surfaced area of land behind Nos. 8-12 South Road, which is currently used as a private car park in association with the adjacent Himalaya Palace Shopping Centre (the HPSC) to the south of the site. Vehicular access is from South Road, via a narrow private access drive running adjacent to nos. 6 and 8. There is also a direct pedestrian access from the appeal site to the HPSC, which is also within the appellant's ownership.
7. Aside from a small electricity sub-station, the site is free of buildings, and is enclosed by metal palisade fencing/gates and the rear boundary walls of neighbouring properties.
8. The proposal would provide a 20-bed managed hostel, which is intended to provide short-stay, low-cost, self-catered accommodation for visitors who are primarily associated with, although not limited to, the Southall Sikh community. These would include family and friends attending religious functions and cultural gatherings, such as those associated with the local Temple. The appellant contends that the proposal would cater for a demand for such accommodation.
9. The site lies within Southall Town Centre and is surrounded by predominantly two/three-storey properties to the north and east, which front onto the busy main thoroughfares and retail frontages of Uxbridge Road and South Road. These comprise a mix of commercial and residential uses, with residential on the upper floors. To the west are two-storey terraced residential properties which front onto Herbert Road.
10. Terraced, period properties are characteristic of the locality, with brick walls under tiled pitched/hipped roofs, and single and two-storey rear projections with a mix of flat and pitched/hipped roofs. The buildings often cover a substantial plot depth and/or extend across the full width of their plots. The result is a relatively dense urban grain.
11. To the west of the site, built development is less intensive, with longer, and more open rear garden spaces associated with lower height residential development.

12. Built development surrounding the appeal site comprises a linear arrangement of perimeter, road-facing properties, having a regular pattern of street-facing development with subsidiary rear projections, so that the intensity of built development is less towards the rear. The exception to this arrangement is to the south of the appeal site, where the high flank brick wall of the HPSC building extends within close proximity of the site boundary.
13. Having regard to its position to the rear of commercial frontages and its use as an informal car park associated with the adjacent shopping centre, the appeal site is similar in character to rear service yards that are typical within town centres. As such, it does not have an unduly harmful existing character, having regard to its location.
14. The introduction of a hostel use providing residential accommodation would be acceptable, in principle, within this mixed commercial and residential location. The proposed contemporary palette of materials, whilst differing from those surrounding the site, would not be materially harmful to the townscape, and the mix of roof heights and forms within the new building would not be incongruous within the context of neighbouring built development.
15. However, the appeal scheme would position the new building immediately adjacent to all four boundaries of the existing parking area, running alongside the whole of the western and southern car park perimeter, and adjacent to almost the length of the other two boundaries. This would result in an unduly tight arrangement of built development in relation to the site boundaries, and within the appeal site itself, having regard to the existing narrow passageway access and tight proposed pedestrian entrance area to the building.
16. Moreover, excluding a proposed central grassed area, new built development, including buildings and hard-surfaced pedestrian access, would take up virtually the whole of the appeal site. This would comprise a disproportionately high amount of site coverage, even taking account of the prevailing density of built development, since surrounding sites generally include elements of space between the rear-most part of the buildings and their site boundaries.
17. The resulting dominance of built development would not be sufficiently offset, or justified, by proposed improvements to the hard surfacing treatment of the access lane and a comparatively small amount of proposed green space within the communal courtyard and on the green roofs.
18. Whilst two-storey development, per se, forms part of the prevailing townscape, within the context of the proposed development of the appeal site, the two-storey element of the new building would serve to compound the unduly cramped and intensely developed nature of the proposal. This is due to a combination of the length, height and width of this element of the scheme, together with its position tight against much of the southern and eastern site boundaries.
19. In addition, the proposed vertical cladding and high eaves would draw attention to the height of this part of the building, particularly when viewed on the approach to the development, where the apparent mass of building would also be compounded by an unrelieved external appearance resulting from the use of the same material for the upper walls and roof and a paucity of upper-level fenestration.

20. The result would be a cramped and congested form of development which, despite the existence of some relatively high density of development within the site vicinity, would overly intensify the quantity of built form on the site. The new building and the neighbouring properties would not be provided with sufficient spaciousness of setting.
21. Whilst the development would not be widely perceived from the public realm of the street, it would be visible in views from the rears of the many surrounding properties, and would be viewed as an overly intensive form of development which would exceed the capabilities of the existing site to accommodate a building of this size.
22. For the above reasons, I therefore conclude that the proposal would have a materially harmful effect on the character and appearance of the area. As such, the appeal scheme would be contrary to Policies 7.4 and 7B of the *Ealing Development Management Development Plan Document* (2013) (the DMDPD) and Policy D4 of *The London Plan* (2021) (the LP), in so much as these policies seek high quality design, including appropriate levels of development on site and a positive visual impact, and developments within the existing built areas which complement, inter alia, their building pattern and scale.
23. For similar reasons, the proposal would also be contrary to Chapter 12 of the *National Planning Policy Framework 2021* (the Framework) which seeks to ensure well-designed places.

#### *Living conditions – neighbours*

24. The Council's concerns with regard to neighbouring living conditions specifically relate to the impact of the scheme on the occupiers of Nos. 1 and 3 Herbert Road, residential properties whose rear gardens back onto the appeal site. The single storey element of the proposed building would abut the rear boundaries of these properties.
25. I saw during my site visit, that there is a two-storey storage structure/extension situated to the rear of No.1. This is sited next to the rear boundary of that property and extends across the whole width of the site, with high level rear elevation windows facing the appeal site. As such, the proposed positioning of the single storey element of the appeal scheme immediately adjacent to No.1 would not materially impact upon the outlook and light enjoyed by the occupiers of that property, given the lower height of the appeal building than the neighbouring structure at that point.
26. The impact of the proposal upon the living conditions of the occupiers of No.3 is potentially greater, as that property does not have any buildings at the rear of its back garden, and it is sited closer to the proposed two-storey element of the appeal scheme. However, the higher element of the proposal would be set off that boundary so that No.3 would be abutted by a flat-roofed single storey structure, which would not be significantly higher than the existing solid brick wall which exists along its rear boundary.
27. With this in mind, and noting its reasonable back garden depth, the position of the house at No.3 well back from the appeal site, and the proposed juxtaposition of the appeal scheme to the east of No.3, I find that, although there would be marginal impacts on the outlook and light experienced by the

occupants of No.3, these impacts would not be so materially harmful as to warrant refusal of the appeal scheme.

28. For the above reasons, I therefore conclude that the proposal would not materially harm the living conditions of the occupiers of Nos 1 and 3 Herbert Road, having particular regard to outlook and light impacts. The appeal scheme would therefore accord with LP Policy D4 and Policy 7B of the DMDPD, in so much as these policies seek to ensure high quality design, including ensuring that new development achieves a high standard of amenity for adjacent uses.
29. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.
30. The Council's second reason for refusal also refers to DMDPD policies 7.4 and 7D. These policies are not referred to in the section of the Officer Report in respect of this matter, and relate to local character and open space respectively. As such, I do not find them to be directly relevant to the consideration of this main issue.

*Living conditions – future occupiers*

31. The Council's concerns in regard to this matter relate to the size of the proposed internal communal kitchen space and whether the bedrooms would be sufficiently ventilated. Having regard to the former, the Council has confirmed that the proposal would meet the relevant standards contained within the Council's *SPG16 Hostels* document (2004), which sets out minimum required space standards for hostels.
32. Albeit that the weight I attach to the above document is diminished by its status as Interim Guidance, pending the publication of a replacement SPD, I note that a communal kitchen would be provided on each floor, with space for facilities to cook and eat, including a full set of kitchen facilities for every 5 people, as required by the above guidance.
33. There would not be dining seating for all 20 residents, and space would not be sufficient to comfortably accommodate all residents within the kitchens at any one time. However, the Council has not referred to any adopted space standards against which the proposal would fail in terms of kitchen provision.
34. Moreover, I consider it unlikely that all residents would wish to use the kitchens simultaneously. Also, the specific nature of the proposal, where future residents are likely to be family or friends of existing local residents, would reasonably increase the likelihood of them dining away from the hostel with other family members or friends. As such, I find the proposed kitchen provision to be sufficient to serve the needs of future occupiers of the hostel.
35. I acknowledge the Council's concerns regarding ventilation of some of the new rooms, having regard to the details included within the planning application drawings. However, I am satisfied, on the basis of the appellant's response to this matter referred to in Paragraph 6.20 of its appeal statement, that this matter can be satisfactorily addressed through the provision of appropriately designed clerestory windows and roof lights, together with the proposed installation of a Mechanical Ventilation with Heat Recovery Ventilation Recovery (MVHR) ventilation system, and that this matter could be satisfactorily dealt

with by means of a condition to ensure the installation and retention of these features.

36. For the above reasons, I therefore conclude that the proposal would provide adequate living conditions for future occupiers of the development, having particular regard to communal living space provision and ventilation. As such, the appeal scheme would accord with DMDPD Policy 7B and LP Policy D6, in so much as these policies seek to ensure that new development achieves a high standard of amenity for users and that housing developments provide comfortable and functional layouts which are fit for purpose.
37. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).
38. The Council's third reason for refusal refers to DMDPD Policy 7.4 and LP Policy D4, which relate to complementing the character of the area and delivering good design, and DMDPD Policy 7D which relates to the provision of open space. These matters are not pertinent to the Council's cited concerns in respect of the living conditions of future occupants of the appeal scheme. As such, I do not find these policies to be directly relevant to the consideration of this main issue.
39. The Council's third reason for refusal also refers to inadequate refuse storage provision. Whilst the appellant has set aside a specific area within the new building for bin storage, the Council is concerned that the appellant's failure to provide detailed calculations with the planning application to demonstrate that the area proposed would be sufficient for the 20 residents, would not accord with the strategic waste capacity and net waste self-sufficiency objectives of LP Policy SI 8.
40. The appellant's appeal submission addresses the matter in more detail. Having regard to the Council's published guidance<sup>3</sup> standard for a 1 Star Hotel, the appellant proposes the use of a 1100L Eurobin, to be sited within the indicated bin store and emptied thrice weekly under contract.
41. The Council has not specified its precise bin requirements in respect of the development, and has not commented upon the appellant's detailed proposal. However, given that the proposed bin store is capable of accommodating a bin of the size proposed, and there being a realistic prospect in principle of the appellant entering into a waste collection contract with a private collector, I consider that this matter is capable of being dealt with by means of a condition.
42. Were I minded to allow the appeal, I would have sought to explore this matter further with the main parties. However, since this issue, is not determinative to the outcome of this appeal, having regard to my conclusion in respect of the first main issue, I do not intend to pursue it further as part of this appeal decision.

#### *Cycle parking*

43. LP Policy T5 seeks to ensure that development proposals support the removal of barriers to cycling and the creation of a healthy environment in which people choose to cycle. This includes through the provision of cycle parking in

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<sup>3</sup> *Waste Management Guidelines for Architects and Developers*



accordance with the minimum standards set out in Table 10.2 and Figure 10.2 of Policy T5. In the case of Sui Generis proposals, parking is required to be provided in accordance with the '*most relevant other standard*'.

44. The Council considers the proposal to comprise '*large-scale purpose-built shared living*', for the purpose of this policy, so that the cycle parking for each room would equate with that applicable to studio C3 use, equating to 20 cycle parking spaces. The appellant's view is that the proposal is more akin to a hotel use, which would require 2 cycle parking spaces (one each for residents and visitors).
45. There is no definition of what constitutes '*large-scale*', for the purposes of Policy T5. However, given the proposed occupation of the building as short-term hostel accommodation for relatives of members of the existing Southall community, I find that it would be reasonable to expect that the occupants of the scheme would have a greater level of social interaction with existing urban residents than occupiers of a hotel, thereby generating a greater need for resident and visitor cycle parking than that typically associated with a hotel use.
46. No cycle parking provision is shown. Given my site coverage concerns in respect of the first main issue, and taking account of the need to provide adequate bin storage provision, in addition to the proposed hostel building and transformer site, I am not persuaded, on the basis of the information before me, that this matter is capable of being satisfactorily dealt with by means of a condition due to the potential amount of space that could be taken up with cycle storage.
47. For the above reasons, I therefore conclude that appropriate facilities for cycle parking would not be provided. As such, the proposal would not conflict with the healthy environment objectives of LP Policy T5.

### **Other Matters**

48. The Council has raised no objection in respect of the impact of the proposal on the heritage asset of the adjacent Grade II\* Listed Southall Liberty Cinema (now the HPSC). Notwithstanding this, I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal upon this designated heritage asset.
49. The Council has not found any harm to the setting and any features of special architectural or historic interest of the listed building as a result of the proposal. Neither do I, on the basis of the scheme details and my site visit.
50. The Listed building lies within a constrained urban setting, where it is already surrounded by a mix of commercial and residential built development. The key features of its listing description relate to its front elevation and interior, neither of which would be affected by the proposal, and the appeal scheme would not be visible in townscape views towards its significant front façade.
51. Moreover, as an urban parking area, the appeal site makes a limited contribution to the setting of the heritage asset. The proposal would be subservient in scale and massing to the listed building and would be sited adjacent to its plain brick-walled northern elevation, which is not of key significance to the building's listing as a heritage asset. As such, I find that the significance of the listed building would not be harmed.

52. The appellant has referred me to the time taken to determine the planning application and the Council's procedures during the application process. These matters are not for consideration as part of this appeal, which I have determined based upon the merits of the appeal scheme before me.
53. I acknowledge that the site is in an accessible location with respect to public transport and community facilities and services. Also, there would be a small economic benefit as a result of the construction of the appeal scheme and a small, sustained benefit to the local economy following the subsequent occupation of the development. There would also be a social benefit to Southall's South Asian community.
54. The above benefits attract limited weight in support of the proposal, but do not outweigh the significant harm that I have identified in respect of the impact on the character and appearance of the area and lack of adequate cycle parking provision. These are matters that cumulatively attract significant weight against the scheme.
55. The Council has raised no objection to the appeal scheme in respect of matters including the principle of the proposed use, the architectural detailing and materials of the building, the sustainability of the design, the impact on the setting of the Listed building and highway safety. However, these are requirements of the development plan in any case, and do not outweigh my conclusion on the first and fourth main issues.
56. Notwithstanding that the Framework encourages Local Planning Authorities to approach decisions in a positive and creative way, and also gives substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, these matters are not unqualified, and would not address or outweigh the aforementioned harm that I have identified in respect of the first and fourth main issues.

### **Conclusion**

57. The proposal conflicts with the development plan taken as a whole, and there are no material considerations worthy of sufficient weight which indicate that the proposal should be determined other than in accordance therewith.
58. For the reasons given above, I conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR