



Appeal Decision

Site visit made on 28 September 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2023

Appeal Ref: APP/A5270/W/23/3317439

Rear of 92, 94 And 112, Ferrymead Avenue, Greenford, Ealing UB6 9TN

- 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 Roland Ghapantsyan against the decision of the London Borough of Ealing.
 - The application Ref 224259FUL, dated 9 October 2022, was refused by notice dated 9 December 2022.
 - The development proposed is described as 'Provision of 4no. single family dwellings with private garden amenity spaces, parking spaces and communal refuse & cycle storage area in the rear gardens of nos.92, 94 & 112 Ferrymead Avenue'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of 94 and 92 Ferrymead Avenue (No 94 and No 92) with specific regard to noise and disturbance, and the occupiers of 114 Ferrymead Avenue (No 114) with regards to loss of light and overshadowing of the rear garden;
 - highway safety and the living conditions of the occupiers of Nos 94 and 92, having regard to the location of waste facilities; and
 - the existing trees in the rear garden of 90 Ferrymead Avenue (No 90).

Reasons

Character and appearance

3. The appeal site is located to the rear of Nos 92, 94 and 112 Ferrymead Avenue and comprises land which formed the rear gardens to the properties. The ground levels fall away slightly from Ferrymead Avenue into the site.
4. The site lies in a residential area where the existing properties vary in size and design, including bungalows, detached and semi-detached 2 storey properties and a larger scale newly constructed flatted development at No 94. Nevertheless, there is a degree of consistency in the layout of the residential development in the immediate area on this side of the road. The properties are arranged in a linear form located to the front of their plots, with long gardens behind which back on to an area of woodland at Marnham Fields. They are set

a similar distance from the road with parking and gardens to the front, which creates a strong pattern of development. Even with the presence of ancillary outbuildings within rear gardens, this arrangement contributes positively to a pleasant sense of openness to the rear of the buildings.

5. The appeal proposal includes 4 dwellings, with vehicle and pedestrian access to serve the development from Ferrymead Avenue, between Nos 94 and 92. It would introduce residential development within the backland area between the properties fronting the highway and the recreational land to the rear.
6. The dwellings would sit on plots smaller in size and of a different shape to those in the vicinity of the site on this side of the road. In that regard they would be at odds with the established layout and prevailing character of the area. Moreover, notwithstanding the design of the dwellings, due to the number of units and the height and footprint of the buildings the proposed development would introduce a built form of considerable scale and bulk in an otherwise open area. Consequently, the development would be a dominant and anomalous feature that would diminish the open character of the spacious rear gardens.
7. My attention is drawn to a number of developments nearby for which planning permission has been granted by the Council which it is suggested are similar to the appeal proposal. The development at 86 Ferrymead Avenue¹, was for the replacement of the existing bungalow to the front of the site. Similarly, the development at 72 Ferrymead Avenue², sought the replacement of an existing dwelling on the site with a new building containing 5 self-contained flats. As such, they both have a different effect on the character and appearance of the area to that proposed and do not justify the harm I have identified.
8. Reference has also been made to permissions that were granted for new dwellings at 181 Ferrymead Avenue³ and 248 Ferrymead Avenue⁴. However, both cases relate to the construction of a new dwelling on land to the side of an existing dwelling within an established street frontage between residential properties. These developments are not therefore directly comparable to the appeal scheme. The appellant has also drawn my attention to planning permission at garages to the rear of Ferrymead Avenue⁵. However, I am unable to identify the site from the details submitted so I cannot be sure of the circumstances of the case, in any event each case must be considered on its own merits.
9. In light of the above considerations, I therefore conclude that the proposal would harm the character and appearance of the area. In that regard it would fail to comply with Policy D3 of the London Plan 2021 (LP) in so far as it requires development to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance, and shape, and the combined aims of Policies 7.4 and 7B of the Ealing Development Management Development Plan Document adopted 2013 (DPD) which require new developments to complement, among other things, their street sequence, building pattern and scale and achieve a high standard of amenity by ensuring coherent

¹ Planning permission Ref: 201026FUL

² Planning permission Ref. 183502FUL

³ Planning Permission Ref. 172872FUL

⁴ Planning Permission Ref. 164555FUL

⁵ Planning Permission Ref, PP/2015/0534

development of the site, appropriate levels of development on site and positive visual impact.

10. It would also fail to reflect the aims of the Mayor of London's Housing Supplementary Planning Guidance (November 2016) in so far as it seeks to ensure that new residential development respects local character and the aims and objectives of the National Planning Policy Framework with regards to achieving well designed places.
11. The Council's refusal reasons in relation to the first main issue refer to Policies 7A and 7C of the DPD, however the submissions do not indicate any alleged harm with regards to emissions or that there would be any effect on heritage assets. In addition, I do not find conflict with Policy D4 of the London Plan 2021 which focuses principally upon processes which assist in ensuring the delivery of design quality. The content of this policy is largely irrelevant to the specific harm I have identified. The Council also refers to Policies D6 and G7, which refer to housing quality and standards and trees and woodland, neither of which are relevant to the first main issue.

Living conditions

12. There are a number of windows in the flank elevation of the ground and first floor flats at No 94, as well as windows in the side elevation of the bungalow at No 92 which directly face the proposed access driveway. In addition to serving the proposed development the access drive would also provide vehicular access to a detached garage to the rear of No 92.
13. The proposal would result in some additional noise and activity through the use of the access drive. However, given the scale of the development, including the modest number of parking spaces, this would not be so great that it would cause undue harm to the living conditions of neighbouring residential occupiers. Moreover, the existing boundary treatment at No 94 and that under construction to the side boundary of No 92 would also further mitigate any effects of passing vehicles and pedestrians in terms of noise and disturbance.
14. The rear garden of No 114 is rectangular in shape and generous in length, with an existing brick outbuilding located close to the rear boundary. The proposed dwelling on plot H_01 would be sited close to the side boundary of the rear garden at No 114, adjacent to the part of the garden furthest from the dwelling, which is in part occupied by the ancillary outbuilding.
15. While there would be likely to be some additional loss of light and overshadowing of the rear part of the garden due to the scale and siting of the proposed dwelling, this would only occur during the morning. Moreover, the greater part of the garden, including that closest to the rear elevation of No 114 would be unaffected and would continue to receive the same levels of sunlight as at present. I am therefore satisfied that there would be no harmful loss of light or overshadowing to the garden and that the proposal would not have a significant unacceptable impact on its use and enjoyment.
16. For the foregoing reasons I conclude that the proposal would not harm the living conditions of the occupiers of Nos 94 and 92 through noise and disturbance, or the occupiers of No 114 with regards to loss of light and overshadowing of the rear garden. Accordingly, it would comply with Policy D6 of the LP, in so far as it seeks to ensure that the design of development should

provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, and Policy 7B of the DPD which sets out that new development must achieve a high standard of amenity for users and for adjacent uses by ensuring, among other things good levels of daylight and sunlight.

17. The Council's refusal reasons refer to Policy D4 of the LP, Policies 1.1 and 3.8 of the CS Strategy (2012) and Policies 5.10 of the DPD and 7C of the DPD which do not appear to be directly relevant to the second main issue. Furthermore,

Location of waste facilities

18. The Council's Supplementary Planning Guidance 4 – Storing waste for recycling and disposal Refuse and Recycling (SPG) sets out that storage facilities for waste recycling and disposal should be located conveniently, and not more than 25m from the nearest access point for the collection vehicle.
19. A communal bin store for the dwellings would be provided within the site at the end of the shared access drive adjacent to the rear boundary of No 94. The appeal submissions indicate that the facility would be 38m from Ferrymead Avenue, where the wheelie bins would be placed for collection by refuse vehicles, then returned to the store. This distance would exceed that set out in the SPG. Nonetheless, while it may be inconvenient, it has not been demonstrated how this would be harmful to the living conditions of future occupiers. Moreover, permission was not refused by the Council on that basis but rather that the arrangements proposed would harm highway safety and living conditions of the occupiers of neighbouring properties.
20. On bin collection day the wheelie bins would be positioned on Ferrymead Avenue, in an environment where other bins are also located temporarily. I note concerns that the bins may obstruct vehicular access to the neighbouring properties, however, there is no substantive evidence before me to demonstrate that harm to highway safety would occur. Moreover, when collecting the bins, the refuse vehicles would not be stationary in the road for significantly longer than the current situation and as such would not have a material effect on any temporary congestion which may occur on collection days.
21. The Council has not substantiated as to how harm would arise to the living conditions of Nos 94 and 92 because of the location of the waste facilities within the site. Interested parties have however expressed concern regarding the proximity of the bin storage compound to the neighbouring residential properties and the effect of this on living conditions, having regard to odour and pests. Nevertheless, given the scale and nature of the waste facilities, which would be used by a small number of residential properties, it is unlikely that the bin storage would be the cause of unusual or offensive odours so as to cause detriment to the neighbours living conditions.
22. I therefore conclude that the proposed development would not have an adverse effect on highway safety or the living conditions of the occupiers of Nos 94 and 92, having regard to the location of waste facilities. Consequently, it would accord with Policy SI7 of the LP which, among other things requires developments to be designed with adequate, flexible, and easily accessible storage space and collection systems. Due to the distance between the storage

facility and the public highway, the proposal would fail to accord with advice in the SPG. Nonetheless, for the foregoing reasons, I have found that the proposal would not give rise to any tangible harm to highway safety.

23. The refusal reason also refers to Policy SI8 of the LP, however this relates to strategic waste management and is therefore not relevant to the appeal proposal.

Effect on trees

24. The proposal does not include the removal of any trees, however there are several mature trees within the adjoining rear garden at No 90, some of which are close to and overhang the site boundary. Whilst I note the Council's concerns regarding the siting and height of the proposed dwelling on land to the rear of No 92 on the existing trees, it is unclear from the Council's submissions as to how such harm would arise.
25. The application is supported by a range of detailed information pertaining to the trees, including an Arboricultural Method Statement by Arbtech dated 2 October 2022. This concludes that there would be no adverse effect on the quality and longevity of the amenity value of the trees overall, subject to appropriate planning conditions to secure the recommendations set out therein, which include piled foundations and a 'no-dig' hard surfacing to the proposed dwelling to the rear of No 92.
26. In the absence of any substantive evidence to demonstrate otherwise, I am therefore satisfied that the proposal would not have an adverse effect on the trees within the neighbouring rear garden of No 90. In that regard the proposal would accord with Policy G7 of the LP which, among other things requires development proposals to ensure that, wherever possible, existing trees of value are retained, Policy 7B of the DPD which requires new development to achieve a high standard of amenity and Policy 1.1 of the CS, in so far as it relates to the provision of green infrastructure.
27. The refusal reason refers to Policies D4 and D6 of the LP, and Policies 5.10 and 7C of the DPD, which relate to replacement tree planting and heritage assets, none of which are relevant to this main issue. Nor does Policy 3.8 of the CS, which requires the protection of the character of certain residential neighbourhoods, appear to be directly relevant.

Other Matters

28. The proposal would make use of land in an existing built-up area and in a location with accessibility to services and public transport links, as well as providing additional family dwellings which would contribute to the Council's housing supply targets, which the Framework indicates should be given substantial weight. It would also result in some social, economic and environmental benefits associated with construction work. However, given the modest scale of the proposal, these benefits would be limited.
29. Whilst the proposal would not harm the living conditions of the occupiers of the neighbouring residential properties, highway safety or trees, these are ordinary requirements for new development, and they do not represent a positive benefit that weighs in favour of the development.

30. I understand that the appeal proposal is a resubmission, taking into account issues previously raised by the Council. However, I can only assess the current proposal based on the information before me.
31. I have had regard to other matters raised by interested parties, including loss of privacy and sunlight, security, pollution, effect on biodiversity, lack of infrastructure, parking provision and the effect of the development on the wellbeing of the occupiers of neighbouring properties. However, as I am dismissing the appeal on the first main issue for the reasons given above, I have not pursued these matters further. In addition, it is asserted that the development would result in the loss of views from the neighbouring properties towards the country park. However, a change of view from a private window is not in itself regarded as a planning consideration.

Conclusion

32. There would be no harm to living conditions of the neighbouring properties in terms of noise and disturbance or overshadowing, highway safety or trees. These are neutral matters in the planning balance. Set against this I have found that there would be harm to the character and appearance of the area and, therefore, the proposal would conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it.
33. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

E Worley

INSPECTOR