



Appeal Decision

Site visit made on 19 September 2023

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/A5270/W/23/3319023

Site between 47 & 65 Rosebank Road, Hanwell, London W7 2EW

- 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 T Coates and Mr MM Khan (Diffusion Systems Ltd) against the decision of the Council of the London Borough of Ealing.
 - The application Ref 223153FUL, dated 18 July 2022, was refused by notice dated 12 December 2022.
 - The development proposed is the construction of 2 no. part three-storey 3 bedroom houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended by the council in its decision letter. I have used the description of development as written on the planning application form.
3. I note that the council have submitted an extract from the Regulation 18 draft of Ealing's Local Plan which is not referred to the reasons for refusal. Given the early stage of the plan, its policies have very limited weight.

Main Issues

4. 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 51, 53 and 55 Rosebank Road with particular regard to outlook, privacy, daylight and sunlight.
 - Whether the proposal would provide adequate living conditions for future occupiers with regard to standard of accommodation and privacy.

Reasons

Character and appearance of the area

5. The area is characterised by predominantly 19th Century, 2 storey terraced housing, some with second floor rear dormers. There are a few backland developments around the area. Notably, there is a mews style conversion providing 3 houses immediately to the rear of the appeal site, known as 51, 53 and 55 Rosebank Road. There is also a recent small residential development to

the rear of 47 Rosebank Road, immediately to the north east. The appeal site is currently vacant.

6. The width of the proposed buildings is somewhat at odds with others in the vicinity. The two adjacent houses at 65 and 67 Rosebank Road are themselves of relatively recent construction and are wider than the typical terraces along this road. Using the measurements provided by the appellant, the proposed buildings are around one third wider than those adjacent, which are themselves wider than the older terraces. It is the proliferation of traditional terraced houses which set the streetscape's character and rhythm. The width of the proposed houses would be somewhat jarring with the established streetscape and would fail to respond successfully to the existing pattern and grain of the street.
7. The pattern of sash window openings to the terraces also makes a significant contribution to the overall character and appearance of the street. The proposed window openings and the casement window style would present a very squat, horizontal, feel which would contrast with the more vertical emphasis of the window openings typically found along the street. The fenestration would further emphasise the width of the houses, contributing to the overall sense of discordance with the established character. Taken together, the buildings' width and fenestration pattern would result in harm to the character and appearance of the area.
8. The proposed dwellings would be constructed in brick with slate tiles to the front roof slope and zinc to the rear, materials consistent with the area. The proposed form would continue the terrace adjacent to 65 Rosebank Road, albeit one of the buildings would step forward slightly of the established building line in this section of the street. I note however that this is a common occurrence throughout the street and in that sense the proposed design fits with the established streetscape. The height of the buildings and front roof pitch is comparable to others on the terrace and is similar to 65 and 67 immediately adjacent. To the rear, given the numerous examples locally of rear dormer extensions rising directly from the parapet, I do not consider the rear form of the proposed buildings would be harmful in relation to the character and appearance of the area.
9. I acknowledge that the scheme would also provide a continuity of street frontage and remove a vacant site, but as set out above, the proposed form and fenestration detail of the buildings would be harmful to the character and appearance of the street. Whilst I have not identified harm in relation to the building line, the rear second floor, front roof pitch and use of materials, these matters hold neutral weight in my consideration of the appeal.
10. The significant harm that I have identified to the character and appearance of the area would not accord with the design principles set out in chapter 12 of the National Planning Policy Framework 2023 (the Framework), policy D3 of the London Plan 2021 and 7.4 of the Ealing Development Management Development Planning Document 2013 (DMDPD). The Framework identifies design as a key aspect of sustainable development, aiming to ensure that development is sympathetic to local character including the surrounding built environment. Amongst other things, policy D3 of the London Plan 2021 requires development to respond to the pattern and grain of existing spaces and streets, whilst policy D4 aims to deliver high quality design. Similarly,

policy 7.4 of Ealing DMDPD 2013 states that development in existing built areas should complement the area's street sequence, building pattern, scale, materials and detailing.

Living conditions of neighbouring residents

11. The proposed houses would rise three storeys from ground level when viewed from the rear and would be set 14.5m away from the central part of the mews. This central mews house would be directly opposite, whilst the other two would have more oblique views of the proposed houses. The proposed houses would present a single slab with no views through or around and are a full storey higher than the mews. Although second-floor dormers are commonly found in the area, the proximity of the mews to the rear is such that the second floor in particular would appear highly overbearing when viewed from the mews. This combination of height, width and proximity to the mews would result in the view from the mews windows feeling significantly more enclosed than at present, resulting in a loss of outlook. The reference to a guideline for building separation between 18-21m as referred to in the Housing Supplementary Planning Guidance (Mayor of London 2016), I do not consider particularly relevant as it is intended to address issues of privacy rather than prescribing distances to avoid loss of outlook.
12. I note that the adjacent development behind 47 Rosebank Road is also relatively close to rear of no. 47 itself. That development, however, has a more open outlook due to the configuration of the buildings and set back of no. 47 from the boundary it shares with the appeal site, giving a greater degree of openness than the appeal proposal.
13. In terms of privacy, there are habitable room windows to the rear of each proposed house at ground floor and second floor levels. The first floor windows do not serve habitable rooms and could reasonably be provided with obscured glazing. At ground floor, views to the rear mews houses would be obscured to a significant degree by the rear boundary. At second floor, a bedroom window to each house would face the mews to the rear. Given the relative height differences and separation, no undue harm would result to the privacy of the residents in the mews.
14. The daylight and sunlight assessment submitted in support of the planning application gave due regard to 51, 53 and 55 Rosebank Road to the rear of the site. No detailed analysis of daylight or sunlight was required given the angle of the proposed houses relative to nos 51-55. Because of the relationship of the mews to the proposed houses, along with the orientation of the windows within the mews, I do not consider any material loss of daylight or sunlight would result.
15. Overall, in relation to the living conditions of neighbouring residents, the proposal would result in significant harm to the outlook of the occupiers of the mews to the rear of the appeal site due to the proximity, scale and height of the proposed houses. This runs contrary to policy D6 of the London Plan 2013 and policy 7B of the Ealing DMDPD 2013. Policy D6 relates to housing quality and standards, setting out various qualitative aspects of development including that new housing should be appropriate for the surrounding context, and 7B states that new development must achieve a high standard of amenity for users and for adjacent uses.

Living conditions of future occupiers

16. The proposal originally contained bedrooms shown as doubles at first floor level which did not meet minimum requirements contained in policy D6 of the London Plan 2021. Revised plans were submitted to address this issue, with the affected bedrooms being shown as single rooms and the dwellings consequently comprising 3 bed 4 person units. The planning application was determined on the basis of the original drawings. I do not consider, however, that prejudice to any party would result in these plans being considered as part of the appeal given the amendments reduce the occupancy and would not involve any external alteration. As such, the layout and standard of accommodation is in line with the expectations of London Plan policy D6 and policy 7B of the Ealing DMDPD 2013.
17. Given the levels of privacy which would be offered by the boundary treatment to the gardens and the potential addition of obscured glazing to the first floor windows, there is no evidence to suggest that the privacy of future occupiers of the development would be unduly compromised. Had the appeal succeeded, these matters could have been dealt with by appropriate conditions.
18. The council have also referred to policies 7.4 and 7D of the Ealing DMDPD 2013 in their reason for refusal in relation to living conditions for future residents. Policy 7.4 relates primarily to the external appearance of development, and policy 7D relates to external amenity space standards. I do not find either directly applicable to this matter.

Planning balance

19. As set out above, I have found that the proposed development conflicts with the development plan as a whole, specifically London Plan 2021 policies D3, D4 and D6 and Ealing DMDPD 2013 policies 7.4 and 7B. I attach great weight to this conflict with the development plan.
20. The appellant has submitted evidence in the form of two relatively recent appeal decisions¹ in which the council had conceded there is not a demonstrable 5 year housing land supply. The council's Housing Supply Topic Paper (November 2022) is essentially a position statement with regard to housing land supply in support of the draft local plan but does not itself constitute evidence of a 5 year supply. The evidence provided by the council does not contradict the appellants' case.
21. Therefore, paragraph 11d)ii of the Framework is applicable. It requires permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole.
22. No up to date information has been provided about the scale of the shortfall in housing supply. I note, however, that council has comfortably passed the Housing Delivery Test in the period 2018 – 2021. Whilst paragraph 60 of the Framework refers to boosting significantly the supply of housing, the provision of 2 units would not make a meaningful difference. The proposal aligns with some of the core principles of the Framework in that it is located in an urban area

¹ Ref 3275791 and 3268157

where there is good access to facilities and employment. The proposals would provide a small benefit in boosting the supply of housing on a brownfield site in a sustainable location. Socio-economic benefits would also stem from employment associated with the construction phase and future occupants would bring some trade to nearby shops and services. The Framework, however, also sets out that good design is a key aspect of sustainable development, along with ensuring that places are created that have a high standard of amenity for existing and future users.

23. When assessed against the policies in the Framework taken as a whole, the adverse impacts to the character and appearance of the area and to the living conditions of nearby residents would significantly and demonstrably outweigh the benefits. The proposal would not therefore be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Other Matters

24. I have had regard to other matters raised including, but not limited to, the effect of the proposals on parking, access, refuse storage, congestion and disruption from construction works. As I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

25. I have found that the appeal proposal would harm the character and appearance of the area and the living conditions of the residential occupiers of 51, 53 and 55 Rosebank Road. As such it is contrary to the Framework and the development plan read as a whole. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. The appeal is therefore dismissed.

L Francis

INSPECTOR