



Appeal Decision

Site visit made on 10 October 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2023

Appeal Ref: APP/A5270/W/23/3316471

89 The Broadway, Southall, Ealing UB1 1LA

- 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 Santokh Chhokar of Kadett Properties Limited against the decision of the Council of the London Borough of Ealing.
 - The application Ref 224310FUL, dated 11 October 2022, was refused by notice dated 6 December 2022.
 - The development proposed is for an additional floor to be added to create 3rd level and extend to rear with new revised access for creation of approximately 4 new residential self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the submitted application form. However, it lacks clarity and certainty. The Council described the application, in their decision notice, as "Mansard roof extension, forming part second floor level and rear first floor extension, for use as three self-contained flats above existing ground floor retail unit; associated side access, refuse and cycle storage". The appellant has used the Council's description of development in their Statement of Case and, as I consider it better reflects what is before me, I have assessed the proposal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the existing building and the surrounding area;
 - whether the proposed development would provide acceptable living conditions for the future occupants of the proposed flats, with particular regard to internal space and overheating for Flat 3, and external space for all of the flats; and
 - the effect of the development on the vitality and viability of the Southall Major Centre.

Reasons

Character and appearance

4. The existing building is two-storey with the front section, on the corner of The Broadway and Beachcroft Avenue, and the ground floor along Beachcroft

Avenue set at the back of pavement. The first-floor rear section, which faces Beachcroft Avenue, is set back from the ground floor. The Broadway facing section of the building currently has a pitched roof which is partially screened by the front wall of the building and an existing advertisement board on the side elevation.

5. The adjacent buildings in this block, and the block on the opposite side of Beachcroft Avenue, are all two-storey and with a consistent roof slope. One building in the block has been extended upwards, however, this sits adjacent to a three-storey building and, as such, respects the buildings on both sides. The wider area is mixed with different building designs, scales, and roof shapes and provides a mixed-use character with retail and other similar uses on the ground floor and residential above.
6. A two-storey residential terrace sits behind the site, on Beachcroft Avenue and the character of that road is residential beyond the appeal property. The houses are set back from the road behind low walls and, therefore, the side and rear elevations of the appeal building are prominent in the street scene along Beachcroft Avenue.
7. The proposed roof extension and dormers, although built on the footprint of the existing building and of matching materials, would substantially alter the shape, pitch, roof profile, and appearance of the building. The existing building is part of a block of similar buildings and the design and shape of the roof alterations would not be sympathetic to and would not positively respond to the roof profile of the buildings within the block. Moreover, the proposal would not match the appeal building, as is asserted by the appellant. The roof extension and dormers would, in my judgement, be visually harmful to the appearance of the building and the immediate area.
8. Although the wider area includes buildings with mansard roofs, in my judgement, these are not a valued feature or characteristic of the built form in the area, as the appellant contends, and I have not been made aware of any mansard roof extensions in a similar context to the appeal before me.
9. Taken together, the mansard roof extension, which would be in two parts, the flat roofed rear extension, and the retention of part of the existing pitched roof would also result in a cluttered roof design, which would lack any consistency and design integrity. The differing roof profiles would result in incongruous additions to the building that would erode the original design and would not be innovative, as the appellant contends. The additions, taken together, would be out of keeping with the building types, form, and proportions of the adjacent buildings and the prevailing character of the immediate surrounding area to the detriment of the appearance of the building and the character of the area. Furthermore, the roof would not be set-in sufficiently from the walls of the building to mitigate the visual effect of the proposal.
10. The rear extension, due to filling the full footprint of the ground floor, would result in a significantly greater massing on the rear and side elevations than the existing building. The proposal would, therefore, enclose this edge of the street to a greater extent and would be highly prominent in the street scene on Beachcroft Avenue. The extension is not moderate in size and massing, as asserted by the appellant, and is not set back from the side or rear elevations or subordinate to the original, as is advised in SPD4 Residential Extensions, as far as it is relevant to the appeal before me.

11. In my judgement, the rear extension would dominate the existing building, not harmonise with it, and would dominate the adjacent terrace housing by reason of being taller and closer to the street than the housing. Consequently, the bulk and design of this extension would be visually harmful to the appearance of the building and the character of the area. The adjacent buildings in the block have two-storey, flat roofed, rear extensions to the full depth of the plots. However, these are not prominent or on a street frontage and therefore not as visually harmful as the appeal proposal.
12. That the building is not within a Conservation Area, nor is a listed building does not mitigate the harm that the proposed extensions and alterations would cause to the character and appearance of the area. Furthermore, although the rear extension would not have a significant effect on the living conditions of the occupants of neighbouring properties, as contended by the appellant, it would be an unacceptable and dominant addition to the existing building that would be harmful to the character and appearance of the existing building and the surrounding area, including the context of the neighbouring properties.
13. For the above reasons, I find that the proposal would have a harmful effect on the character and appearance of the existing building and the surrounding area contrary to Policies 7.4 and 7B of the Ealing Development Management Development Plan Document, 2013 (DMDPD) which, taken together, seek to ensure that development complements, amongst other matters, the existing street sequence, scale and detailing, is of high quality that is appropriate for the site and provides a positive visual impact.
14. The proposal would also fail to comply with Policies D1, D3 and D4 of the London Plan, 2021 (LonP) which, taken together, aim to optimise site capacities whilst also following the design-led approach to ensure that development is of the most appropriate form and land use for the site and responds to a site's context, ensures that development enhances local context through, amongst other matters, scale, appearance and shape and is of a high quality.
15. For the same reasons, the development would also fail to comply with the advice in Ealing Housing Design Guidance 2022 which seeks to ensure that development understands and reflects the area and considers the scale and massing of the area and the composition of roof lines. The Guidance also seeks to ensure side extensions respect prevailing heights and are subsidiary to the general roof line whilst also avoiding flat roofs, advises side extensions should be stepped back to avoid detracting from the original building envelope, and seeks to resist street facing two-storey side extensions due to the disruption the additional mass would place on the rhythm of the street.
16. Although there is support for effective use of land within the National Planning Policy Framework (the Framework), as quoted by the appellant, support for small to medium sites, positive decision making and encouragement for Councils to work with applicants, the development, in my judgement, would fail to comply with paragraphs 126 and 130 of the Framework, which taken together, seek to promote high quality design that is visually attractive and sympathetic to local character.

Living conditions of future occupiers

17. Policy D6 of the LonP sets out, in table 3.1, minimum gross internal floor areas and this is reflected in Policy 3.5 of the DMDPD and follows the advice in the Technical Housing Standards - Nationally Described Space Standard (NDSS). The main parties disagree on which minimum is required for Flat 3, based on the number of occupants the unit is proposed for. The appellant contends that the proposal provides studio flats but has not provided any definition of this type of accommodation, or any evidence as to why Flat 3 should be considered as a one bed one person flat. All of the flats, including Flat 3, are shown on the submitted plans as self-contained and providing a double bedroom for each flat. From the evidence before me the bedroom for Flat 3 exceeds the 11.5sqm minimum floorspace required for two-person occupation. Therefore, and notwithstanding the annotation on the plans, I consider Flat 3 to be a one-bedroom, two-person, one-storey dwelling for which table 3.1 would require a minimum of 50sqm of floorspace.
18. Flat 3 would fall short of this requirement and the shortfall would be harmful to the living conditions of the future occupants of the unit. Although the bedroom would be of sufficient size for two-person occupation, the internal layout leaves limited floorspace for the proposed open plan kitchen and living space and no storage space. The submitted plans show the living space would be a small part of the kitchen area whilst also serving as a corridor between the shower room and the bedroom. Consequently, in my judgement, the layout would not be comfortable or functional and would not be fit for purpose as a two-person flat. As a result of the limited and constrained floorspace, Flat 3 would not provide appropriate internal living conditions for the future occupants of the dwelling, by reason of internal floorspace provision.
19. Flat 3 would have windows facing The Broadway and Beachcroft Avenue serving the bedroom. However, the flat would not have any windows in the roof slope to serve the living space, only the rooflights in the flat roof section. As such I agree with the Council's view that the flat should be considered as a single aspect dwelling. Paragraph 3.6.5 of Policy D6 of the LonP requires single aspect dwellings to demonstrate how they would avoid overheating without reliance on energy intensive mechanical cooling systems.
20. The appellant contends that the flat would be highly insulated to minimise energy consumption. However, this may increase the risk of overheating and, therefore, increase the need to rely on energy intensive mechanical cooling systems to ensure that the living conditions of the future occupants of the dwelling are appropriate.
21. I have no compelling evidence before me to show that the flat would not need to be provided with a mechanical cooling system. Although a condition could be used to ensure the development minimised energy consumption, the energy use would be likely to be greater if a mechanical cooling system is required. Consequently, the proposal would not meet the requirements of paragraph 3.6.5 of Policy D6 of the LonP. Without this information being submitted I am not convinced that the proposal would provide appropriate internal living conditions for the future occupants of the dwelling, by reason of potential overheating.
22. Policy 7D of the DMDPD requires a minimum of 5sqm of private outdoor space for 1-2 person flats. The outdoor space requirement for developments of flats is

less than the requirement for development of houses, however the policy does not promote development with no private outdoor space provision. The proposal is for alterations and additions to the building to create three new flats. As the proposal seeks to maximise the built floorspace it would not provide any outdoor space.

23. The appellant contends that the site is close to public amenity space and has provided a plan showing the location and walking distance to Southall Park. However, from the Council's evidence the appeal site lies within a Local Park Deficiency Area where local amenity areas are insufficient to meet demand. Moreover, the plan provided by the appellant appears to detail the walking distance from 38 The Broadway rather than from the appeal site.
24. Although the park would be within walking distance, in my judgement, it is unlikely that the occupants of the proposal would use the park for regular or day-to-day outdoor amenity. Furthermore, the nearby public park would not provide private outdoor space as is required by Policy 7D of the DMDPD.
25. For the above reasons, the proposed development would not provide acceptable living conditions for the future occupants of the proposed flats, with particular regard to internal space and overheating for Flat 3, and external space for all of the flats contrary to the requirements of Policies 7.4, 7A, 7B and 7D of the DMDPD which, taken together, seek to ensure an appropriate level of development for the site which provides suitable living conditions for existing and future occupants and appropriate levels of open space.
26. For the same reasons, the proposal would fail to comply with Policies D3 and D6 of the LonP which, taken together, require development to deliver appropriate living conditions, achieve indoor and outdoor environments that are inviting for people to use, provide adequate sized rooms, in accordance with table 3.1, that are comfortable, functional and fit for purpose, whilst avoiding single aspect dwellings, unless it can be demonstrated that the development would avoid overheating.
27. The proposal would also be contrary to the Framework, specifically paragraph 130 which, amongst other matters, aims to create places with a high standard of living conditions for future occupiers.
28. The Council has also referred to Policies D1, D4, D14 and H9 of the LonP in their third reason for refusal. However, D1 and D4 relate to design, character, and creation of high-quality places, D14 relates to noise and H9 relates to efficient use of existing housing stock. There is no requirement within any of these policies relating to the living conditions of future occupants. As such Policies D1, D4, D14 and H9 are not relevant to the consideration of this main issue.

Vitality and viability of the Southall Major Centre

29. The appeal site lies within the Southall Major Centre as shown on Map 4 of the Ealing Development Strategy 2026 Development Plan Document, 2012 (DS) and within the Southall Opportunity Area as shown on Map 5 of the DS. Policy 1.1 of the DS seeks to concentrate new homes, business, and retail space in the identified settlements, including Southall town centre and also aims to ensure the viability and vitality of the borough's town centres. Policy 1.2(c) of the DS seeks to maintain and increase the supply of retail floorspace across the

borough. The supporting text of the DS notes that the hierarchy of town centres is set out in the LonP.

30. Policy 4B of the DMDPD, amongst other matters, requires 100% of the street level of the Primary Frontages to constitute A1 retail uses. The policy also seeks to ensure that development in the designated frontages would not result in a net loss of active frontage and, where appropriate, should increase the active frontage. The supporting text of Policy 4B defines active frontages as uses which are open to visiting members of the public and are designed to address the street. The supporting text also defines the retail frontage to include the whole ground floor of each unit, not just the shop front.
31. The ground floor of the appeal building, as shown on the submitted plans, provides four retail units, one on The Broadway and three with frontage onto Beachcroft Avenue.
32. The proposal would provide ancillary residential development on the ground floor in place of part of one of the retail units on Beachcroft Avenue. The service area, as described by the appellant, is ancillary to the residential accommodation on the upper floors and is part of the residential use rather than the retail use.
33. Externally, the proposal would alter one shop front window to a door and narrower window, brick up the existing shop door and insert two new doors and a screen to provide access to the staircase and bin store. The reduction of the shopfront window and the loss of the shop door would result in a reduction of active frontage, albeit not a total loss.
34. The Council's evidence advises that the site is within the Primary Frontage. However, the plan of the Primary Shop Frontage provided to me by the Council show this allocation to be along The Broadway only and not extending into Beachcroft Avenue. There is reference in the policy to the retail frontage including the whole of the ground floor, not just the shop front. However, the retail unit affected has the shop front and retail floorspace on Beachcroft Avenue. Consequently, the proposal would not affect the retail unit fronting The Broadway, which is within the Primary Frontage. As such, although the appeal proposal would result in a substantial reduction of the retail floorspace of the unit affected and alterations to the shop front, it would not result in the loss of the retail floorspace from the Primary Frontage on The Broadway or result in the loss of active frontage in the designated frontage.
35. For these reasons, I find no conflict with Policy 4B of the DMDPD in regard to loss of retail use or active frontage in the Primary Frontage. Consequently, the development would not cause an unacceptable impact on the vitality and viability of Southall Major Centre or the retail character of the area.

Other Matters

36. The appellant has drawn my attention to four other planning permissions which the Council has granted in the local area, two of which are for the same property. Although I have been provided with a copy of each of the decision notices I have not been provided with the detail of each case. However, I visited each of the addresses referred to at the time of my visit. None of the examples provided by the appellant are corner plots. Consequently, the four decisions, which are planning permissions, not appeal decisions as contended

by the appellant, are materially different to the current appeal. Moreover, each scheme must, in any case, be considered on its own merits.

37. I acknowledge that there is support for optimising the potential of a site, intensifying the use of land, making the best use of land, and utilising small sites, especially in areas which are well-connected by public transport, as set out in Policy GG1 of the LonP. However, Policy GG1 also requires a design-led approach and, for the reasons given above, I have found the development to be harmful to the character and appearance of the area and the living conditions of the future occupants of the proposal. The support for more effective use of land is a material consideration to which I attribute moderate weight. However, this would not outweigh the significant weight I have given to the conflict with the development plan which results from the harm identified above. I also have no compelling evidence that the existing building is grossly underdevelopment and underutilised, as contended by the appellant and I have therefore not given this matter any weight in my decision.
38. The appellant also contends that there is support for the proposal within the changes to Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (The Order). However, the appeal before me is not for permitted development and I have no compelling evidence that permitted development could be used as a fallback position.

Conclusion

39. For the reasons set out above I conclude that the proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this. Therefore, the appeal should be dismissed.

K Townend

INSPECTOR