



Appeal Decision

Site visit made on 13 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Appeal Ref: APP/A5270/W/23/3319130

Scout Headquarters, Eastbourne Avenue, Acton, Ealing W3 6JN

- 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 Raj Gupta against the decision of the Council of the London Borough of Ealing.
- The application Ref 223368FUL, dated 28 July 2022, was refused by notice dated 23 September 2022.
- The development proposed is the demolition of the existing building and construction of a new 3 storey building to accommodate 6 flats with associated car parking, bins and cycle storage, private amenity space and associated changes to the boundary treatment.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the appellant in the banner heading above differs from that on the planning application form. Although the right of appeal is given only to the original applicant¹, it has been confirmed that the agent was incorrectly included on the planning application form. As such, I am satisfied that the appeal is being pursued by the original intended applicant and I have therefore proceeded on this basis.

Main Issues

3. The main issues are the effect of the proposal on the:
 - provision of social infrastructure in the area;
 - character and appearance of the area;
 - living conditions of neighbouring occupiers at 2 Eastbourne Avenue and 67 Emanuel Avenue, with regard to outlook; and
 - living conditions of future occupiers of Flat 2, with regard to outlook.

Reasons

Social infrastructure

4. Policy S1 of the London Plan (2021) (LP) includes a requirement that redundant social infrastructure should be considered for full or partial use as other forms of social infrastructure before alternative developments are considered.

¹ Section 78 of the Town and Country Planning Act 1990 (as amended)

5. The appellant's submissions demonstrate that the site is surplus to the needs of the Scout Association and that there is an alternative group nearby. The market demand report sets out that following extensive targeted marketing there has been no interest and no offers made to retain the social infrastructure use of the building. Moreover, the report confirms the state of repair of the building to be poor and that it would not be commercially viable to upgrade it.
6. Accordingly, on the basis of the evidence before me, I am satisfied that there is no demand for the use of the building for social infrastructure and as such, there would be no harmful effect on the provision of social infrastructure in the area. The proposal therefore accords with Policy S1 of the LP.

Character and appearance

7. The appeal site is located at the end of Eastbourne Avenue and Emanuel Avenue. Eastbourne Avenue is characterised by uniform two storey post war terraced dwellings with long linear gardens to the rear, and Emanuel Avenue comprises three storey, more modern, terraced dwellings. Immediately adjacent to the site are two single storey garages and on the other side is a public footpath leading to Friars Way. To the rear of the site are the long linear rear gardens of properties that front Friars Way. While the surrounding area has a high-density residential character, the similarity in the general scale of the built form and long linear gardens to the rear of properties has open qualities. This creates a sense of place and contributes positively to the character and appearance of the area.
8. The proposed development would make efficient use of the site, would be set back from the street and set in from the sides and at two storeys with accommodation in the roof, has been designed to provide a transition between the two storey properties on Eastbourne Avenue and the three storey properties on Emanuel Avenue. While the footprint of the proposed development would be similar to the existing building at the site, and despite the separation with the properties to the rear, the height of the proposal and substantial depth would result in a bulky, dominant development, eroding the existing open qualities of the locality.
9. The appeal scheme would be at odds with the urban grain, and in doing so would have an awkward presence in the townscape and would not relate positively to the prevailing character and appearance of the area. I acknowledge that nearby to the appeal site at the rear is a large 3 storey block of flats with a generous scale and massing. However, the substantial built form of this building as a whole is not readily seen in context with the appeal site, such that it does not therefore help to assimilate the scale and massing of the proposed development.
10. While the proposed gable roof would reflect the roof design of the properties on Emanuel Avenue, the gable feature on the main elevation would appear jarring, and in combination with the extensive fenestration and glazed balconies would not reinforce the local character of properties on either Eastbourne Avenue or Emanuel Avenue. Despite the use of blended bricks to match the nearby properties, the scheme would stand out as being visually incongruous.
11. I have considered the examples of other approvals in the wider area which the appellant contends are on similar sites to the appeal scheme. However, the

context of the examples differs in overall appearance and relationship with the street scene. They are on different streets which do not have the same character and appearance as the appeal locality and relate to conversion and extension and as such are not directly comparable. The other examples do not, therefore, lead me away from my above findings.

12. For the reasons given, the proposal would be unduly harmful to the character and appearance of the area, in conflict with Policies D3 and D4 of the LP and Policies 7.4 and 7B of the Development Management Development Plan Document (2013) (DMDPD). Amongst other things, these policies require development to deliver good design, be of the most appropriate form that responds to a site's local context and capacity for growth and should complement the building pattern and scale of the surroundings.
13. The Council also allege a conflict with Policy D8 of the LP. However, this policy is primarily concerned with the public realm. My attention has not been drawn to any words in this policy that are relevant to this main issue and as such, has not therefore been determinative in my decision.
14. The proposal would also be contrary to the provisions of the National Planning Policy Framework (the Framework) at Paragraph 130 in relation to the need to achieve well designed places.

Neighbouring occupiers

15. The proposed development would be of a significant length and height in proximity to the shared boundary with 2 Eastbourne Avenue. It is not disputed that this would not be detrimental to the outlook experienced from rooms within this property. It would, however, appear as a dominant and oppressive feature from the private outdoor space of this property, and would be detrimental to the levels of outlook that could reasonably be expected.
16. The appellant indicates that the area to the rear of the ground floor side extension of 2 Eastbourne Avenue is segregated from the property and is being used to store building materials. However, there is no clear evidence that the area is not in use as a residential garden or does not have an authorised use as such. Accordingly, on the basis of the evidence before me, I cannot be certain there would not be occupiers using the private outdoor space, in proximity to the development which would create a sensitive relationship.
17. The Council also has concerns regarding the effect of the proposal on the living conditions of the occupiers of 67 Emanuel Avenue on the other side of the appeal site. However, given the distance between the proposed development and this property, the appeal scheme would not appear as an unduly oppressive feature and no significant harm would arise in relation to outlook for the occupiers of this property.
18. Therefore, while the proposal would not be harmful to the living conditions of occupiers at 67 Emanuel Avenue, the proposal would be unacceptably harmful to the living conditions of the neighbouring occupiers of 2 Eastbourne Avenue with regard to outlook. This is in conflict with Policy D4 of the LP and Policies 7.4, 7B and 7D of the DMDPD which include a requirement for development to deliver good design that achieves a high standard of amenity for adjacent users and should not compromise the character or function of adjacent open space.

19. The proposal is also contrary to the provisions of the Framework in relation to design, including Paragraph 130 which seeks development that functions well and creates a high standard of amenity for existing users.

Future occupiers

20. It is acknowledged that the appeal site is constrained by its relatively narrow width and that the scheme's design seeks to make efficient use of the site. Bedroom 2 and 3 in Flat 2 would be single aspect, and while the window in Bedroom 2 would not be unduly small, outlook from both bedrooms would be uninviting, with the proposed windows looking onto a boundary treatment at close range that would dominate the outlook from these rooms.
21. There are other examples of developments where bedrooms look onto side accesses. However, the examples provided generally have a different layout and rooms with different proportions to the appeal proposal. In any event, I must consider the appeal scheme on its own merits and the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development.
22. Accordingly, the proposal would be harmful to the living conditions of future occupiers of Flat 2, with regard to outlook, in conflict with Policies D3, D4 and D6 of the LP and Policies 7.4 and 7B of the DMDPD which require housing development to deliver high quality design, with comfortable, functional layouts which are fit for purpose and achieves a high standard of amenity for users.
23. Policy H9 of the LP has not been determinative in my decision as the main aim of this policy is to ensure new homes meet an identified need and are not being left vacant, and my attention has not been drawn to any words that are relevant to this main issue. Similarly, the Council also allege a conflict with Policy 3.5 of the DMDPD and the technical housing standards in the Housing Supplementary Planning Guidance (2016). However, they both primarily relate to space standards, and given that it is not disputed that the proposal would meet the relevant space standards, they have also not been determinative in my decision.

Other Matters

24. The proposal would provide for six new residential units, including family sized accommodation with private outdoor space which is a clear benefit of the scheme. Nevertheless, I have found the proposal would be unacceptable and do not consider the harm would be outweighed by this modest benefit.
25. The appeal site may well be within a short walk of the new Elizabeth Line from Acton Main Line station, and irrespective of the appeal site's precise public transport accessibility level rating, the site's relative accessibility would attract only limited weight. It is not disputed that the privacy of the occupiers of 2 Eastbourne Avenue would be protected, amenity for the occupiers of the nearby properties and flats to the rear of the appeal site would not be detrimentally affected and that the proposed development meets the relevant space standards. Policy compliance on these matters however would be a neutral factor.
26. The appellant has expressed frustrations with the Council's handling of the case however this does not alter or outweigh my findings which are based on the planning merits of this case.

Conclusion

27. While the proposal would not have a harmful effect on the provision of social infrastructure in the area, my above findings in relation to character and appearance and living conditions bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR