



Appeal Decision

Site visit made on 19 February 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2023

Appeal Ref: APP/A5270/W/23/3327362

86 and 86A Westbury Avenue, Southall, London UB1 2XA

- 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 Jaspal Singh and Amritpal Jotle against the decision of the Council of the London Borough of Ealing.
 - The application Ref 224069FUL, dated 21 September 2022, was refused by notice dated 8 February 2023.
 - The development proposed is described as construction of two storey detached dwelling house to rear of the property (following demolition of two existing garages) with provision of associated amenity space, off-street parking provision, bike and refuse storage; installation of two electric car charging point; landscaping; and associated works to existing landscape and front boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the proposal in my banner from the appeal form, which tallies with that on the Council's decision, and which corrects the reference to a proposed single storey dwelling on the application form.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on adjacent occupiers' living conditions, with particular regard to the outlook from 2 Selby Gardens and the availability of natural light to it, and the outlook from 84 Westbury Avenue and overlooking of it; and
 - whether the scheme would provide appropriate living conditions for the occupiers of the proposed dwelling.

Reasons

Character and appearance

4. The proposed dwelling would be sited at the end of the rear gardens at 86 and 86A Westbury Avenue ('No 86' and 'No 86A'), but would face Selby Gardens. The houses on Selby Gardens are set back from the road on this cul-de-sac,

and are arranged in short two storey terraces, displaying curved bay windows to the front, a hipped roof to their ends, and gardens to their rear. Nearby properties on Westbury Avenue have a broadly similar form and architectural style. Notwithstanding various alterations and extensions, and some variety in terms of their finishing materials, the area therefore has a reasonably coherent grain and appearance.

5. The proposed dwelling would be set back from the road to broadly respect the building line formed by the terrace to the east and the flank of No 86A. As illustrated by drawing No PL04 its ridgeline would be set well down compared to 2 Selby Gardens ('No 2') and would be broadly similar to No 86A. Having regard to ground levels, its height would not therefore appear out of place.
6. However, it would be the only detached dwelling in Selby Gardens, and as its footprint would abut the rear and both side boundaries it would appear very cramped on its plot, particularly compared to nearby dwellings which are overwhelmingly set on larger plots with gardens to the rear. As a result, it would have an awkward and contrived appearance, and it would be significantly at odds with the established grain and pattern of development. Additionally, its long, largely unalleviated flank would give it a stark and rather imposing appearance in the streetscene when entering Selby Gardens.
7. Notwithstanding the proposed use of facing materials to match others nearby, the scheme would significantly harm the character and appearance of the area. It would therefore conflict with those parts of Ealing Development Management Development Plan Document 2013 ('EDMDP') Policy 7B and Table 7D.2, and Ealing Development Strategy 2026 (2012) ('EDS') Policy 1.1 (g) which, in broad terms, seek to protect and enhance suburban communities, require garden spaces to respond to the physical context and established local character, and which require development to have a positive visual impact.
8. It would also conflict with the similar stance regarding high quality design, which is sympathetic to the surrounding built environment, at Part 12 of the National Planning Policy Framework 2023 ('Framework').
9. However, as London Plan 2021 ('LP') Policies D4 and D6 address respectively how boroughs should deliver good design, and the provision of high-quality living accommodation, they are of limited relevance on this issue.

Adjacent occupiers' living conditions

10. There would be a gap formed by a vehicular access between the side wall of the proposed dwelling and the flank of No 2. That flank, which sits on higher ground and is angled slightly away from the site boundary, contains mainly secondary windows, with the principal outlook from that house being from its front and rear facing windows. Consequently, whilst the proposed dwelling would be much taller than the garage and canopy it would replace, it would not harmfully impact the outlook from No 2. Nor, having regard to the BRE Daylight and Sunlight Assessment by Flint Energy, would it cause those occupiers to suffer from a significant loss of natural light. It would not therefore conflict with LP Policy D6 part D.
11. The rear elevation of the proposed dwelling would contain a long clerestory window at ground floor and two such windows at first floor. As illustrated by drawing no. PL07, their height relative to the floor levels in their respective

rooms would ensure that there would not be a direct outlook from them into the garden of 84 Westbury Avenue ('No 84').

12. However, as the proposed rear wall would abut the boundary with No 84, there would be a significant perception of overlooking within that garden. Moreover, although there is a low single storey outbuilding at the end of No 84's garden, given the rear wall's height and its location, it would be a looming presence, which would cause an overbearing impact. The scheme would therefore have a moderately harmful impact on those occupiers' living conditions, due to the adverse effect on the enjoyment of their outdoor space.
13. On this issue the scheme would therefore conflict with that part of EDMDP Policy 7B which requires new development to achieve a high standard of amenity for adjacent uses, and with the general stance in EDS Policy 1.1 (g) to protect and enhance suburban communities. Whilst it would not conflict with LP Policy D6, it would also conflict with the Framework's requirement at paragraph 135 (f) to ensure a high standard of amenity for existing and future users.

Living conditions for the occupiers of the proposed property

14. Given that the proposed dwelling would be very tightly constrained within its plot, the only outdoor space available to its occupants would be to the front. This would comprise a block paved parking space, together with bike and bin storage facilities and a garden. Whilst a timber fence is depicted to the side of the garden, and landscaping or other boundary treatment could be secured by means of a condition, given that the garden would be adjacent to the road it would not provide a suitably private space, commensurate with those in the area, for the future occupiers.
15. Having regard to Table 7D.2 of the EDMDP, the proposed 13.4 sqm of garden space would satisfy the minimum size requirement for the occupants of this dwelling with its two double bedrooms. However, that small space would not be genuinely private or fit for purpose as required by Table 7D.2, and the scheme would thus conflict with the general thrust of EDMDP Policy 7D, and with Framework paragraph 135 (f).

Other matters

16. The appellants maintain that, given their age, the Council's development plan policies are out of date. However, having regard to Framework paragraph 225, even if policies were adopted before the Framework, due weight should be given to them according to their degree of consistency with it.
17. That said, the appellants also maintain that the Council has not published an up-to-date housing supply position statement. As the Council has not commented on this matter, I have proceeded on the basis that it cannot demonstrate a five year housing land supply as required by the Framework.
18. In its favour, the scheme would contribute to housing supply, thus finding support from policies in the Framework and the development plan. However, as only a single dwelling would be provided, that benefit carries moderate weight in the overall planning balance. There would also be a modest contribution to the local economy during construction and from subsequent occupation.

Planning Balance and Conclusion

19. I have found that the scheme would significantly harm the character and appearance of the area, and that it would cause moderate harm to adjacent occupiers' living conditions. There would also be moderate harm arising from the poor living conditions for proposed dwelling's future occupiers.
20. Having regard to Framework paragraph 11 d), the adverse impacts from granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
21. The scheme does not therefore benefit from the Framework's presumption in favour of sustainable development, and there are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Having regard to all other matters raised, the appeal is therefore dismissed.

Chris Couper

INSPECTOR