



Appeal Decision

Site visit made on 23 April 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/A5270/W/23/3327145

49 Cumberland Park, Acton, Ealing W3 6SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Casarossa Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 231780FUL.
 - The development proposed is erection of side, rear and roof extensions, installation of rooflight on front roof slope, and conversion of single family house into self-contained flats, with associated amenity spaces, bicycle and bin store and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework.
3. Following the submission of the appeal, the Council have confirmed that the 4th reason for refusal should have referenced the Ealing Local Housing Needs Assessment Update (2022) (LHNA) and not the Strategic Housing Market Assessment (2022). The appellant has been given the opportunity to make comments on this and I am satisfied that no party has been prejudiced by this.
4. At my site visit I observed that the development appeared to have been partly implemented: the hipped roof had been replaced with a pitched roof and a rear flat roof dormer window had been erected. I have proceeded to determine the appeal on that basis.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the host dwelling and the surrounding area;
 - whether the development would provide acceptable living conditions for future occupiers with particular regard to internal living space, external amenity space and outlook; and
 - the effect of the proposed development on the choice of housing stock within the borough.

Reasons

Character and appearance

6. The appeal site comprises 49 Cumberland Park. The existing plans show that this property comprised a modest, 2-storey hipped roof detached dwelling. The site is located on a prominent corner plot at the junction of Cumberland Park and Crane Avenue and the side and rear elevations of the property are highly visible in street scene views. The appeal site is located in a pleasant residential neighbourhood comprising 2 and 3-storey dwellings of varying designs which are typically set back from the road behind front gardens. In combination with planting within the street and front gardens, this layout results in a pleasant and spacious character and appearance to the surrounding area.
7. The appeal proposal seeks consent for extensions to the side and rear, a flat roof dormer window and alterations to the roof to facilitate the subdivision of the property into 4 self-contained flats. The side extension would be set back from the front elevation and the rear dormer window would be set in from the sides of the roof and physically separated from the first-floor extension. However, by virtue of their excessive scale and uncharacteristic staggered, flat roof form, these extensions, which would occupy a substantial part of the rear garden, would appear overly dominant and would fail to harmonise with the modest, traditional appearance of the appeal property. The incorporation of green roofs, different materials and brick bonding would fail to disguise the excessive scale and unsympathetic design of these extensions.
8. In contrast with the types, form, and proportions of nearby buildings and outriggers in the surrounding area, the scale and design of the proposed extensions would form a prominent and incongruous addition to the wider street scene resulting in a sense of overdevelopment which would detract from the prevailing character of the surrounding area. That the building is not within a Conservation Area, nor is a listed building, does not mitigate the harm that the proposal would cause to the character and appearance of the appeal property and the surrounding area.
9. My attention has been drawn to other extensions and decisions in the local area, which, it is stated, are for developments which are similar to the appeal proposal. Each proposal must be considered on its individual merits, and my judgement is based on this proposal on this site and in this context. Whilst I am mindful that other schemes may have been approved¹ I do not know enough about these proposals, their layout, appearance or context. Judgements on character and appearance are inevitably case specific and these other schemes do not set a precedent that I am bound to follow.
10. The appellant also suggests that a larger rear dormer window could be achieved under householder permitted development rights. Even if this were the case, I have no reason to believe that such a scheme, in isolation of the other elements of this proposal, would be comparable to what is currently proposed in terms of its effect on the character and appearance of the appeal property and the surrounding area. As such, it is a matter of negligible weight.
11. I therefore conclude that the proposed development would cause unacceptable harm to the character and appearance of the appeal property and the

¹ 16 Baldwyn Gardens, Nos 7,13,20,35 Cumberland Park and applications refs 223371FUL, 216824FUL, and 215876FUL

surrounding area, contrary to those aims of Policies D3 and D4 of the London Plan (2021) (LP) and Policies 7.4 and 7.B of the Development Management Development Plan Document (2013) (DPD). These policies, amongst other aspects, seek to ensure development complements the local area and prevailing form of development through a design-led approach to delivering high quality design. I also find conflict with Ealing Design Guidance (2022) and Supplementary Planning Document 4 Residential Extensions (2004) which have similar aims. Conflict also arises with the Framework which requires that developments should be sympathetic to the surrounding built environment.

Living conditions

12. LP Policy D6 requires that housing should reflect the standards set down in the Nationally Described Space Standards (NDSS). The proposed individual rooms and overall dwelling sizes would meet the specific floor areas required by policy and guidance and the Council did not raise any objection to the internal light levels within the development.
13. Nonetheless, the openings in the rear elevation would face onto the side elevation of the neighbouring dwelling Crane House. As a result of the proposed extensions these openings would be sited closer to the rear boundary than the existing openings. Given the limited separation between the rear boundary and the windows to bedrooms 1 and 2 to flat 2, the bedroom to flat 4 and the living room/ kitchen to flat 3, the outlook from the windows to these rooms would be dominated by the brick side elevation of Crane House at close range. This would restrict outlook from these windows creating an unwelcomed sense of enclosure which would make these rooms an unpleasant space within which to spend time, to the detriment of future occupants. That the outlook from other rooms within these units would be acceptable would not overcome this harm to the living conditions of future occupiers whilst using these rooms.
14. Additionally, future occupiers of flats 1 and 4 would not be provided with any external amenity space. By virtue of their size, these 1-bedroom units would unlikely be occupied by families. Nonetheless, occupiers would have the reasonable expectation of on-site amenity space provision. Indeed, this requirement is reflected in DPD Policy 7D and LP Policy D6 which seek to ensure a minimum of 6m² of private outdoor space for units of the size proposed. This shortfall would not be overcome by the presence of public open spaces in the wider area, including Springfield Gardens and Acton Park, which would not meet future occupiers' needs in the same way, and which are some distance from the appeal site (in excess of 500 metres). Furthermore, the development plan does not suggest a flexible approach should be taken in such instances.
15. This lack of amenity space, combined with the location of the appeal site in an area of open space deficiency, would result in poor living conditions for future occupiers, as there would be limited opportunity for future occupiers to participate in outdoor recreation. The slight exceedance in internal living space over the minimum standards set out in the NDSS would fail to compensate for the absence of external amenity space, which itself serves a different purpose. Accordingly, I find the proposal's failure to provide appropriate amenity space for flats 1 and 4 to be harmful to the living conditions of future occupiers.

16. The appellant has drawn attention to a development at 54 Berrymead Gardens² which also did not meet the policy requirements in relation to amenity space provision and is also located in an area of open space deficiency. However, that this under provision of amenity space exists in a development elsewhere is not in itself a reason to allow unacceptable development in this case. I have determined this appeal on its own merits and find that the lack of amenity space would cause harm to the occupiers of dwellings 1 and 4 as described above.
17. For the foregoing reasons, whilst I have found that the proposal would provide adequately-sized rooms and dwellings in accordance with the NDSS, the proposal would fail to provide satisfactory living conditions for all future occupiers in regard to amenity space provision and outlook. I therefore find conflict with those aims of LP Policy D6 and DPD Policy 7D which require new residential development to provide satisfactory living conditions including adequate living space. I also find conflict with the Mayor of London's Housing Supplementary Planning Guidance (2016) which has similar aims, and with the Framework which seeks to ensure an appropriate standard of accommodation for future occupiers.

Choice of housing stock

18. The Council's fourth reason for refusal states that the proposal would fail to meet the Council's strategic requirement for larger homes. The LHNA sets out a requirement for market dwellings of all sizes, with the greatest need for 3-bedroom units. The appeal proposal would include a 3-bedroom flat and 3 1-bedroom flats. The 3-bedroom flat would meet the identified local need for larger dwellings.
19. The LHNA sets out that there is a need, albeit for fewer units, for 1-bedroom properties in the borough. LP Policy H10 acknowledges that a higher proportion of 1 and 2 bed units will be generally more appropriate in locations which are closer to a town centre or station or with higher public transport access and connectivity. Whilst the appeal site is not located in a town centre and has a low Public Transport Access Level (PTAL) score, nonetheless given the proximity to Acton town centre and railway stations I have not been presented with any compelling reason why the location of the appeal site would be inappropriate for prospective occupiers.
20. Therefore, on balance, I find no conflict with those aims of LP Policies H9 and H10 or the LHNA, which seek to promote the efficient use of existing stock and provide a suitable mix of unit size and types to meet identified housing needs.

Other Matters

21. It is stated that the appellant has amended the proposal since the time of the previous planning application³ including a reduction in the number of units and the scale of extensions. However, the amendments would still result in a proposal that would harm the character and appearance of the appeal property and the area and would fail to provide adequate living conditions for future occupants for the reasons outlined.

² Application ref 216824FUL

³ Application ref 230386FUL

Planning Balance

22. The Council has confirmed that it is not able to demonstrate a 5 year supply of deliverable housing sites. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date and Paragraph 11. d) ii. of the Framework is engaged. This requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. I acknowledge that the net gain of 3 dwellings, on a small site which it is stated can be implemented and built out quickly, would make a small contribution towards the district's housing supply whilst supporting the Government's objective to significantly boost the supply of homes. Additionally, I note that the site is located in an area at low risk of flooding with reasonable accessibility to local services and facilities and public transport.
24. There would be short term economic benefits associated with construction and Council tax revenues in the longer term. The proposed development would incorporate carbon-reduction methods including high performance glazing. Additional ecological benefits would arise from the incorporation of green roofs. In light of the shortfall in the Council's 5-year housing land supply, I attach moderate weight to the development's positive contributions to the objectives of the Framework.
25. The Council raised no objections regarding the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings and the proposal would meet the relevant policy requirements in relation to refuse and cycle storage. However, compliance with the relevant policy requirements weighs neutrally in the overall planning balance. Whilst the appellant has submitted a UU which includes a mechanism to remove the right of future residents to apply for a car parking permit, compliance with the relevant development plan policies on this matter would also be neutral in the overall planning balance.
26. The Framework expects developments to create high quality places which promote health and well-being with a high standard of amenity for future users and for the reasons identified this would not be achieved by the proposed development. The conflict between the proposal and LP Policies D3, D4 and D6 and DPD Policies 7.4, 7B and 7D, which are consistent with the Framework, should be given significant weight in this appeal. Consequently, the adverse impacts on the character and appearance of the area and the living conditions of future occupiers significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

27. For the reasons set out above, and having had regard to all other matters raised, I conclude, on balance, that the appeal should be dismissed.

N Robinson

INSPECTOR