



Appeal Decision

Site visit made on 1 May 2024

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2024

Appeal Ref: APP/A5270/W/23/3330243

Rear of 11 Newburgh Road, Acton, W3 6DQ

- 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 West Side Development against the decision of the Council of the London Borough of Ealing.
 - The application Ref 230692FUL, dated 10 February 2023, was refused by notice dated 5 April 2023.
 - The proposed development is change of use of existing garages into a single storey self-contained dwelling, raising roof height and extending with associated refuse, cycle parking and private amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the Council's description of the development taken from the decision notice as above which more accurately describes the proposal.

Main Issues

3. The main issues are the effect on
 - the character and appearance of the area; and
 - the living conditions of the occupiers of the proposed dwelling and adjacent properties.

Reasons

4. No. 11 Newburgh Road is a large semi-detached two storey property located along a street of similar semi-detached properties. The building has been converted into flats. The existing garage building, which is proposed to be converted to a one bed unit, is located across the whole width of the rear garden abutting the rear boundary of the appeal site which fronts onto Chaucer Road to the rear (east); there are existing pedestrian access doors in the west elevation into the rear garden of the appeal site but vehicular access to the garages is currently taken via garage doors fronting onto Chaucer Road. Chaucer Road is predominantly characterised by modest terraced properties set back from the road frontage behind small garden areas with on street parking.
5. The Acton Town Centre Conservation Area lies approximately 50 metres to the south of the site and immediately to the north of the site at Nos. 13-15

Newburgh Road is a Grade II listed heritage asset comprising gates, piers and railings which lie along the rear boundary of those properties.

6. The appeal site has been the subject of previous appeals, firstly relating to the erection a two-storey dwelling in place of the existing garage building and secondly, its conversion into single family dwelling¹.

Character and appearance

7. The proposed dwelling would take pedestrian access from Newburgh Road, via a gate to the side of the existing building which currently serves the flat located in the rear ground floor of the building. The area between the garage building and the existing building would provide a small garden area for the proposed dwelling, together with a small garden area for the ground floor flat, the boundary between the two marked by a fence. At the time of my site visit, a fence had been installed though not exactly in the location as proposed.
8. The proposed conversion would include the raising of the roof by approximately 0.3 metres within the existing parapet edge, the height of which would not be altered, and a small 'porch' addition would be added to its southern elevation. The increased height would not be significant and in any event would not be perceptible due to the unaltered parapet roof which would screen it. Thus, the only visible change to the street scene of Chaucer Road would be the removal of the existing garage doors and replacement with small, high-level windows, otherwise making good the wall with new brickwork. The resulting boundary would be similar to the adjoining boundary walls facing Chaucer Road.
9. I note that in the most recent appeal relating to the conversion of the garage, the Inspector found that the proposal would unfavourably contrast with the existing properties in the street scene (of Chaucer Road) and that the lack of space around the proposed new dwelling would result in a cramped layout and detract from the openness of the street scene. However, this current appeal proposal would involve relatively limited changes to the appearance of the building in the Chaucer Road street scene, with no additional first floor as previously proposed. Whilst there would be no 'set-back' and the new dwelling would effectively 'turn its back' on to this street, in this situation the resulting effect would not be dissimilar to the appearance of a rear boundary wall and would therefore be acceptable, providing matching brickwork is used.
10. In respect of plot size, the proposal would be of limited size, similar to that proposed in the previous appeal scheme and smaller in comparison to those within the immediate area. However, whilst the proposed footprint would be similar to the previous appeal scheme with just a small porch addition, the proportion of built form to plot size would be much reduced. The amount of garden provided would be commensurate with the one-bedroom dwelling proposed and would provide an area in excess of that required by the Council's policy. The area remaining for the existing ground floor flat would also satisfy requirements. Whilst there would be an increase in activity arising from the residential use of the building and additional comings and goings along the side access, this would not of itself significantly detract from the character of the area, particularly given the high-density use of the existing flatted building on the appeal site. In the above circumstances, the proposed conversion would not appear cramped or out of character with its immediate context.

¹ Refs: APP/A5720/W/20/3254434 & APP/A5720/W/21/3283811

11. I therefore find that the proposal would not harm the character or appearance of the area, and, in this respect, it would accord with Policies 7.4 and 7B of the Ealing Development Management DPD (2013) (DPD) which require development to complement street sequence, building pattern, scale and materials and achieve a high standard of amenity including high quality architecture, appropriate levels of development and positive visual impact. In addition, it would accord with policies D3 and D4 of The London Plan (2021) (LP) which seek to optimise capacity of sites through a design led approach that seeks to make best use of land to determine the most appropriate use and design, that responds to a site's context and capacity for growth and that delivers good design.
12. I have had regard to the National Planning Policy Framework (the Framework) and find, overall, that the proposal would accord with its objectives to make effective use of land whilst also achieving good design that is sympathetic to local character including the surrounding built environment.

Living conditions

13. In respect of the living environment provided for the occupiers of the proposed dwelling, main windows would be located in the front elevation of the proposed dwelling, facing west and opposite the existing building at No. 11 at relatively close proximity. As indicated above, only small, high-level windows would be provided in the rear, east facing elevation. Whilst the Appellant has provided a sunlight and daylight report, it refers to the previous scheme for the replacement of the garages with a two-storey dwelling. Whilst this includes an assessment of the impact on adjoining properties, it does not assess the adequacy of sunlight and daylight received by the proposed dwelling created through the conversion of the existing garages as proposed by this appeal.
14. I note that the Appellant considers that such information should have been sought during the consideration of the application, but this issue was one of a number of concerns that the Council identified. In this respect, given that the main windows serving habitable rooms would be effectively single aspect facing west, directly opposite a three-storey building, with the only additional source of light being through the relatively small, high-level openings, the lack of specific information to demonstrate that adequate levels of sunlight and daylight would be provided for the proposed new dwelling means that it cannot be concluded that the relevant policies and guidance have been complied with.
15. In respect of any prospect of overlooking from first floor windows in the existing building, this would be limited due to the angles and potential for screen planting to be provided within the proposed garden area. I note that this was not found to be an issue with the previous appeals.
16. With regard to the impact of the proposal on the adjoining properties, there are no windows in the rear facing elevation of the nearest, single storey, part of the building at No. 11 and the windows and garden area which serve the rear ground floor flat would be screened by the proposed boundary fence, details of which could be secured via condition to ensure adequate height.
17. With regard to the potential for overlooking of adjoining properties from the proposed rear amenity area, whilst I noted at the site visit that the boundary with No. 9 comprised a wall of approximately 1.5m height, over which it was possible to view the neighbouring property, a condition could secure details of

additional measures, such as a trellis, to prevent any unacceptable overlooking. I consider that this would not unacceptably enclose the amenity area of the proposed dwelling. Views of the other adjoining property appeared to be restricted, though the above condition could also secure appropriate additional details as necessary.

18. Access to the new dwelling would result in additional pedestrian movements along the side passageway onto which habitable room windows of the ground floor flats face. However, the limited number of movements that would be introduced would not result in any unacceptable impact on the living conditions of the residents of those flats.
19. Overall, whilst the proposal would not harm the living conditions of the occupiers of adjoining properties, it has not been demonstrated that the proposed dwelling itself would have an acceptable living environment in respect of sunlight and daylight. In this respect, it thus fails to comply with DPD Policy 7B and LP Policy D6 which require all new development to provide sufficient daylight and sunlight. Accordance with the guidance provided in standard 32 of the Housing SPG that seeks to ensure that direct sunlight enters at least one habitable room for part of the day has also not been demonstrated. It would also fail to comply with the Framework which seeks a good design and a high standard of amenity.

Other Matters

20. The above heritage asset, comprising Grade II early 18th century gates, gate piers and railings which lie to the rear of numbers 13 and 15 Newburgh, relates to the former Derwentwater House. They appear to be the only remaining elements of that property within the area which is now developed with properties in Newburgh Road and Chaucer Road to the rear and as such, its significance appears to be limited to the asset itself. I saw at the time of my site visit that the asset is not readily visible in the public realm due to being currently overgrown with vegetation and its position marking a private boundary between properties. Given this and that the proposal would result in little change to the existing built form and that it remains a residential use, I conclude that there would be no harm to the significance of this heritage asset. The considerable distance of the site from the conservation area with intervening built development would mean that it would have no effect on its character or appearance.

Conclusions

21. I therefore find that whilst there would be no harm to the character and appearance of the area and that conditions could be used to ensure acceptable relationships with adjoining properties, the lack of information to demonstrate that a suitable living environment would be provided for the occupiers of the proposed unit renders the proposal unacceptable. I acknowledge that the proposal would contribute towards local housing supply but the benefits arising are insufficient to outweigh the harm in this instance.
22. I therefore conclude that this appeal should be dismissed.

P B Jarvis

INSPECTOR