



Appeal Decision

Site visit made on 20 June 2024 by N Unwin BSc (hons) MSc MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2024

Appeal Ref: APP/A5270/W/24/3338084

184 Uxbridge Road, Hanwell W7 3TB

- 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 Mr S Ketheeswaran (Sanjana Global Ltd) against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 232216FUL.
 - The development proposed is described as the construction of four-storey building comprising of 8 self-contained residential units; and provision of associated amenity space, refuse/recycling and cycle storage (following demolition of the existing building).
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council has referred to and provided copies of relevant policies of the Draft Ealing's Local Plan Final Proposals (Regulation 19), 28th February 2024. There is no indication of when this document will be adopted, if any policies have been modified, or the extent of any unresolved objections. I therefore afford it limited weight and have considered the appeal scheme under the auspices of the adopted development plan at the time.
4. The appellant has submitted amended plans which relate to the revision of some elevational details as part of their appeal documents on which the Council have had the opportunity to comment. The appeal submission also includes a Daylight and Sunlight Assessment. The planning appeal process is not the place to evolve a scheme. Nonetheless, under the Holborn Studios Ltd¹ principles, I have considered whether the development is so changed that to grant approval would deprive those who should have been consulted the opportunity of such consultation.
5. The proposed revisions would not alter the substance of the proposal and relate to only minor changes. Furthermore, the amended proposal would enhance the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

design and reduce its overall effect. Consequently, my acceptance of the amended plans would not cause procedural unfairness to neighbouring occupiers who would have otherwise required re-consultation. Therefore, my below assessment is based on the amended plans provided.

Main Issues

6. The main issues are the effect of the proposal on the i) the character and appearance of the area; and ii) the living conditions of 182 Uxbridge Road with regard to outlook and privacy, 186 Uxbridge Road with regard to privacy, and future occupiers with regard to privacy and sunlight.

Reasons for the Recommendation

Character and Appearance

7. The appeal site is a two-storey commercial premises adjacent to Uxbridge Road. The wider area is varied in character with the presence of high-density contemporary development set over a number of stories. Nevertheless, the area immediately surrounding the appeal site is of a distinctly low density, with the majority of buildings being traditional in character, set over two-storeys with some possessing accommodation within a mansard roof. This low level of density bounding the highway creates an attractive open and spacious street scene along this section of Uxbridge Road, juxtaposed with views of the larger, higher density developments in the distance.
8. The appeal property is atypical of the design of the surrounding development, nevertheless its two-storey form is reflective of the scale. It's visual prominence within the street scene is further limited by its narrow profile and two-storey, flat roofed form. As such, the appeal property contributes to the aforementioned spaciousness of the street scene and its positive effect on the character and appearance of the area.
9. The proposal's three-storey height with an additional floor of accommodation within the mansard roof would project significantly above the surrounding buildings adjoining highway. Moreover, its notable protrusion to the rear of the site creates a wide profile, increasing its visual prominence when viewed from Uxbridge Road. As such, the scale of the proposal would appear discordant and incongruous within the street scene, disrupting the low-level uniformity of the surrounding buildings. Furthermore, its position adjoining the highway combined with its substantial height in comparison to the surrounding built environment creates an overbearing form when viewed from Uxbridge Road, harming the existing openness of the street scene.
10. I acknowledge the steps the appellant has taken to disaggregate the massing of the proposal and provide articulation and interest. Nevertheless, these would not mitigate the substantial form of the proposal and its unacceptable harm to the character and appearance of the area.
11. Accordingly, in consideration of character and appearance, the proposal would conflict with Policies D3 and D4 of the London Plan (2021) (LP), and Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (2013) (EDMDPD), which when read together require new development to enhance its local context and positively respond to local distinctiveness, complementing the existing building pattern and scale.

Living Conditions

12. The appeal site adjoins no. 182, a two-storey dwelling, with a two-storey outrigger projecting significantly to the rear along the appeal site boundary, with a single-storey outrigger beyond that, adjoining a small, narrow, enclosed garden area. The first-floor window within the rear elevation of no. 182 is within close proximity to the outrigger, below the level of its eaves screening it from the appeal site. Views of the appeal site from the small rear garden are limited due to the closeness of the two-storey rear outrigger and its significant height. An existing first-floor window within the rear elevation of 180 Uxbridge Road and the balcony of a property to the rear provide an existing level of overlooking of the garden of no 182.
13. The proposal would extend towards the rear of the appeal site and project significantly above the height of no. 182. Nevertheless, the position of the two-storey outrigger adjacent to the rear windows of no. 182 would limit any harm to the existing levels of outlook from these viewpoints. The rear balconies within the upper three floors of the proposal would be set back from the shared boundary, reducing any views of the rear garden of no. 182 to an oblique angle. When combined with the existing levels of overlooking, any impact of the proposal on the privacy of the rear garden area of no. 182 would be limited.
14. No. 186 is located to the rear of the appeal site at an angle across a yard and access area with a window in each floor facing the appeal site. There is an existing element of overlooking of these windows from the rear windows of the properties adjoining Uxbridge Road, and from pedestrians and motorists traveling along the highway from the access adjoining the appeal site. The existing levels of overlooking combined with the modest distance of the windows from the proposed rear balconies and angled relationship, ensure any effect on the privacy of the occupiers of no. 186 would be negligible.
15. The proposed ground floor flats would benefit from moderately sized, south facing gardens with the yard area to the rear of the appeal site providing an open aspect. When combined with the small footprint of the balconies above, these ground floor garden areas would receive adequate levels of sunlight. This assertion is confirmed by the Appellant's Daylight Assessment. Furthermore, the relationship of the balconies to the ground floor garden areas below would result in oblique views, limiting any overlooking and providing reasonable privacy for the future occupiers of the ground floor flats.
16. As such, with respect to effect on living conditions, the proposal would comply with Policies D3 and D6 of the LP and Policies 3.5 and 7B of the EDMDPD, which when read together require new development to ensure good levels of privacy, outlook, and sunlight, in addition to maximising the usability of external living space.

Other Matters

17. The appellant has presented examples of other buildings with accommodation over multiple stories. Nevertheless, these developments do not form part of the surrounding character of the appeal site. Furthermore, I cannot be certain that the considerations involved in these developments were the same as the appeal proposal and in any event each case must be considered on its own merits.

Planning Balance, Conclusion and Recommendation

18. The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites. Therefore, paragraph 11(d) of the National Planning Policy Framework (2023) (the Framework) is engaged. There is no evidence that the proposed development would harm any areas or assets of particular importance. Paragraph 11(d)(ii) confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The Framework seeks to boost the housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The Framework additionally places significant weight on the need to support economic growth, supporting strong and vibrant communities with sufficient access to services and employment opportunities. The proposal for eight small energy efficient residential units on a previously developed site, within walking distance of a range of services and facilities, would make a minor contribution to addressing the existing housing shortfall and to the local economy. As such I afford modest weight to these combined benefits.
20. In contrast, the proposed development would cause harm to the character and appearance of the area. The Framework identifies good design as a key aspect of sustainable development, requiring planning decisions to ensure development is sympathetic to local character and maintain a strong sense of place. I have concluded that the proposed development would conflict with Policies 7.4 and 7B of the EDMDPD which require development to enhance its local context and positively respond to local distinctiveness, complementing the existing building pattern and scale. These matters combined carry significant weight against the scheme.
21. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
22. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal should be dismissed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Ben Plenty

INSPECTOR