

Appeal Decision

Site visit made on 26 September 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2024

Appeal Ref: APP/F5540/W/24/3341374

13-16 London Stile, Hounslow, London W4 3AU

- 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 Udai Patel against the decision of the Council of the London Borough of Hounslow.
 - The application Ref is P/2023/2314.
 - The development proposed is the erection of a mansard roof extension to the existing building to accommodate an additional two new residential units and improvements to existing units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the planning application form. The appellant has stated that, at the validation stage, a revised description of the development was agreed with the Council. Accordingly, in the banner heading above, I have used the revised description.
3. As an appendix (appendix 9) to their appeal statement, the appellant has submitted amended plans. The Planning Inspectorate's guidance¹ provides advice on the circumstances whereby amendments proposed during the appeal process can be taken into account. Amongst its advice, the guidance states that the appeal process should not be used to evolve a scheme. However, it further advises that amendments may be accepted at the appeal stage provided that they would not make a substantial difference or fundamental change to the proposal nor cause any unlawful procedural unfairness to anyone involved in the appeal process.
4. The amendments made to the scheme entail some of the windows proposed to serve the two additional residential units being obscurely glazed. This represents a modest rather than substantial change to the proposal, and the introduction of obscured glazing to windows is often a matter resolved through the imposition of conditions. In this context, I also find that no party involved in the appeal process would be unfairly prejudiced through my consideration of the amended plans. Therefore, I have determined the appeal having regard to the amended plans.

¹ Procedural Guide: Planning appeals - England

Main Issues

5. The main issues are:

- The effects of the proposed development upon the living conditions of the neighbouring occupiers of 85A, 85B and 87 Wellesley Road and the adjacent flats on Chiswick High Road with specific regard to privacy and outlook;
- Whether the proposed development would preserve or enhance the character or appearance of the Wellesley Road Conservation Area;
- Whether appropriate living conditions would be provided for the occupiers of the proposed development with specific regard to outlook, light and external space; and
- The energy efficiency credentials of the proposed development.

Reasons

The living conditions of neighbouring occupiers

6. The appeal site contains an L-shape building together with an access, a courtyard and a parking area beside it. Situated behind properties that face Wellesley Road and Chiswick High Road, the site is in a backland location. The rear elevation of the host building forms a boundary with 87A, 87, 85A and 85B Wellesley Road. With the exception of No 87A, these are residential properties. On the opposite side, principally addressing Chiswick High Road, is a multi-storey mixed-use building which includes residential accommodation. The host building is therefore sandwiched between, and is positioned close-by to, existing residential properties.
7. The existing two storey rear elevation of the host building already has a strong enclosing effect upon the backs of Nos 87, 85A and 85B including their gardens. Proportionally, the proposed mansard roof extension represents a quite substantial heightening of the existing building: it would become approximately a third taller. The pitch of the mansard roof extension would be steep. Therefore, it would sharply rise rather than gently slope upwards and away from Nos 87, 85A and 85B. Furthermore, the rear roof slope would be blank and, in the absence of windows or other design interventions, its mass would not be broken down.
8. For these reasons, the proposed mansard roof extension would form an imposing feature. It would considerably increase the sense of enclosure and unduly limit the outlook that the occupiers of Nos 87, 85A and 85B would experience within their gardens and the rooms flanking the appeal site.
9. In general, and compared to the properties on Wellesley Road, the Chiswick High Road flats would be positioned a little farther away from the proposed extension, and these flats do not have gardens abutting the host building. That dormer windows are proposed within the mansard roof extension on the Chiswick High Road side would also assist, to a degree, to break up the mass of the roof heightening. Even so, the plans show that the mansard roof extension would only be approximately 11 metres (m) away from the flats. At such proximity, a building of the height proposed would still be imposing when viewed from any of the windows with outlook toward the host building. I find that the reduction in

outlook upon the occupiers of the flats within the Chiswick High Road building would be harmful, albeit less harm would result in comparison to the Wellesley Road properties.

10. The occupiers of Nos 87, 85A and 85B Wellesley Rd would not have their privacy infringed upon as no windows are proposed within the rear roof slope of the mansard roof extension. Given that flats are already within the two floors of the host building, there is already a degree of mutual overlooking between these flats and the Chiswick High Road flats opposite. Some of the windows proposed to serve the additional units, and which would be opposite the Chiswick High Road flats, would be obscurely glazed. This would serve to moderate the effects of overlooking from the proposal. In such circumstances, and in specific respect to privacy, I find that the proposal would bring about only a modest change to the subsisting living conditions of the occupiers of the Chiswick High Road flats, and this change would not be harmful.
11. The appellant refers to their Daylight and Sunlight Assessment. However, this evaluates the effects of the proposal in respect of daylight and sunlight, not outlook nor privacy. Daylight and sunlight form a part of living conditions, but so do factors such as outlook and, in this case, I have found that the proposal would be harmful in this particular regard.
12. I have identified that the effects of the proposed development upon the outlook of neighbouring occupiers within 85A, 85B and 87 Wellesley Road and within adjacent flats on Chiswick High Road would be harmful. Consequently, the proposal would conflict with policies CC1, CC2 and SC7 of the London Borough of Hounslow Local Plan (HLP). In summary, and amongst other matters, these policies set out that development should function well, should have positive impacts on the amenity of residents and not unacceptably harm them, whilst poor design should be refused. The proposal would also conflict with those policies within the National Planning Policy Framework (the Framework) which require developments to promote well-being and ensure a high standard of amenity for existing site users. The Council's first reason for refusal also cites Policy CC4 of the HLP. However, this policy relates to heritage not living conditions. It is not relevant to the harm I have identified in this main issue.

The Wellesley Road Conservation Area

13. The appeal site lies within the Wellesley Road Conservation Area (CA). The statutory duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me, in respect to any buildings or other land within a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
14. The significance of the CA is largely derived from the quality and diversity of its planned, grand Victorian suburbs which exhibit architectural and artistic interest. The CA's association with key developers like Adam Askew means that its significance also stems from its historic interest.
15. Adjacent to the appeal site properties on Wellesley Road and on Chiswick High Road display ornate architectural detailing and various building styles. Such properties are very reflective of the CA and contribute positively to its significance. The host building, with its flat roofed design and plain appearance does not incorporate the quality of architecture of many other buildings within the CA, and it does not make a positive contribution to it in the manner they do.

However, its backland position and its flat roofed design means that it is well concealed, and it is presently inconspicuous within the CA.

16. To one side of the appeal site there are the multi-storey and partly commercial traditionally designed properties of Chiswick High Road. To the other side are traditionally designed residential properties which are lower in height. When travelling along Wellesley Road, this built form and the transition from the more imposing Chiswick High Road buildings to the domestic properties behind them can be readily appreciated. In this context the host building, coupled with the low-slung neighbouring properties 87 and 91 Wellesley Road, forms an anomaly but not an obtrusive one.
17. Upon completion of the proposed development, and in views from Wellesley Road, sections of both the side and rear of the roof mansard extension would imposingly protrude above the lower 87 and 91 Wellesley Road properties. In the background to the flat roofed No 91, and the dual pitched No 87, the mansard roof extension would introduce another roof style to the trio of properties. Even though mansard roofs are already in the area, altogether, this would form a discordant collection of roofscapes in this particular location. I also find that this discordance would serve to harmfully detract from the appreciation of the transition from the taller Chiswick High Road properties to the lower residences of Wellesley Road.
18. Amongst its objections, the Council refer to the appearance of the proposed external terraces. I have been provided with no substantive evidence that terraces of the type proposed are, in themselves, incongruous features within mansard roof types. They would also serve the beneficial purpose of breaking up the mass of the proposed roofscape. Therefore, in specific regard to the appearance of the external terraces, I have no objection.
19. Even so, and for these reasons given above, the proposal would be unsympathetic to the street scene and to the architecture which contributes to the significance of the CA. This would be harmful, and even though the host building makes no positive contribution to the character or appearance of the CA, the proposal would nevertheless fail to preserve or enhance the character or appearance of the CA as a whole. The harm to the designated heritage asset would be less than substantial. Even so, having regard to the statutory duty I set out earlier, this harm is a matter of considerable importance and weight in my decision.
20. The proposal would provide a boost to housing supply and be likely to contribute quickly to the supply of houses in the area. The proposal would be delivering the housing on brownfield land within an accessible location, and the value of this is a matter which the Framework advises should be given substantial weight. Even so, in providing only two additional flats the contribution made to housing supply would be a modest one. Some economic benefits, including job creation, would be derived from the proposal but, again, these would only be modest. Overall, there are no public benefits before me, nor any that I consider apply, which would be sufficient to outweigh the less than substantial harm that would be wrought upon the CA.
21. Consequently, the proposed development would conflict with policies CC1, CC2, CC4 and SC7 of the HLP. These policies support high-quality design and seek to secure development which sensitively responds to local character whilst setting out that development within conservation areas should conserve, and take

opportunities to enhance, their character. The proposal would also conflict with guidance within the Residential Extension Guidelines Supplementary Planning Document (SPD) which, amongst other matters, sets out that within conservation areas alterations and extensions should be of a high quality of design preserving, or enhancing, their special character or appearance. Furthermore, the proposal would conflict with those policies within the Framework which state that heritage assets should be conserved in a manner appropriate to their significance, which set out that any harm to their significance requires clear and convincing justification and which set out that upward extensions should be well-designed within their street scene context.

The living conditions of the occupiers of the proposed development

22. HLP Policy SC5 sets out that flatted accommodation should be provided with communal external space. It sets out quantitative standards, but the policy also requires that external open space creates sufficiently high-quality living conditions. Therefore, there is an emphasis on the quality of external space provision as well.
23. The area proposed for the communal external space is currently part of a hard surfaced courtyard. At the time of my visit, it had a parked car within it. A planter is proposed within the communal space, but a comprehensive re-landscaping scheme is not before me. Therefore, a meaningful improvement to the aesthetics of this part of the courtyard would not result from the proposal and, as a communal external space, it would not exude an appearance of high quality.
24. The front doors of the existing unit 1 and unit 2 flats would open directly onto the communal space. The space would therefore have a very intimate relationship with those two flats in particular. Those utilising the communal space would be overlooked by those flats and other flats within the host building and those on Chiswick High Rd. Furthermore, given its intimate relationship with units 1 and 2, should the communal space draw much use, it would likely lead to some nuisance and disturbance for the occupiers of those flats. For these reasons, the communal space would not be well landscaped, of high-quality or be of a design which protects living conditions.
25. The private external areas proposed for the new flats would meet space requirements set out within Policy SC5. I also note that the existing unit 4 flat would gain a private external space. This would be a beneficial aspect of the development for the occupiers of that flat. However, my concerns in relation to the standard and effects of the communal external space are significant, and they outweigh the benefit which would be derived from the provision of the extra private external space.
26. I accept that the existing site is constrained, and this will present challenges for providing well-designed external space. However, it has not been shown to me that an alternative more appropriate design solution for the communal space could not be achieved. I have also had regard to the proposal meeting applicable internal space standards. However, external and internal spaces provide different contributions towards living conditions, and my concerns with the proposal are such that the provision of appropriate internal space provides insufficient mitigation in this case. Gunnersbury Park is approximately 500m from the site, and it is located the other side of the roundabout beneath the M4

- flyover. It is therefore not conveniently located for access from the site and, again, provides insufficient mitigation for the inadequate communal space.
27. Although most of the windows within the additional flats would not have a southerly aspect, and some would be obscurely glazed, the flats would not be single aspect. These flats would each be served by dormer windows, rooflights and partly open terraced areas. There would therefore be a range of means by which the flats would have outlook and sky views. The host building is a narrow one, and the proposed flats would have a largely open-plan layout. Therefore, neither of the proposed flats would have deep rooms nor would they have much internal accommodation which would not be served by some means of window. The Daylight and Sunlight Assessment identifies that the proposed units would receive adequate daylight. Overall, I find that the additional flats proposed would have adequate outlook and receive adequate light.
28. For the reasons given above, whilst I have found that appropriate living conditions would be provided for the occupiers of the proposed development with specific regard to outlook and light, I have also identified that the provision of external space would, overall, be inadequate and unacceptable. Consequently, the proposed development would be contrary to policies CC1, CC2, SC5 and SC7 of the HLP. Altogether, these policies set out that development should be of the highest quality both internally and externally, should function well, should provide adequate living conditions, whilst poor quality design should be refused.
29. The proposal would also conflict with guidance within the SPD which also requires properties to be of the highest quality internally and externally and to meet the demands of everyday life for intended occupants. As I have found that the proposed external space would not function well nor provide for a high standard of amenity there would be conflict with relevant policies within the Framework as well. HLP Policy CC4, which is concerned with matters of heritage, is irrelevant to the harm I have identified.

Energy efficiency

30. Policies CC2, EQ1 and EQ2 of the HLP each provide a policy steer in relation to energy efficiency and sustainable construction. They promote low carbon design and integrated energy efficiency in developments, and policies EQ1 and EQ2 each require that the energy efficiency and sustainable design standards set out in the London Plan, 2021 (the LP) are met. In particular, Policy SI2 of the LP requires development to minimise greenhouse gas emissions with on-site reductions and betterments in comparison to the Building Regulation requirements necessary.
31. Although the Energy Statement accompanied the planning application, together with detailed carbon emission calculations, there is no disagreement between the appeal parties that the assessment utilised a now outdated standard assessment procedure for the energy rating of dwellings.
32. Consequently, and whilst it is proposed that the development would incorporate solar panels and energy efficiency measures such as particular standards of insulation and lighting, I have no substantive evidence before me which demonstrates to me how the proposal fares against the up-to-date assessment procedure and, in turn, the Building Regulations.

33. The appellant submits that a condition could be imposed and that this would enable the necessary demonstrations to be made. However, I am mindful that the appellant has also set out that air source heat pumps may be necessary in order to prove that the proposal's energy efficiency credentials would be sufficient. With the site being located within a conservation area and so close to neighbouring properties, differing effects upon the character or appearance of the CA or upon the living conditions of neighbouring occupiers could quite likely result. The introduction of air source heat pumps would represent a substantial change from what the submitted plans depict.
34. Therefore, I firstly conclude that the proposal has not demonstrated that it would have adequate energy efficiency credentials. Secondly, I am not satisfied that the imposition of a condition is an appropriate route to seek to rectify this. As a result, I find that the proposal would conflict with policies CC2, EQ1 and EQ2 of the HLP and Policy SI2 of the LP. I also find that the proposal would conflict with the advice within the Framework which sets out that planning should support the transition to a low carbon future in a changing climate and should shape places so that reductions in greenhouse gases occur.
35. Policy CC4 of the HLP relates to heritage. Whilst it does state that opportunities to adapt buildings to climate change should be maximised, I find that this content relates to when the host building itself is a heritage asset. As this is not the case with the host building, I do not find Policy CC4 to be relevant to this main issue and there is no conflict with it. Similarly, neither HLP Policy SC7 nor the SPD provide direction in relation to energy efficiency and are therefore also irrelevant.

Other Matters

36. It may be, in respect of a range of other planning considerations, that the development would be acceptable and not result in harmful effects. This would include the proposal's provision for cyclists, for waste and recycling, and its effects upon flood risk. Even so, an absence of harm in respect of these matters is a neutral factor in my decision and does not outweigh the harm that I have identified in my main issues.
37. The appellant submits that the Council's decision to refuse the planning application, and its reasoning for that, contradicts some of the advice received at the pre-application stage. The appellant has also drawn issue with the manner in which the Council handled the planning application. However, these matters have little bearing on the merits of the case and therefore are not determinative factors in my decision.

Conclusion

38. The proposal would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR