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# Appeal Decision

Hearing held on 24 April 2012

Site visit made on 24 April 2012

**by Lesley Coffey BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 June 2012**

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**Appeal Ref: APP/A5270/A/11/2166894**

**91 Shakespeare Road, London, W3 6SB**

- 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 Freeds 2000 Limited against the decision of the Council of the London Borough of Ealing.
  - The application Ref PP/2011/4051, dated 28 September 2011, was refused by notice dated 30 November 2011.
  - The development proposed is to form 3No terraced houses and 2No flats.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The National Planning Policy Framework (The Framework) was published on 27<sup>th</sup> March 2011, and the policies within it are a material consideration in respect of this appeal. Amongst other matters it introduces a presumption in favour of sustainable development. It replaced a number of national planning policy documents including Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Statement 3: Housing and Planning Policy Guidance 13: Transport.
3. The appellant submitted plans numbered 1573/05/RevL 1573/06/RevL, 1573/07/RevD with his appeal statement. These show the deletion of the ground floor flat; the provision of a flat on each of the first and second floors; the addition of a cycle store; the re-positioning of the car stacker and a covered communal patio at the ground floor. Although these changes do alter the footprint or external appearance of the building, they have not been subject to public consultation. Moreover, they materially alter the proposal from that considered by the Council. Local residents stated that in the absence of an adjournment to another day to consider these revisions, they would be disadvantaged. I have therefore determined the appeal on the basis of the plans considered by the Council at the time of the application.
4. Comments submitted by a number of local residents were not received by the Planning Inspectorate. Residents were therefore invited to re-submit their comments following the Hearing. The Council and the appellant were given the opportunity to comment on these representations. Most of the matters raised were discussed at the Hearing, or raised at the time of the application. In

reaching my decision, I have taken all of these comments into account, together with the views of the Council and the appellant.

### **Main Issues**

5. I consider the main issues to be:

- The effect on the proposal on highway safety; and
- Whether the proposal would provide satisfactory living conditions for future occupants.

### **Reasons**

6. A similar proposal was dismissed at appeal in September 2011. The inspector concluded that it would fail to provide good living conditions for future residents, would unacceptably compromise the safety of pedestrians using Shakespeare Road and affect the free flow of traffic. The current proposal differs from the previous scheme in that it proposes a reduced number of flats, an amenity area accessible to both flats and the re-positioning of the door to the car stacker. Further detail was also provided in respect of the operation of the car stacker and the door to the parking area.
7. The appeal site is situated in a predominantly residential area, within walking distance of Acton Central Station as well as a number of bus services. The surrounding area is well served by a number of shops, services and other facilities. I consider this to be a sustainable location where the Framework encourages the effective use of previously developed land.
8. The appeal site was previously used as a repair garage, although this use ceased in October 2011. Number 91 consists of a two storey building with a basement at the front, adjoined by a single storey pitched roof building that extends almost to the rear boundary of the site. Number 89 is occupied by a garage that adjoins the single storey building, with a forecourt/parking area to the front. The property was originally used as Acton Baths, but there have been a number of intervening uses, including a laundry established in about 1893. More recently it was used as offices by the Conservative Party and as a garage. As a consequence of these uses the building has been significantly altered over time. Whilst English Heritage acknowledges that the building may have some historic interest, due to the lack of any recognisable architectural features that identify its original function or provide general architectural interest, it does not consider that the property merits designation as a listed building.
9. The Local Planning Authority concluded that local listing would not afford the building any statutory protection. It also considered such a course of action to be inappropriate given that there is virtually no surviving fabric from the time when the building was used as Acton Baths.
10. The Framework seeks to significantly boost the supply of housing and encourage the effective re-use of previously developed land. Whilst I am aware that many local residents wish to see the existing buildings on the site retained, in the absence of any statutory or local protection for the buildings and taking account of the sustainable location of the appeal site, I conclude that there is no objection in principle to the redevelopment of the appeal site.

### *Highway Safety*

11. Policy 9.1 of the *New Plan for the Environment – London Borough of Ealing Unitary Development Plan* (2004) (UDP) promotes traffic safety and encourages the use of sustainable modes of transport. It also seeks to ensure that surrounding streets are not subject to parking stress, danger or nuisance due to inappropriate on-street parking. The Framework advises that proposals should aim to achieve safe and suitable access, and where practical, should be designed to minimise conflict between traffic, cyclists and pedestrians.
12. It is proposed to provide three off-street parking spaces using a Parklift car stacker. Shakespeare Road provides access to Derwentwater Primary School a short distance to the east. It is used by pedestrians, many with young children, to access the school. The appellant submitted a survey of the number of pedestrians passing the appeal site. Local residents questioned the findings of the survey. Nevertheless, it relates to one side of the road only, and I have no reason to doubt the information within it. Furthermore, the survey points to a steady flow of pedestrians, many with young children, using the footpath adjacent to the appeal site.
13. The previous appeal inspector was concerned that due to the time taken for the stacker to operate, vehicles waiting to enter it, would wait between parked vehicles on either side of the access and would overhang the footway and/or protrude into the carriageway of Shakespeare Road. He was of the opinion that this would force pedestrians into the road, and may also interrupt the free flow of traffic. He was also concerned that vehicles may be reversed across the footway, but noted that this situation commonly occurs in many residential streets.
14. The appeal proposal differs from the previous scheme in that there would be adequate space for vehicles to wait clear of the highway whilst waiting to enter the stacker. The additional information submitted in relation to the operation of the stacker and roller shutter door indicates that whilst there may be a 60 second wait for the stacker, the operation of the door is much more rapid (1.5 – 2 seconds overall). Therefore vehicles should be able to cross the footway immediately upon their arrival and would not obstruct the footway or protrude into the road.
15. Residents were particularly concerned that vehicles reversing in or out of the stacker could be hazardous to pedestrians, particularly in view of the gradient to the ramp. The submitted plans suggest that the boundary wall with 93 Shakespeare Road would be lowered in order to improve visibility for drivers emerging from the parking area. It would seem that this wall may fall outside of the appeal site, and therefore the appellant may not be entitled to alter it. Nevertheless the access to the stacker is separated from this boundary by about 2 metres. This would be sufficient distance to achieve pedestrian visibility splays in accordance with the guidance within *Manual for Streets*.
16. Should drivers reverse into the stacker and drive out in forward gear, there would be unlikely to be any significant conflict with pedestrians. However, it is probable that some drivers may on occasion choose to reverse out of the parking area. Whilst these vehicle movements would be likely take place at low speed, pedestrian visibility would be more restricted.

17. I appreciate that vehicles reversing onto the highway is not unusual within residential streets. Indeed a short distance to the east, much closer to the school and the junction with Myrtle Road, there are instances of front gardens used for parking. The use of these spaces would also be likely to entail vehicles reversing onto Shakespeare Road from time to time. I am also aware that previous use of the site as a garage involved vehicles reversing onto Shakespeare Road, and many of these movements were unsupervised. In view of the number of children using this part of Shakespeare Road, vehicles reversing out of the appeal site would introduce an unnecessary hazard.
18. At the Hearing, the appellant suggested that a car lift could be substituted for the stacker. This would allow vehicles to turn within the basement area and leave and enter the site in forward gear. This would be advantageous in terms of highway safety. It would also be beneficial to those using the parking spaces, particularly those with young families. I agree with the Council that this is a matter that could be resolved by way of a condition requiring the submission of the parking arrangements for approval.
19. I therefore conclude that the proposal would not be harmful to highway safety and would comply with UDP policy 9.1 and the aims of the Framework.

*Living Conditions – Future Occupants*

20. UDP Policy 5.5 requires residential development to provide good living conditions for future residents including adequate garden space well related to the accommodation. More detailed guidance is provided by the adopted *Supplementary Planning Guidance 13:Garden Space* (SPG13).
21. The shared garden for the proposed flats would extend up to the rear windows of the ground floor studio flat. This is a single aspect dwelling and due to the proximity of the shared garden and the proposed staircase from the upper flat, the occupants of the ground floor dwelling would have little, if any, privacy. The appellant suggested that a screen or appropriate planting could be provided to ensure privacy to the ground floor flat. There would be adequate space to provide a screen, the position and appearance of which could be subject to a condition.
22. The gardens to the proposed houses would be about 50 square metres and would fall short of the 75 sq metres sought by SPG13. Nevertheless, they would be similar in length to many other gardens within the immediate area, and would provide adequate amenity space to meet the needs of future occupants.
23. Policy 3.5 of the London Plan sets out minimum floor space standards for new dwellings. These are minimum standards and developers are encouraged to exceed them. The proposed ground floor dwelling would fall short of the standard for a one person dwelling by 2.4 sq metres. This shortfall in size, together with the limitations due to the staircase from the upper floor to the garden, would result in extremely cramped living conditions for future occupants. There would be limited scope to separate their living area from their sleeping area. The single aspect nature of the proposed studio flat, and the absence of any openable windows would exacerbate this situation.
24. Overall, the proposal would provide cramped living conditions and would fail to deliver the high quality homes sought by policy 3.5 of the London Plan and the

Framework. I therefore conclude that the proposal would fail to provide satisfactory living conditions for future occupants.

*Other Matters*

25. Residents were concerned that the car stacker may give rise to unacceptable levels of noise and vibration. It would operate on a hydraulic system contained within the proposed building, and would be physically separated from neighbouring property at 93. A noise assessment prepared in relation to the stacker system shows that the predicted noise levels would not exceed the limits stipulated by the Council. There is no evidence to suggest that future occupants of the proposed dwellings would not maintain the stacker in good working order, and in the absence of any convincing evidence to the contrary, I am satisfied that it would not give rise to any unacceptable noise or vibration.
26. Whilst there may be a degree of noise from cars leaving and entering the stacker, this would be unlikely to be discernible from the noise that usually arises in any urban area as a consequence of vehicles manoeuvring.
27. The proposed stacker would be contained within the building and therefore it would not harm the appearance of the surrounding residential area. The use of such systems in respect of residential dwellings is not uncommon, and the fact that there are no similar systems within the surrounding area, is not a reason for rejecting its use in this location.
28. The design of the proposal is similar to that considered at the time of the previous appeal. The inspector concluded that the scheme was of a good architectural quality and would have a good relationship to its setting. Residents consider the proposal would have a cramped appearance relative to other dwellings in the locality. The dwellings within the surrounding area, including those within Shakespeare Road, Chaucer Road and Spencer Road vary in terms of plot width. Whilst the proposed dwellings would be narrower than their immediate neighbours, they would be similar in width to many other dwellings in the locality.
29. Although the dwellings within Shakespeare Road have a cohesive appearance, there are notable differences in the height and form of the roofs, elevational treatment and even the number of storeys. Overall, the appeal proposal would reflect the distinctive characteristics of the dwellings in the locality and would relate satisfactorily to its surroundings. There is no evidence to support the view of some residents that the proposal would be inferior in terms of materials or the manner in which it would be constructed. A number of residents criticised the inclusion of dormer windows. I understand these were part of a previous scheme and they do not form part of the appeal proposal.
30. The first floor of the proposal would extend marginally beyond the rear elevation of 93 Shakespeare Road, from which it would be separated by the boundary wall. It would therefore have a negligible effect on the outlook from the first floor window. Any loss of light to the glazed roof of the ground floor WC would be very limited and would be insufficient to warrant dismissal of the appeal.
31. I have taken account of the concerns raised by the occupants of 87 Shakespeare Road in respect of the visual prominence of the proposal and the loss of privacy that may arise. Whilst it would introduce a degree of enclosure, due to the low eaves height and the manner in which the uppermost floor of

accommodation would be set back from the first floor, it would not be overbearing in views from the second floor bedroom or balcony at 87. Whilst the views from the balcony towards the west would be reduced, these are mainly views over other private gardens, and this matter would not justify the dismissal of the appeal.

32. The proposal would be noticeable from the rear gardens of the neighbouring properties, and would overlook these gardens to some extent. However, this would be similar to many properties within the area and urban areas in general and would not give rise to an unreasonable loss of privacy.

### **Conclusion**

33. I have found above that the proposal would not have a harmful effect on highway safety. In addition, it would make more effective use of previously developed land and is situated within a sustainable location. Whilst these matters weigh in favour of the proposal, the unsatisfactory living conditions for future occupants is a compelling and over-riding objection to the proposal.
34. For the reasons given above I conclude that the appeal should be dismissed.

*Lesley Coffey*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Alvin Ormonde	Planning Consultant
A L Miller	Appellant
Philip Pearlman	Architect

### FOR THE LOCAL PLANNING AUTHORITY:

P J Lee Dip Geog, BA(Hons) MRTPI	Planning Officer
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### INTERESTED PERSONS:

Councillor Dr A Gulaid	Ward Councillor
Mrs P A Scott	
Sheldon Greenberg	
Emily Burnett	
Ailsa Wight	
Kate Brakespear	
David Bays	
John Rowcroft	
David Buckingham	
Simon Thompson	
Nicholas Jones	
Mrs V James	

## **DOCUMENTS SUBMITTED AT HEARING**

- 1 Letter from Mr Elliot submitted by the Council
- 2 Summary of pedestrian activity survey submitted by the Appellant

## **DOCUMENTS FOLLOWING THE HEARING**

- 1 Bundle of letters and e mail from local residents
- 2 Representations from Save 91 Shakespeare Road Group
- 3 Amended list of suggested conditions submitted by the Council
- 4 Appellant's comments on further representations