
Appeal Decision

Site visit made on 25 October 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 14th November 2016

Appeal Ref: APP/M5450/W/16/3151554
53 Hindes Road, Harrow, HA1 1SQ

- 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 Mr Peter Mantock against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/4678/15, dated 25 October 2015, was refused by notice dated 16 December 2015.
 - The development proposed is 2no. three bedroom, two storey houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for new residential development, having regard to the development plan;
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy and outlook;
 - Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to privacy and outlook;
 - The effect of the development on highway safety.

Reasons

Suitability of site for housing

3. The appeal site forms the garden area of the donor property, number 53 Hindes Road. Policy 3.5 of the London Plan 2015 (London Plan) allows Councils to introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified. Policy CS1 of the Harrow Core Strategy 2012 (Core Strategy) sets out the growth strategy for the Borough and seeks to focus development in the Harrow and Wealdstone Intensification Area, town centres and strategic previously developed sites. Policy CS1(B) states that garden development will be resisted. Further
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- guidance in respect of the development of garden areas is set out in the Harrow Supplementary Planning Document: Garden Land Development, 2013.
4. The appeal site is not within the either the Harrow and Wealdstone Intensification Area, or a town centre, nor is it a strategic previously developed site. The Councils policies seek to restrict piecemeal, small scale, development in garden areas in order to achieve their strategic objectives. The appeal proposal would be contrary to these policies.
 5. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration and this sets out that there is a presumption in favour of sustainable development. However, the Framework is also clear that it does not change the statutory status of the development plan as the starting point for decision making and that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise.
 6. The appellant suggests that the Council is not meeting its targets in respect of housing delivery. However, the data relied on in support of this is some four years old, which brings into question its relevance to the current case. Neither party has submitted up to date evidence in respect of housing delivery and, due to the age of the data relied on by the appellant, I can only give very limited weight to this point.
 7. Part of the appeal site was formerly occupied by an electricity substation and the appellant suggests that, as this would have been considered a *sui generis* use, this part of the site would be previously developed land. I was able to see the location of the former substation during my site visit. Whilst there was some evidence of the structure remaining, for all practical purposes, the site has been incorporated into the residential curtilage of the donor property. Additionally, within the context of the appeal site, the former substation area is only a small proportion. Consequently, I do not find this strand of argument a compelling one that would outweigh the requirements of the development plan.
 8. I therefore conclude that the appeal site is not a suitable site for housing having regard to the development plan. It would be contrary to the relevant requirements of Policy 3.5 of the London Plan; Policy CS1(A) and CS1(B) of the Core Strategy; and the adopted Harrow Supplementary Planning Document: Garden Land Development 2013, which seek to direct new development to areas requiring regeneration or which are strategic previously developed sites.

Character and appearance

9. Hindes Road is located within a residential area to the north of Harrow town centre. The surrounding area is made up of small to medium sized, irregularly shaped, perimeter blocks of predominantly two story, semi-detached and terraced houses, with long rear garden areas that form the interior of the block. The architecture is varied, and consists of small groups of houses with a shared design but with many designs within the street. Despite this architectural diversity, the similar roof heights of the houses, combined with shared materials, similar window shapes and proportions, use of bay windows,

- and a strong building line resulting from uniform set back distances from the highway, give the area a consistent and coherent character and appearance.
10. The appeal proposal would be located within the interior of the perimeter block and as such would not relate to the existing built form. The interior of the block consists of fenced garden areas, many of which contain small outbuildings. Nonetheless, the generally small scale of the outbuildings and typical fence heights of approximately 1.8 to 2 metres give the interior of the block a largely open and spacious character. Although the proposed building would be slightly smaller in scale than the houses on the edges of the block, it would be substantially larger than any of the existing outbuildings. The larger footprint and two storey form of the proposed houses, combined with the reduction in size of the rear garden of the donor property would, in my view, significantly erode the open and spacious character of the interior of the block currently experienced by the surrounding properties.
 11. I note the appellant's point that a house has been built adjacent to the appeal site at 26c Warrington Road, however, I do not have full details of the circumstances that led to this being accepted. The Council officer's report states that this was built prior to the current development plan being adopted. I saw on my site visit that this existing house is prominent within the interior of the perimeter block and as a result reduces the openness of it. As such it is not the type of development that should be used as reason to allow a similar development on the appeal site.
 12. The proposed houses would have a relatively simple external appearance and form which does not reflect the surrounding properties on Hindes Road and Warrington Road, which have a greater degree of articulation in the facades resulting from the incorporation of bay windows, canopies and gables breaking the eaves line. Although the proposed development would be inconsistent with the surrounding architecture, this would be less apparent as it would not be seen immediately adjacent to the older buildings on the edges of the perimeter block. However, this, of itself, would not outweigh the harm that would be caused to the open and spacious character of the interior of the block that I have previously found.
 13. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policies 3.5, 7.4 and 7.6 of the London Plan; Core Strategy Policy CS1(B); Policy DM1 of the Harrow Development Management Policies Local Plan 2013 (DMP); and the Harrow Supplementary Planning Document: Residential Design Guide 2010 which seek a high standard of design that has regard to its context and local character.

Living conditions of neighbouring occupiers

14. The proposed new houses would be located approximately 15m from the rear elevations of numbers 51, 53 and 55 Hindes Road. This is significantly below the long established, and widely accepted, back to back separation distance of 20-21 metres that is used to prevent overlooking and loss of privacy to existing properties. Although the properties at numbers 51 and 55 are at an oblique angle to the appeal site, the proximity of the upper floor windows in the appeal building would result in overlooking and loss of privacy to the occupiers of these houses as well as the occupiers of the donor property.

15. The appellant suggests that separation distances of 15 metres are not uncommon in new developments in Harrow, however, no specific examples of this are cited. In the absence of any evidence that back to back separation of less than 20 metres have been considered acceptable, I can give only limited weight to this point.
16. With regard to outlook, the introduction of a two storey building, even one with a relatively low roof structure, would introduce a significant built feature 15 metres from the rear of the houses on Hindes Road where there was previously none, and would result in a greater degree of enclosure to the rear of these properties than presently exists. This would be markedly more so in the case of number 51 Hindes Road which already has the high gable wall of 26c Warrington Road adjoining its rear boundary and would, in my view, be excessively overbearing at the rear of this property.
17. The separation distance to the majority of the properties in Warrington Road, with the exception of number 26c, is approximately 20 metres. Although number 26c is considerably closer, as the façade of this house would be at 90 degrees to the frontage of the proposed new houses on the appeal site, the potential for direct views between windows is low. For this reason I do not consider that the proposed development would result in any loss of privacy to the occupiers of the houses on Warrington Road.
18. The relative positions of the appeal site and the existing houses on Hindes Road are such that the proposed development would not result in any loss of direct sunlight to these properties. Although the appeal site is to the south of the houses in Warrington Road, the larger separation distance from these would prevent any significant overshadowing to the majority of these and result in only limited overshadowing of the frontage of number 26c. However, this does not outweigh the other harm that I have found.
19. I therefore conclude that the proposed development would cause harm to the living conditions of the occupiers of numbers 51 and 55 Hindes Road with particular regard to loss of privacy and outlook. It would be contrary to the relevant requirements of DMP Policy DM1 and the Harrow Supplementary Planning Document: Residential Design Guide 2010 which seek to ensure that new development protects the living conditions of existing residents. It would also be inconsistent with the requirements of the Framework which seeks a good standard of amenity for all occupiers.

Living conditions of future occupiers

20. As set out under the previous issue, the separation distance between the rear elevations of the proposed new houses and the existing properties on Hindes Road is significantly below the widely accepted back to back separation distance of 20-21 metres. It is proposed that the principal living accommodation would be at the rear of the new houses on the ground floor and there would be bedrooms on the first floor. All of these rooms would be overlooked by a number of first floor windows in the rear of the properties at 51-55 Hindes Road which would result in a loss of privacy for the future occupiers.
21. Similarly the outlook from the habitable rooms at the rear would be towards the large houses, which due to their scale and proximity would have an overbearing effect on the outlook from these rooms. At the front of the

proposed new houses, the upper floors would have a reasonable outlook as the houses on Warrington Road are further away. At ground floor level the front windows would be within approximately 4 metres of a brick boundary wall. However, these windows would serve kitchen areas and consequently it is not so important to have a reasonable outlook from these rooms.

22. Taken as a whole, the lack of privacy and the poor outlook from the rear of the proposed houses, where the principal habitable rooms would be located, would result in the development not providing suitable living conditions for the future occupiers.
23. It is not in dispute between the parties that the proposed new houses would meet the minimum floorspace requirements set out in the London Plan and the Nationally Described Space Standard. Nonetheless, although an adequate amount of living space would be provided, this would not outweigh the lack of privacy or poor outlook. It is suggested that this could be addressed through a planning condition requiring windows to be fitted with opaque glazing or louvres, or that additional landscaping is provided. Screen planting would not overcome the issue of overlooking from the upper floor levels of nearby houses, and the use of opaque glazing in the windows of principal habitable rooms would significantly reduce the quality of living conditions within these rooms.
24. I therefore find that the proposed development would not provide suitable living conditions for the future occupiers with particular regard to privacy and outlook. It would not comply with the relevant requirements of DMP Policy DM1; the Mayor of London's Supplementary Planning Guidance on Housing 2015 and the Harrow Supplementary Planning Document: Residential Design Guide 2010 which seek to ensure that new development provides satisfactory living conditions for future residents and is fit for purpose. It would also be inconsistent with the requirements of the Framework which seeks a good standard of amenity for all occupiers.

Highway safety

25. On Hindes Road parking is restricted by a single yellow line waiting restriction to each side. There are a small number of marked out parking bays for resident permit holders. At the time of my site visit the available on-street parking was heavily used with few spaces being available. Although the planning application form states that three parking spaces would be provided, which would be in line with the Council's parking standards, no parking provision is identified on the submitted plans. As the appeal site is within a controlled parking zone, which indicates that the area is subject to parking stress, the additional parking demand that would result from the appeal proposal if parking is not accommodated on site, or car ownership and operation restricted, would increase the level of parking stress and would be prejudicial to highway safety in the vicinity of the appeal site.
26. The appellant states that the access to the side of 53 Hindes Road is 4 metres wide and the provision of parking spaces could be addressed by way of a planning condition. For a planning condition to be effective, and to make an unacceptable development acceptable, it must be capable of being implemented. From the submitted drawing it is not clear how parking and manoeuvring space for cars for two additional houses plus the existing house could be accommodated and operated in a practical manner. A driveway width

of 4 metres is not sufficiently wide to allow two vehicles to park side by side and still operate the doors, and this width would not allow two vehicles to pass easily. Whilst parking spaces could be accommodated within the frontage of the existing house, as occurs at many of the properties on Hindes Road, this would not be conveniently located for the occupiers of the new dwellings and would present practical difficulties for the occupiers of number 53.

Consequently, I do not consider that this matter could be addressed through a condition.

27. The appellant also states that there is access to public transport nearby as evidenced by its moderate Public Transport Accessibility Level of 3. Whilst, the occupiers of the new houses would not necessarily be dependent on private cars for their day to day transport requirements, no mechanism is proposed that would prevent future occupiers from owning or operating cars.
28. I therefore find that the proposed development would cause harm to highway safety in the vicinity of the appeal site and would be contrary to the requirements of DMP Policy DM42 which seeks to ensure that new development is provided with appropriate car parking provision.

Conclusion

29. Proposals for new housing developments have to be considered in the context of the presumption in favour of sustainable development set out in the Framework. It is not suggested by the appellant the relevant policies for the supply of housing in the development plan are out of date. Whilst the Framework requires that development proposals that are in accordance with the development plan should be approved without delay, it equally follows that development which is contrary to the development plan should be refused planning permission.
30. The appeal site is relatively well located for access to shops, services and facilities and there would be some small scale benefits in terms of investment in the construction of the houses, expenditure in the local economy and a small increase in housing supply. Nevertheless the development plan is clear in its strategic objectives for the location of new development in the borough and that new development should be of a high standard of design, which provides suitable living conditions for existing and future occupiers, and makes appropriate provision for car parking.
31. Whilst the development would generate some very modest benefits, none of these factors either, individually or collectively, would justify making a decision that is contrary to requirements of the development plan and the harm that I have found would significantly and demonstrably outweigh the limited benefits that would arise from the proposal.
32. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR