

## Appeal Decision

Site visit made on 29 November 2016

**by Grahame Kean B.A. (Hons), PgCert CIPFA, Solicitor HCA**

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

**Decision date: 23 December 2016**

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**Appeal Ref: APP/M5450/W/16/3158065**

**Land at The Gardens, Harrow, London HA1 4EX**

- 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 Vaghji Hirani against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/2349/16, dated 16 May 2016, was refused by notice dated 20 July 2016.
  - The development proposed is demolition of existing garages; construction of 6 studio flats.
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### Decision

1. The appeal is dismissed

### Procedural Matter

2. The appellant has amended the plans for the amenity space for the ground floor flats whilst omitting provision for the first floor flats. Alternatively it is also proposed to include first floor balconies. Revised plans are submitted with the appeal which in my view would alter the scheme beyond minor revisions.
3. The appeal process should not be used to evolve a scheme. The revised plans have not been considered by the Council or those initially notified of the proposal. As prejudice would be caused if I were to consider these plans, I have decided the appeal based on those that informed the Council's refusal.

### Main Issues

4. The main issues are whether or not the proposal would result in:
  - a. unacceptably adverse effects on the living conditions of future occupants;
  - b. adequate provision for refuse storage; and
  - c. unacceptable risks of flooding.

### Reasons

#### *Living conditions*

5. The Council has no concerns in terms of impact the proposal would have on the living conditions of the nearby residents. In addition the internal floor space of the units would suffice for studio flats and meet minimum space standards.
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6. Policy DM27 of the Harrow Council: *Development Management Policies* 2013 (DMP) requires new housing to provide amenity space appropriate to the likely needs of the future occupiers, and the need to safeguard their privacy, taking account also of the Mayor's London Housing Design Guide.
7. The occupants of the new studio flats would share communal open space at the rear of the site. Although meeting the size-related standards for 6 residents, the space would be considerably limited in depth. It would not in my view be of a standard commensurate with the expectations of the Mayor of London's Housing Supplementary Planning Guidance 2016 (SPG) which places a high value on providing private open space of a practical shape and utility.
8. Furthermore whilst the submitted plans show an open plan arrangement on the ground floor units, the bedroom areas to all intents and purposes have a single aspect to the communal space which, when in use would conflict with the privacy that would reasonably be expected by future occupiers of these units.
9. Extracts from appeal decisions are referred to which have been considered.<sup>1</sup> They highlight that it is not uncommon for small flats or studios to have limited or no external amenity space and that weight should be given to the availability of public open space in reasonable walking distance of the site, including where the appeal site, as is also the case here, is in a mixed use higher density location. From what I have read of these decisions the proximity of public open space is not seen as a direct substitute for private amenity space but a factor to take into account among all the circumstances of the case.
10. There are material differences between the appeal scheme and these decisions, most of which appear to be concerned with a single unit that is unable to be provided with its own private space. 9 College Avenue and 2-4 King Street, deal with larger schemes, however in the former decision the Inspector was not provided with recommended space standards whilst the latter decision was in a different borough and pre-dates the SPG. I have determined the appeal on its own merits and against the particular policy background that obtains here.
11. Reliance is placed on views that occupiers of small units are disinterested in private space due to the burden of maintenance or to preferring other benefits of urban living such as accessibility to transport and amenities. Whilst I accept these views are potentially valid, there is little evidence in this appeal that demonstrates whether and to what extent, the intended or future occupants of these units will hold such views. I give greater weight to the evidence based, up to date policies in the development plan that set private space standards for new housing in the interests of successive occupiers.
12. I take into account that the National Planning Policy Framework (Framework) at Paragraph 58 encourages the optimisation of the potential of sites to accommodate development. However I also note that, although the proposal would add to the mix of dwellings available including for local employees, no information is supplied as to the housing land supply position in the borough.
13. Whether a revised scheme could satisfactorily overcome the deficiencies in external space whilst maintaining the same number of units is not before me, however the standard of external space proposed would fail to accord with

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<sup>1</sup> APP/M5450/A/13/2208687 - 66 Whistler Gardens; APP/M5450/A/14/2222351 - 9 College Avenue; APP/A5270/A/13/2210373 -17 Priory Gardens; APP/A5270/A/11/2162705 2-4 King Street; APP/M5450/A/10/2128380 11a Leamington Crescent; APP/M5450/A/10/2136311 32 Rayners Lane.

development plan policy and supplementary guidance. I consider these policies are consistent with Paragraph 57 of the Framework which emphasises the need to plan positively for the achievement of high quality and inclusive design for all development, including private spaces.

14. I conclude that the proposal by reason of the poor quality in the layout of the external space and its proximity to the bedroom windows of the ground floor units would be harmful to the living conditions of future occupiers contrary to Policy 7.6B of the London Plan<sup>2</sup>, SPG, and DMP Policies DM1 and DM27 which set high standards of design for new development including private external space that offers protection against unacceptable loss of privacy.

#### *Refuse storage*

15. The Council asserts that the proposal for 6 new units would require 18 wheelie bins but there would be insufficient space on the forecourt to store this number of refuse bins without unacceptably cluttering the front of the appeal site.
16. There is no information provided to support the need for separate use of three bins for each resident. Given the proposed occupancy levels I see no reason why some form of bin sharing could not provide satisfactory storage volume to meet the general, recycling and organic waste material arising from the site. It is likely in my view that this would require fewer, albeit possibly larger, bins than the Council supposes. Nevertheless, having considered the available space at the front of the site, a planning condition could ensure an acceptably efficient and compact configuration of bins that would be properly screened.
17. The proposed development would therefore provide suitable refuse storage for future occupiers in line with the aims of DMP Policy DM45 to require bin and refuse storage to minimise visual impact and avoid nuisance to occupiers, whilst providing satisfactory access for collectors.

#### *Is there a risk of flooding?*

18. An area in the south east quadrant of the appeal site is in the surface water Flood Zone 3 and the Council objected to the proposal in the absence of a satisfactory flood risk assessment (FRA). An updated FRA is provided with this appeal, which considers the presence of ground floor self-contained residential studios. It concludes that no part of the development would require land raising within Flood Zone 3a or 3b areas and that the development would not reduce flood capacity or prevent the free flow of floodwaters.
19. Having regard to the site and its surroundings and the proposed mitigation measures in the FRA I see no reason why a condition could not ensure adequate safeguards against unacceptable risks of flooding of the appeal site or elsewhere. The development would thus comply with Policy 5.12 of the London Plan, CS Policy CS1.U in that it would be adequately managed to reduce flood risk and increase resilience to flood events, and DMP Policy DM9 by minimising the risk of flooding on site and not increasing the risk of flooding elsewhere.

#### *Other Matter*

20. The appellant highlights that the planning officer's report expresses concern that the proposal would result in undue parking pressure on the surrounding

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<sup>2</sup> London Plan: Spatial Strategy for London Consolidated with Alterations Since 2011 (2015)

residential streets, however this matter is not referred to in the refusal notice or subsequently by the Council, whether by accident or design is not known. I have considered the appellant's evidence on parking but it is not such as would overcome the harm found in the first of the main issues in this appeal, which I regard as a fundamental objection to the proposed development. Therefore matters related to parking would be for the Council to consider on any eventual revised application.

### **Conclusion**

21. For the above reasons and having regard to all other matters raised the appeal is dismissed.

*Grahame Kean*

INSPECTOR