

Appeal Decision

Site visit made on 8 November 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 4th January 2017

Appeal Ref: APP/R5510/W/16/3155345

76 Snowden Avenue, Uxbridge, Hillingdon UB10 0SE

- 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 Darren Sullivan against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 17008/APP/2015/3992, dated 26 October 2015, was refused by notice dated 5 February 2016.
 - The development proposed is construction of proposed 2-bed bungalow within the rear garden of No. 76 Snowden Avenue.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a 2-bed bungalow within the rear garden at 76 Snowden Avenue, Uxbridge, Hillingdon UB10 0SE in accordance with the terms of the application, Ref 17008/APP/2015/3992, dated 26 October 2015, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues are:
 - The effect of the proposal on the living conditions of the occupiers of 76 Snowden Avenue with particular regard to noise and disturbance, and privacy.
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living Conditions

3. The appeal seeks to erect a detached dwelling in the rear garden of 76 Snowden Avenue which is a two-storey, end-terrace property. The dwelling would be a bungalow with habitable rooms in the roof space. It would be accessed via a driveway that would extend from Snowden Avenue beyond the flank wall and rear garden of No 76. The property would be served by two parking spaces located adjacent to the flank wall of No 76.
 4. I note the Council's concerns regarding the movement of vehicles in close proximity to No 76 and its garden area. However, the flank wall of No 76 does not contain any windows serving habitable rooms. In addition, it is proposed to erect a 2m high closed boarded fence and gate adjacent to the rear wall of No
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76. This would prevent vehicles from moving adjacent to the rear garden and the windows serving a kitchen and a bedroom in the rear wall of No 76. As such, residents would be unlikely to be subject to significant levels of noise from vehicles.
5. Moreover, it is unlikely in my view that the comings and goings associated with a single dwelling would give rise to significant levels of noise and disturbance from pedestrians using the proposed wheelchair access adjacent to the rear garden. As a result, I am satisfied that the proposal would not result in harmful levels of noise and disturbance for occupiers of No 76.
 6. Paragraph 4.12 of the Council's Residential Layouts SPD¹ (SPD) states that new residential development should be designed to ensure adequate privacy for its occupants and adjoining residential properties. The guidance states that the distance between facing habitable rooms should be not less than 21m. Whilst the minimum distances would be achieved to 4 and 5 Silver Way, there would be a distance of only around 15m between the front elevation of the proposed dwelling and the rear of No 76.
 7. Nevertheless, the SPD states in paragraph 4.13 that where a distance of 21m cannot be achieved, visual privacy can be protected by careful layout and screening, as well as the use of obscure glazing. It further states that obscure windows are only acceptable to non-habitable rooms such as kitchens and bathrooms. The three windows in the front elevation of the proposed dwelling would serve a hallway, a bathroom and the open plan kitchen living room. All would be obscurely glazed. Moreover, the windows in the roof space would be roof lights that sit flush with the roof plane and therefore, direct views from those windows would not be obtainable towards No 76.
 8. Furthermore, there would be additional landscaping in the rear garden of No 76 which would screen views between the two at ground floor level. What is more, the levels of comings and goings associated with a single dwelling would be unlikely to result in significant levels of overlooking of the rear garden. As a result, the proposal would not result in a harmful loss of privacy for the occupiers of No 76.
 9. I conclude, therefore, that the proposal would not have a harmful effect on the living conditions of the occupiers of 76 Snowden Avenue with particular regard to noise and disturbance and privacy. Consequently, the proposal would not conflict with Saved Policy H12 of the London Borough of Hillingdon Unitary Development Plan (adopted 1998) Saved Policies 27 September 2007 (UDP) which states that proposals for backland development will only be permitted if no undue disturbance or loss of privacy is likely to be caused to adjoining occupiers. It would also accord with Saved Policies BE19, BE21, BE24 and OE1 of the UDP which require development to complement the amenity of the area, not to result in a significant loss of residential amenity and protect the privacy of occupiers and their neighbours.

Character and Appearance

10. Snowden Avenue is a predominately residential street, characterised by semi-detached and terraced two-storey housing. The appeal site is an end-terrace dwelling which shares a boundary with a vacant public house. To the rear of

¹ Hillingdon Design and Accessibility Statement (HDAS) Supplementary Planning Document Residential Layouts, Hillingdon Local Development Framework, July 2006

the property are the gardens of terraced properties on Silver Way. The properties of 66-78 Snowden Avenue also adjoin the appeal site, as do the rear of gardens of properties on Oakdene Road. The appeal site has a driveway to the side which provides access to a detached garage located within what is a substantial rear garden. Indeed, the rear garden is far in excess of those typically found within the area. There are also trees and vegetation along the side and rear boundaries of the site.

11. It is proposed to erect a detached 2 bedroom, bungalow within the rear garden of the property. The property would be sited towards the rear of the garden and would have a parking area with a separate garden from No 76.
12. The Council raises no particular objection to the principle of an intensification of residential use in this location. Nevertheless it has raised concerns that the principle of backland development in this location would be contrary to Policy BE1 of the Hillingdon Local Plan: Part 1 Strategic Policies 2012 (LP) which states proposals should not result in the inappropriate development of gardens.
13. The Council considers that the property would be bulky in its appearance given the proposed width. Indeed, I note that the property would be much wider than surrounding properties and would be detached, in contrast to the prevailing pattern of terraced houses in the area.
14. Nevertheless, the property would be lower than surrounding properties, with an overall height of around 5.7m. It would also have a depth of around 7.4m which would be similar to surrounding properties. Moreover, the property would incorporate a gable ended hipped roof, with the staggered rear elevation incorporating a pitched roof and dormer. As a result, the property would not appear overly dominant. Nor would it be, in my view, a particularly intrusive structure.
15. In addition, the appeal site is unique in its extent and its relationship with the adjoining public house. Indeed, the rhythm and pattern of the street scene is broken by the appeal site given the end of terrace setting and the context of the adjacent public house. The proposed dwelling would be read in that context. It would not, as a result, undermine the overall rhythm or pattern of the street scene and would not fail to harmonise with that context.
16. Whilst I recognise there would be some loss of garden area, the appeal site is much larger than the typical gardens found within the area. The proposal would be set in between around 1m and 2.5m from the northern boundary, and around 1.5m from the southern boundary. Furthermore, the existing property would retain a garden of around 60sqm whilst the proposed dwelling would have a garden of around 61sqm. As a result, a significant proportion of garden area would be retained, undeveloped. To that end, the proposal would not result in a cramped development of the site.
17. Whilst the dwelling would be visible from some neighbouring properties and gardens, the proposal would be set back from the highway a considerable distance and would be largely obscured by the existing dwellings. Furthermore, the dwelling would be enclosed by a 2m high boarded fence. This, along with the trees and landscaping around the site would screen a significant proportion of the building's mass from public vantage points. In addition, the proposal would result in the removal of the existing garage. This

would partially offset the extent of the proposed built form. Consequently, the proposal would not appear visually incongruous within the street scene.

18. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area. The proposal would accord with the design aims of Policies 3.5 and 7.4 of the London Plan². In addition, the proposal would comply with Policy BE1 of the LP. It would also accord with Saved Policies BE13 and BE19 of the UDP which state that development will not be permitted if it fails to harmonise with the street scene and that new development should complement or improve the character of the area.
19. Finally the proposal would accord with the guidance set out in paragraph 1.2.23 of the Mayor of London Housing Supplementary Planning Guidance 2012 in respect of proposals which involve the loss of gardens as well as Paragraph 53 of the National Planning Policy Framework which states that LPA's should consider policies to resist inappropriate development of residential gardens, for example where development would cause harm to a local area.

Other Matters

20. I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The proposal seeks to provide an independent dwelling for the appellant's disabled daughter who would have a protected characteristic for the purposes of the PSED.
21. The PSED places a duty on me to have due regard to the appellant's daughter's disability and the need to advance equality of opportunity. Such a duty does not necessarily override other considerations but it is a factor to be weighed in the planning balance. I have been provided with some detail of the appellant's circumstances which I have considered carefully. However, as I have found that the proposal would not result in material harm, I have not weighed this consideration in the planning balance.
22. I have also considered the rights of the appellant under Article 8 of the Human Rights Act 1998. Article 8 affords the right to respect for private and family life. Dismissal of the appeal would interfere with the appellant's rights under Article 8. However, this is a qualified right and any interference may be justified where it is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality.
23. I have considered whether or not the rights of the appellant's daughter under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998 would be violated if the appeal were dismissed. However, as I have decided to allow the appeal, my decision would not lead to any violation.
24. The proposal would provide an adequate standard of internal and external space. I am satisfied therefore that it would provide satisfactory living conditions for future occupiers.
25. I note the concerns of some local residents regarding the effect of the proposal on highway safety. However, adequate off-street parking would be provided

² The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011, 2016

for the proposed dwelling. Whilst there would be a loss of 1 parking space for the existing property, there is no evidence before me that any additional parking requirements for No 76 could not be accommodated on-street. As a result, on the evidence before me, the proposal would be unlikely to have a harmful effect on highway safety.

Conditions

26. In addition to the standard time limit condition, I consider a condition requiring compliance with the approved plans necessary to provide certainty. A condition in respect of materials is also necessary to protect the character and appearance of the area. For the same reason, and to protect the living conditions of the occupiers of 76 Snowden Avenue, conditions in relation to landscaping and boundary treatments are necessary, though the landscaping condition suggested by the Council is unduly prescriptive and would not be reasonable in its suggested form.
27. Conditions are necessary to ensure that adequate visibility splays are provided and the availability of car parking spaces is retained in the interests of highway safety. As suggested by the Council's Accessibility Officer, I agree that a condition requiring that the development is constructed to the specifications of Part M, M4 (2), category 2: Accessible and Adaptable Dwellings' of the Building Regulations 2013 is necessary to ensure that the proposal meets the needs of a range of different users, in accordance with Policy 3.8 of the London Plan.
28. The Council's officer report makes reference to requirement for a reduction in water consumption and I agree a condition to ensure that 100% of the water supplied to the dwelling is by the mains water infrastructure provided through a water meter/s and that mains water consumption meets a standard of 105 litres per head per day is necessary to encourage the efficient use of water. This is consistent with the approach set out in Policy 5.15 of the London Plan which reflects the optional requirement set out in Part G of the Building Regulations.
29. The appeal site lies within a Critical Drainage Area (CDA) where surface water contributes towards drainage problems. To that end, the Council's officer report suggests a condition would adequately address such matters, however, no such condition has been provided. Nevertheless, the proposal would result in a minor increase in the number of dwellings in the CDA and therefore I consider a condition requiring submission and agreement of drainage details necessary to prevent any increased risk of flooding.
30. Finally, the Council's officer report suggests that a condition in respect of energy performance would be necessary in line with Policy 5.2 of the London Plan. However, Policy 5.2 only requires this improvement for major developments and it is not therefore applicable to this development.

Conclusion

31. For the reasons given above, and having considered all other matters, I conclude that the appeal should be allowed.

Jason Whitfield

INSPECTOR

SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1057-1, 1057-3 Rev B, 1057-4 Rev B, 1057-5 Rev B, 1057-6 Rev E, 1057-7 Rev B, 1057-8, and 1057-9.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until there has been submitted to and agreed in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the agreed details.
- 5) No development shall take place until details of both hard and soft landscape works have been submitted to and agreed in writing by the local planning authority. The landscaping of the site shall be carried out in accordance with the agreed details.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to the occupation of the development hereby permitted, the access for the car parking shall be provided with those parts of a 2.4m x 2.4m pedestrian visibility splays which can be accommodated within the site in both directions and shall be maintained free of all obstacles to the visibility between the height of 0.6m and 2.0m above the level of the adjoining highway for the lifetime of the development hereby permitted.
- 8) The car parking spaces hereby permitted shall be kept available for the parking of a car or other vehicle at all times.
- 9) The dwelling hereby permitted shall be constructed to have 100% of the water supplied to it by the mains water infrastructure provided through a water meter and the dwelling shall be constructed to include water saving and efficiency measures so that mains water consumption would meet a standard of 105 per head per day or less. The development shall be maintained as such in perpetuity thereafter.
- 10) The development hereby permitted shall be constructed to the specifications of 'Part M, M4 (2), category 2: Accessible and Adaptable Dwellings' of the Buildings Regulations 2013 and thereafter retained in that form.

- 11) Prior to the commencement of the development hereby permitted, a surface water drainage scheme, based on the hierarchy of drainage options set out in National Planning Practice Guidance, along with evidence of an assessment of the site conditions shall be submitted to and agreed in writing by the local planning authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015), or any subsequent replacement national standards and no surface water shall discharge to the public sewerage system either directly or indirectly. The development hereby permitted shall be carried out in accordance with the agreed details and maintained as such for the lifetime of the development.

-----END OF SCHEDULE-----