
Appeal Decision

Site visit made on 13 July 2016

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/R5510/W/16/3149102

511 Uxbridge Road, Hayes, Middlesex, UB4 8HN

- 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 John Rai against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 15988/APP/2014/4271, dated 3 December 2014, was refused by notice dated 5 February 2016.
 - The development proposed is demolition of existing 4-bedroom house and erection of 2, three storey blocks comprising 10 two-bedroom flats, with associated access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupiers of 513 Uxbridge Road, with particular regard to privacy;
 - Whether the proposed development would provide appropriate living conditions for future occupiers, with regards to outlook and privacy, noise and disturbance, and air quality, and the provision of external private space;
 - Whether the proposed development would make appropriate provision for parking, refuse storage and energy efficiency;
 - The effect of the proposed development on protected species and any existing features of ecological value; and
 - Whether an affordable housing contribution would be appropriate.

Reasons

Character and appearance

3. The appeal site accommodates a detached, two-storey house with a paved front garden used wholly for vehicle parking, and a long rear garden vegetated with mature trees, including perimeter planting. The scheme includes the

demolition of the house and its replacement with a three-storey flatted building, Block 1, with an undercroft opening allowing vehicle passage from the road through towards the rear of the site. A further three-storey block, Block 2, would be constructed adjacent to the rear boundary, with the width of both blocks being similar to that of the rectangular site.

4. A row of detached houses on long blocks, similar to the layout of the existing property, are located along Uxbridge Road to the west of the site, while to the rear, Elmlea Drive accommodates a newer, infill-type development of houses. A line of garages abuts the rear boundary of the site. To the east, a larger site accommodates a recently constructed development of flats arranged in three-storey blocks around the three roads bounding the site, with a central open area abutting the rear garden of the appeal property. This neighbouring site is within the Hayes Village Conservation Area, the edge of which runs along the eastern boundary of the appeal site.
5. Both the front and rear proposed blocks would align with these existing flatted blocks to the east. There is currently a visual disparity between the two front blocks, by reason of their differing heights and architectural styles. However, the existing dwelling on the appeal site also appears different from its neighbours to the west; these have similar façade details, which set them apart, as a group, from the existing dwelling. Block A would have a scale similar to the larger block to the east, but incorporate some architectural styling of the older dwellings to the west. A step up in scale would occur between the newer and older buildings that would occur on the appeal site's western boundary, rather than the eastern as at present, which would not detract from the existing appearance of this part of the street scene.
6. Whilst there would be a gap between the proposed block and existing house at 513 Uxbridge Road, it would abut the existing flatted block to the east. The existing street scene context along the road is busy and varied, as is its character, as well as features such as separation between dwellings. As such, the proposed front part of the development, Block A, would not appear out of place within its surroundings.
7. At the rear of the site, Block B would sit next to the larger existing flatted block to the east. However, the proposed block would not abut any existing streets, and would not thereby align with a road, unlike the existing buildings on the site and surrounding sites, which are arranged in a perimeter formation alongside roads. Although Block B would abut the existing garages and would be in view of existing domestic outbuildings which also do not adjoin the surrounding streets, these are low-rise and obtrusive in most views from adjoining properties. The garages to the rear of the site are low-rise but are clearly visible from surrounding dwellings, standing out clearly amongst views across the otherwise vegetated rear garden spaces.
8. The existing gardens on the site, and in neighbouring properties along Uxbridge Road, are large green spaces which provide an area of open space and respite away from the busy road. Conversely, the scale and bulk of the proposed building would draw attention and appear obtrusive, incurring into a vegetated area that currently helps to mitigate against the visual impact of the garages, and changing the character of the rear gardens. I am concerned that such an incursion could result in similar future rear garden development within the area, which would further alter the character and verdant appearance of

these suburban gardens, and the views over these from the Conservation Area.

9. The removal of mature trees on the site, and the possible detrimental impacts to trees close to the boundary but on adjoining sites, is also a material consideration. Their removal would result in additional harm to the area's existing character, for reasons similar to those set out within the preceding paragraph. Although replacement planting within the development would partially mitigate the impact, the overall impact of the removal of mature existing trees and open garden space would alter the character and appearance of the site, and affect views from adjoining land.
10. As such, I consider that the visual dominance resulting from the design of Block B, and the loss of open garden space and mature trees, would be harmful to the character and appearance of the area. I therefore conclude that the proposed development would have a harmful impact on the setting of the adjacent Conservation Area, and would fail to preserve or enhance its character or appearance. The harm caused to the Conservation Area's wider significance as a heritage asset would be less than substantial as defined in paragraph 134 of the *National Planning Policy Framework*. I have considered whether any public benefits that would arise from the development, such as the provision of housing to address local demand, would be sufficient, on balance, to overcome the harm. However, this is not the case in this instance.
11. The proposed development would conflict with the Council's adopted *Hillingdon Local Plan: Part One – Strategic Policies* (2012) BE1 and HE1, *Hillingdon Local Plan: Part Two – Saved Unitary Development Plan Policies* (2012) BE4, BE13, BE19, BE22, BE38 and H12, and the strategic design policies of *The London Plan* (2015), which together require development to be appropriate within its context, and to preserve local features of importance, including trees and garden spaces. This is consistent with the core planning principle of the *National Planning Policy Framework* requiring all development to achieve a high standard of design.¹

Living conditions (existing occupiers)

12. Block B would have large front- and rear-facing windows, with smaller windows in the side elevations, on all three levels. Although there is the potential for direct overlooking from these side windows into the properties on either side, these serve only as secondary windows to rooms with a dual aspect. Were the appeal to be allowed, these could be specified as obscure windows, thereby restricting any potential for overlooking of these adjoining properties. I have also taken note of the concerns of Elmlea Drive residents regarding potential overlooking from the rear elevation windows in Block B. However, although there would be some minor new overlooking, the distance between these homes and Block B, across the existing garages and rear gardens, would be great enough to ensure that there would be no significant loss of privacy, or that there would be a large amount of new overlooking of Elmlea Drive homes.
13. I have concerns regarding the impact of the windows of the northern elevation of Block B, which would face the direction of Block A, and the rear windows,

¹¹ The documents within this paragraph are hereafter referred to, respectively, as the Local Plan Part One, the UDP, the London Plan, and the Framework.

glazed doors and garden of the house on the adjoining property at 513 Uxbridge Road. The main living areas of this home are at the rear of the house, and having visited the property, it is clear that these south-facing private areas provide respite from the busy road at the front of the property. Although there would be some distance between the windows of Block B and No. 513, there would be a direct line of sight from the Block B windows towards the large glazed openings and patio garden area of No. 513. This would result in new overlooking that would harm the living conditions of the occupiers of No. 513, and a loss of privacy.

14. I acknowledge the appellant's comments that the new scheme to the east has resulted in a similar loss of privacy to the existing home on the appeal site, but consider that in this instance, the likely harm to the living conditions of the occupiers of No. 513 is a sufficient reason for dismissal of the appeal. I therefore conclude that the proposed development would harm the living conditions of adjoining occupiers. It would conflict with the Council's UDP Policies BE19 and BE24, which together seek to ensure that development preserves the amenity of its surrounding area, and the privacy of occupants of neighbouring properties.

Living conditions (future occupiers of the appeal development)

15. The proposed flats in Block 2 would have rear-facing windows to habitable rooms, which the Council has stated would be around two and a half metres from the rear boundary. Most of the windows would be the sole openings for bedrooms or study rooms, and in the case of the ground floor windows, would open directly onto an area of shared garden space. I also share the Council's concerns that similar conflicts would exist at the front of the block, where a shared path runs directly outside windows. Furthermore, the position and proximity of car parking and manoeuvring space to these front windows could result in vehicle noise, lighting, emissions and pedestrian movement creating disturbance for future occupiers. Although the provision of obscure glazing could limit some of these impacts, the detrimental impact at both the front and rear of the block would have a harmful impact on the living conditions of future occupiers.
16. London Plan Policies 7.14 and 7.15 require development proposals to minimise increased exposure to poor air quality and the effects of noise, including traffic noise. However, the appellant has not provided information as to how these issues are addressed within the proposal, and as such, I am not convinced that the development complies with these policies, or that future residents would be adequately protected from inappropriate traffic noise and air pollution.
17. The Council's adopted design SPD² provides guidance on the amount of garden space to be provided in new development, taking into account the type and size of the proposed dwellings and the location of the development, amongst other factors. The Council has suggested that 250sq.m. would be a minimum appropriate provision of garden space for the proposed development.
18. The proposal would provide two separate shared garden spaces, one each at the rear of both blocks, of approximately 107 and 42 square metres. This would be significantly less than the minimum provision suggested by the guidance. Although I have taken into account the sizes of the proposed flats

² Hillingdon Design and Accessibility Supplementary Planning Document (SPD) Residential Layouts, July 2006.

and the layout of other new development nearby, I consider the shortfall to be significant. Furthermore, the absence of any form of private, non-shared outdoor space for future residents, and the poor layout of some of the intended space, means that the development would be unlikely to provide its occupiers with a sufficient amount of usable, attractive outdoor space. I acknowledge the proximity of recreational open space to the site, but note that access from the site would be along a busy road, accentuating the need for a suitable amount of on-site provision, to provide an appropriate sense of the home as a place of sanctuary, within a welcoming and well-designed environment.

19. I note the appellant's comments about the suitability of other factors that would contribute to living conditions, but such suitability does not mitigate the concerns that I have set out above. I therefore conclude that the proposed development would provide unsatisfactory and harmful living conditions for future occupiers, and would conflict with the Council's UDP Policies BE19, BE21, BE23, BE24 and OE1, as well as London Plan Policies 3.5, 7.14 and 7.15. Together, these require development to provide appropriate and welcoming residential environments, which limit detrimental and harmful impacts to occupiers' living conditions.

Parking, refuse storage and energy efficiency

20. The appellant has suggested that the Council's concerns regarding the provision of cycle parking and electric vehicle charging spaces, and refuse storage facilities could be provided through the use of planning conditions were the appeal to be allowed. These would have only a minimal impact on the layout of the site and I am satisfied that the inclusion of conditions would address the Council's concerns over these matters.
21. The appellant has submitted an addendum to the original energy statement, setting out the intended positions and amount of photovoltaic panels. Having consulted the Council for its views on this new information, I am satisfied that the provision would be in line with the projections of the original statement, and would not be detrimental to the appearance of the buildings.
22. I therefore conclude that there is appropriate provision within the proposal for parking, refuse storage and energy efficiency, and that the development would not conflict with London Plan Policies 5.2, 5.17, 6.9 and 6.13.

Protected species and ecological value

23. The Council's emerging Local Plan Part 2 contains a presumption against the development of garden land, as set out in emerging Policy DMH6. Whilst this is in line with London Plan and Framework advice on garden land development, the currently untested status of this policy means that I can only give it minimal weight in my decision. However, the Council's existing adopted policies, specifically Local Plan Part 1 Policy BE1, advises that development on gardens should not erode the character and biodiversity of suburban areas. I have addressed the character issue already in this letter. With regard to biodiversity, I note that whilst the development proposes that several mature trees would be removed from the site, and that others close to the site's boundary could be affected, new tree planting and landscape works could mitigate the loss of these existing specimens. Although the replacement planting would take time to reach maturity, suitable species and partially

mature plants could be used in landscaping the site, in accordance with the ecological characteristics of the area, were the appeal to be allowed.

24. Although the Council has objected to the absence of an ecological statement for the proposal, I have not been advised by any party that the site is within an identified area for protected species, or that there are any characteristics of the existing site that would be conducive to the habitat of these species. The site is not one of designated borough or local nature conservation importance. Therefore, on the basis of the evidence available, I conclude that the proposed development would not have a harmful impact on any protected species and any existing features of ecological value. Although the development would conflict with Local Plan Part 1 Policy BE1 for the reasons that I set out within the first main issue, there would be no conflict with UDP Policies EC2 and EC5, which seek the protection of ecologically beneficial environments and features within development schemes, or London Plan Policy 7.19 or the Framework, for similar reasons.

Affordable housing

25. At the time of the Council's decision, the Written Ministerial Statement (WMS) dated 28 November 2014, issued by the Minister of State, Department for Communities and Local Government, was not in force following a High Court decision. However, following a subsequent Court of Appeal decision which overturned the High Court judgement, the policies in the WMS are again a material consideration. These state that affordable housing contributions should not be sought from small-scale development, specifically developments of ten or fewer units, as specified within the Planning Practice Guidance (PPG)³.
26. As such, there is a conflict between the Council's Policies on affordable housing delivery, specifically Local Plan Part One Policy H2, and the policies in the WMS. I must apportion significant weight to these within my decision, reflecting Government Policy, and given the recent status of the WMS, I consider that these factors justify a decision that is not in accordance with the policy of the adopted development plan. I therefore conclude that the absence of an affordable housing contribution is appropriate in this instance, having regard to the WMS. This would not conflict with London Plan Policies 3.12 or 3.13, which are strategic in nature and do not directly address the issue of small site affordable housing contributions with any relevance to this case.

Other issues

27. I have taken into account the appellant's comments regarding the appropriateness of other aspects of the proposal, such as those relating to transport matters, but do not consider that there would be any positive considerations that would, in totality, outweigh the identified harm that would arise, with reference to the main issues. I have also considered the comments provided to me with regard to the Council's handling of the proposed development, but these do not materially affect my consideration of the planning merits of the case.

³ PPG Paragraph: 031 Reference ID: 23b-031-20160519; revision date 19 May 2016.

Conclusion

28. I have found that the non-provision of an affordable housing contribution is appropriate in this instance, that the minor design issues could be addressed were the appeal to be allowed, and that that there would be no significantly detrimental ecological or biodiversity impacts. However, these factors in totality are not sufficient to outweigh my concerns about the harmful effects of the proposal on the living conditions of occupiers of surrounding residential properties, the unsatisfactory living conditions for future residents of the development, and its detrimental impacts on the character and appearance of the area.
29. The development would conflict with the policies of the adopted development plan for the area. As such, it does not constitute sustainable development in accordance with the definition set by the Framework. Accordingly, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

G J Rollings

INSPECTOR