

Appeal Decision

Site visit made on 6 February 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 28 February 2017

Appeal Ref: APP/M5450/W/16/3156709

Land to rear of No 51, 53 & 55 Shaftesbury Avenue, Harrow HA2 0PL

- 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 Sachin Chudasama against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0737/16, dated 4 February 2016, was refused by notice dated 20 April 2016.
 - The development proposed is construction of two bedroom bungalow.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - a) whether, having regard to development plan policy and other material considerations, the principle of housing on the site is acceptable; and
 - b) the effect of the proposal on the character and appearance of the area.

Reasons

Principle of development

3. Core Policy CS1.A of the Harrow Core Strategy (2012) (HCS) seeks to manage growth in accordance with the Spatial Strategy which focuses on the regeneration of the Harrow and Wealdstone Intensification Area. Growth throughout the rest of the borough will be directed to town centres and strategic previously developed sites.
 4. Core Policy CS1.B states that garden development will be resisted. The supporting text (paragraph 4.5) explains that such development would lead to unmanaged incremental growth and prejudice the contribution of residential gardens to suburban character and the quality of life of residents. Gardens are also of recognised importance for natural drainage and biodiversity.
 5. The Council has prepared the Harrow Garden Land Development Supplementary Planning Document (2013) (SPD) to support the implementation of Core Policy CS1. Although not part of the statutory development plan, this document is a relevant material consideration. The guidance has been adopted following a process of public consultation and therefore I have attached it significant weight.
-

6. I have been supplied with an affidavit which states that the appeal site was assembled over the period 2001-2010, having been acquired under three separate property titles for land at the rear of No 51, No 53 and No 55 Shaftesbury Avenue respectively. Ordnance Survey maps held with the Land Registry give a clear indication that the land was originally within the residential curtilages of these properties. It has not been utilised as domestic garden for some time and is currently fenced off. I am told that the site has been used for the storage of materials, although this was not evident during my visit.
7. The SPD provides a helpful interpretation of the term 'garden land'. Paragraph 3.1 defines it to include any land that formed part of a garden but which has been legally and/or physically severed from the donor property(ies). That is precisely the situation in this particular case. The guidance clarifies that any land that historically formed part of a garden but which now has another lawful use and which has not reverted to have a garden use will not be treated as garden land. In the absence of any evidence to demonstrate that the use of the appeal site for storage has been sanctioned by a grant of planning permission, or is otherwise lawful, this exemption does not apply.
8. Based on the available evidence I am satisfied that the appeal scheme would comprise garden land development of the type the Council is seeking to resist at a strategic level. The proposal would therefore be contrary to Core Policy CS1 of the HCS. In accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 it should only be approved where other material considerations exist to outweigh the conflict with the development plan. Although the scheme would deliver additional housing this is not sufficient reason to justify a departure from adopted planning policy. I therefore conclude that the principle of housing on the site is unacceptable.

Character and appearance

9. The appeal site lies within a suburban residential neighbourhood. The area is mainly characterised by two-storey housing, with the properties in Dudley Road, onto which the proposed development would face, being arranged in terraced blocks. Directly opposite the site is a short row of semi-detached bungalows with hipped roofs. These are out of keeping with surrounding two-storey development but are nevertheless viewed as a single discrete group.
10. The proposed bungalow would be different to those opposite in that it would be detached with a pyramidal roof. The design would not be unacceptable in itself. However, the diminutive scale would seem incongruous in the context of the two-storey housing on either side. The bungalow would appear isolated and as a consequence it would be a discordant feature in the wider street scene.
11. It is suggested that the development would be akin to a domestic outbuilding. However, in my view it would not read as such. The building would be on a larger footprint than a typical garage or workshop and its fenestration would give it the outward appearance of a dwelling. For this reason I do not find the appellant's argument to be a persuasive one.
12. The Council raises concerns regarding the effect on a street tree in the highway verge to the front of the site. However, it was apparent from my observations that the proposed vehicle crossover would be well outside of the root protection area. I am therefore content that there would be no adverse

impact on the future health of the tree and no conflict with development plan policy in this regard.

13. Notwithstanding this finding, I conclude that the proposal would have a materially harmful effect on the character and appearance of the area. It would thus conflict with Policies 7.4B, 7.6B and 3.5A of the London Plan (2015), Core Policy CS1 of the HCS and Policy DM1 of the Harrow Development Management Policies Local Plan (2013). Collectively, these policies seek a high standard of design which has proper regard to local character and context.

Other Matters

14. It is contended that the proposal would meet the aspirations of the London Plan by delivering additional housing. In line with paragraph 53 of the National Planning Policy Framework, Policy 3.5 of the London Plan allows boroughs to introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified. The HCS includes such a policy and this has been tested and found to be sound at examination. Its adoption effectively means that the benefits to housing supply are outweighed by the harm arising from inappropriate garden development.
15. The appellant states that the proposal would not have a significant adverse effect on the living conditions of neighbouring occupiers. The officer report confirms that the Council is in agreement on this point. However, the absence of harm is a neutral factor in the overall planning balance.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR