

Appeal Decision

Site visit made on 3 April 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 13th April 2017

Appeal Ref: APP/M5450/W/17/3166932

58 Paines Lane and 20 Avenue Road, Pinner HA5 3BT

- 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 Millen (Millen Homes Ltd) against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4379/16, dated 8 September 2016, was refused by notice dated 8 December 2016.
 - The development proposed is described as 'proposed bungalow and extension of access driveway'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is evident from the submitted drawings that the proposed development also involves alterations to 20 Avenue Road. The Council's decision notice describes the proposal as 'Detached bungalow at rear; Partial demolition, single storey side extension and external alterations to No.20 Avenue Road; Creation of Access from Avenue Road; Parking & Landscaping' and I note that the appellant has used this description on the appeal form. This revised description more appropriately describes the proposed development, and I have therefore considered the appeal on that basis as no party would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

3. The main issues are whether the appeal proposal is acceptable in principle, and the effect of the proposal on the character and appearance of the area and on flood risk.

Reasons

4. The appeal site comprises part of the residential curtilages of 58 Paines Lane and 20 Avenue Road. The appeal proposal relates to the creation of a detached bungalow within the back garden of No 58 and the formation of a driveway leading from a shared access over a bridge across the River Pinn to the front of No 20.
-

Principle of the development

5. The core planning principles set out in paragraph 17 of the National Planning Policy Framework (the Framework) encourage the effective use of land by reusing land that has been previously developed. The glossary at Annex 2 of the Framework sets out that land in built-up areas such as private residential gardens is excluded from the definition of previously developed land.
6. Whilst it does not preclude the development of garden land, paragraph 53 of the Framework states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens. The Framework does not provide a definition of what would constitute the inappropriate development of residential gardens although, by way of an example, paragraph 53 refers to development that would cause harm to the local area. 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 effect of both the Framework and the London Plan is to enable garden land development to be resisted where the case for doing so can be justified through the development plan process.
7. Although adopted a month before its publication, the Harrow Core Strategy (the Core Strategy) took account of the emerging Framework. Policy CS1A of the Core Strategy relates to the Council's spatial strategy, which seeks to direct development towards previously developed land in accordance with the Framework. Pursuant to this, and in line with the provisions of the Framework and the London Plan, Core Strategy Policy CS1B states that garden development will be resisted. The local presumption against garden land development has been justified and tested through the preparation and examination of the Core Strategy, and I therefore afford Policy CS1 substantial weight.
8. The Harrow Garden Land Development Supplementary Planning Document (the SPD) supplements the Core Strategy policy in respect of garden land development, and was the subject of public participation and adoption in accordance with the statutory provisions¹. As such, I give it significant weight.
9. The appeal site comprises residential gardens and is thus not previously developed land as defined by the Framework. The SPD defines garden land development as any development on garden land that results in the formation of one or more new dwellings. There is no dispute that the appeal proposal constitutes garden land development.
10. The appellant has drawn my attention to an appeal decision in respect of a previous proposal for the development of the appeal site². I note that the Inspector in that case found harm in respect of character and appearance and so concluded that the proposal would conflict with Core Strategy Policy CS1B. My attention has also been drawn to an appeal decision relating to a proposed dwelling at 27A Corbin's Lane in Harrow³. I have not been provided with full details of that case, however I have read the Inspector's decision and note that the appeal site was considered to be a 'gap' site and so was an exception to the presumption against garden land development. As such, that case does not

¹ The Town and Country Planning (Local Planning) England Regulations 2012.

² Appeal Ref APP/M5450/W/16/3151356.

³ Appeal Ref APP/M5450/A/14/2225222.

appear to be directly comparable to the appeal proposal before me. In any event I must determine the appeal on its own merits, and have done so. Accordingly, I have given these other appeal decisions limited weight.

11. For the reasons set out above, I conclude that the appeal proposal would be inconsistent with the aim of directing development towards previously developed land set out in the Council's spatial strategy and contrary to the presumption against garden land development set out in Policy CS1 of the Core Strategy and the SPD. As stated in paragraph 196 of the Framework, the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise⁴. Under the other matters heading below, I address whether there are material considerations which weigh in favour of the proposed development.

Character and appearance

12. The appeal site is garden land within the centre of a perimeter block of residential development bounded by Paines Lane, Avenue Road, Barrow Point Avenue and Leighton Avenue. As demonstrated by the submitted aerial image, the surrounding area is generally characterised by dwellings located along the respective road frontages. Although other plots within the perimeter block have been subdivided in the past to facilitate garden land development, with the exception of the detached dwelling at 3 Barrow Point Avenue, that development has been situated along the road frontages. As a result, the characteristic perimeter block layout has been strengthened and the spacious central garden area has been preserved.
13. The appeal proposal would result in the erection of a bungalow with a substantial footprint, and the associated driveway, turning and parking areas would also be extensive. The proposal would thus develop a considerable proportion of the appeal site. Furthermore, the dwelling would be set well back into the site and would have no road frontage. Overall, the appeal proposal would not reflect the characteristic perimeter block layout in the surrounding area, and would erode the generous leafy gardens in the centre of the block.
14. I note that the scheme has been revised to reduce the number of dwellings from 4 to 1, reduce the length of the driveway and the overall area of hardstanding, retain specimen trees and increase the amount of landscaping along the front of the plot. The proposed bungalow would provide adequate parking and achieve good visibility at the site entrance, and its design and materials would reflect the local vernacular. However, these matters do not satisfactorily overcome the harmful effect of the appeal proposal upon the established pattern of development.
15. For the reasons set out above, I conclude that the proposed development would have a harmful effect upon the character and appearance of the area, contrary to the design aims of London Plan Policy 7.4, Core Strategy Policy CS1 and Policy DM1 of the Harrow Development Management Policies Local Plan (the DMPLP) and Chapter 4 of the Harrow Residential Design Guide Supplementary Planning Document.

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Flood Risk

16. The River Pinn runs through the western part of the appeal site and part of the site falls within Flood Zone 3 as defined by Table 1 of the Planning Practice Guidance (the PPG). In accordance with the vulnerability classification set out in Table 2 of the PPG, the proposed residential development is more vulnerable to flood risk. The Framework sets strict tests to protect people and property from flooding. Where these tests are not met, the Framework is clear that new development should not be allowed.
17. Notwithstanding that the Council and Environment Agency raised no objections to the previous scheme in relation to flood risk they have objected to the scheme before me. The submitted Flood Risk Assessment relates to a previous proposal rather than to the development under consideration in this appeal. I therefore conclude that it has not been adequately demonstrated that the proposed development would not be at risk of flooding or that there would be no increase in flood risk to third parties upstream or downstream of the appeal site. Consequently, it has not been shown that the appeal proposal would accord with paragraph 103 of the Framework, London Plan Policy 5.12, Core Strategy Policy CS1 and DMPLP Policies DM9 and DM11, which aim to reduce the risk and impact of flooding.

Other Matters

18. I have had regard to the benefits of providing an additional residential unit in an accessible location within walking distance of local shops, services and public transport links, to the Community Infrastructure Levy payment which would contribute to offsite infrastructure and to the incorporation of renewable energy solutions and a composting area, the low levels of predicted water use, use of locally sourced bricks and timber from renewable sources and sustainable site operations during the construction phase. However, these material considerations would not outweigh the harm I have identified.

Conclusion

19. I have found harm in respect of both the first and second main issues and determined that the appeal proposal would conflict with the development plan as a result. Furthermore, with regard to the third main issue it has not been demonstrated that the proposal would accord with national policy or the development plan. Consequently, the appeal proposal cannot benefit from the presumption in favour of sustainable development.
20. Therefore, for the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR