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# Appeal Decision

Site visit made on 6 June 2017

**by John Dowsett MA DipURP DipUD MRTPI**

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

**Decision date: 17 July 2017**

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**Appeal Ref: APP/M5450/W/17/3170355**

**Land to rear of 106 Eastcote Lane, Harrow HA2 8DH**

- 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 Mrs Premini Thiagarajah against the decision of the Council of the London Borough of Harrow.
  - The application Ref: P/5127/16, dated 31 October 2016, was refused by notice dated 20 December 2016.
  - The development proposed is erection of a detached two storey three bedrooms house in the rear land of 106 Eastcote Lane.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are:
  - Whether the appeal site is a suitable location for new residential development, having regard to the development plan;
  - 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 neighbouring residential properties; and
  - Whether the proposed development would provide suitable living conditions for the future occupiers with particular regard to accessibility and suitability for changing needs.

## Reasons

*Whether the appeal site is a suitable location for new residential development*

3. The appeal site comprises approximately 116 square metres of land to the rear of number 106 Eastcote Lane. It is enclosed by a timber fence approximately 1.8 metres high. At the time of my site visit the appeal site was laid to grass and contained a small metal shed and a child's swing. It is separated from the rear garden of 106 Eastcote Lane by a further timber fence, also approximately 1.8 metres high. The appellant has submitted a title document that shows the appeal site is registered separately from the house at 106 Eastcote Lane.
4. Policy 3.5 of the London Plan 2016 (London Plan) allows Councils to introduce a presumption against development on back gardens or other private residential

gardens where this can be locally justified. Policy CS1 of the Harrow Core Strategy 2012 (Core Strategy) sets out the growth strategy for the Borough and seeks to focus development in the Harrow and Wealdstone Intensification Area, town centres and strategic previously developed sites. Policy CS1(B) states that garden development will be resisted. Further guidance in respect of the development of garden areas is set out in the Harrow Supplementary Planning Document: Garden Land Development, 2013 (SPD).

5. Although the appeal site is registered under a separate title and is separated from the house at 106 Eastcote Lane by a fence, it is clear from the layout of the area, which I saw when I visited the site, that it was formerly part of the garden of number 106 and still retains many of the characteristics of a private garden area. The SPD defines garden land and is specific that the definition of garden land includes any land that formed part of a garden but which has been legally and/or physically severed from the donor property. The appeal site is therefore garden land for the purposes of London Plan Policy 3.5 and Core Strategy Policy CS1.
6. The appeal site is not within either the Harrow and Wealdstone Intensification Area, or a town centre, nor is it a strategic previously developed site. The Council's policies seek to restrict piecemeal, small scale, development in garden areas in order to achieve their strategic objectives. The appeal proposal would be contrary to these policies.
7. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that planning applications and appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is a material consideration and this sets out that there is a presumption in favour of sustainable development. However, the Framework is also clear that it does not change the statutory status of the development plan as the starting point for decision making and that development proposals should be determined in accordance with the development plan unless material considerations indicate otherwise.
8. The appellant suggests that there is a demand for housing of this type and that similar developments existing elsewhere in the Borough and more generally within London. No substantive evidence has been submitted in respect of housing supply or affordability, and no examples are given of similar developments. The Council state that they currently have a deliverable five year supply of housing land and, in the absence of any evidence to the contrary, I have no reason to believe that this is not the case. There are, consequently no material considerations identified that would indicate a decision should be made other than in accordance with Core Strategy Policy CS1.
9. I therefore conclude that the appeal site is not a suitable site for new residential development having regard to the development plan. It would be contrary to the relevant requirements of Policy 3.5 of the London Plan; Policy CS1(A) and CS1(B) of the Core Strategy; and the adopted Harrow Supplementary Planning Document: Garden Land Development 2013, which seek to direct new development to areas requiring regeneration or which are strategic previously developed sites.

### *Character and appearance*

10. The appeal site is located close to the roundabout intersection of Eastcote Lane, Rayners Lane and Roxeth Green Avenue, which are busy thoroughfares. It is primarily residential in character. On the main roads a grass verge separates the footway from the carriageway of the highway resulting in the houses being set well back from the road, giving the area a spacious feel. The surrounding houses are largely two storey with a small number of bungalows present. Predominantly, the houses are semi-detached with hipped roofs and feature two bay windows with a gabled roof on the front elevations. On the south side of Eastcote Lane, adjacent to the roundabout, there is a small group of mainly detached properties, with a more diverse range of designs, although these are an exception to the general built form. Further west on Eastcote Lane the roof forms are simpler without the front gables. Regular spacing of the semi-detached pairs and common design features and materials creates a homogenous appearance to the wider area.
11. The proposed design would incorporate architectural features, window proportions and materials which are consistent with the houses in the immediate vicinity. However, due to the orientation of the appeal site in relation to Roxeth Green Avenue and the positioning of the proposed dwelling to present its front elevation to the highway, it would have an irregularly shaped floorplan and a highly complex roof form with multiple roof planes. This would be inconsistent with the much simpler built form and roof shapes of the houses in the surrounding area.
12. The appeal site is within a roughly triangular area formed by the junction of Eastcote Lane and Roxeth Green Avenue. Although the proposed new dwelling would face onto Roxeth Green Avenue, it would be separated from the existing built form on this road by the rear gardens of 104 and 102 Eastcote Lane and a gated private access track that runs to the side of number 2 Roxeth Green Avenue. As such it would relate neither to the houses to the south, which face Eastcote Lane, nor to the houses on Roxeth Green Avenue due to its degree of physical separation from them. Moreover, the insertion of a new dwelling into the area of rear gardens would erode the spacious appearance that these garden areas contribute to the area.
13. Whilst there are a number of relatively substantial outbuildings within the rear gardens of the properties on Eastcote Lane, the proposed dwelling would be significantly taller and larger than these. Consequently, the proposed dwelling would appear as an isolated and incongruous feature in a prominent location and, due to its irregular shape and complex roof form, would not integrate well with the surroundings.
14. The appellant suggests that the proposed development would be proportionate to the site size and would provide sufficient external space for a dwelling of the size proposed. The external amenity space, whilst small, would meet the minimum requirements in the Council's Residential Design Guide Supplementary Planning Document 2010, which adopts the standards set out in the Mayor of London's Housing Supplementary Planning Guidance 2016. However, this fact, of itself, would not overcome the harm that the built form of the development would cause to the character and appearance of the area.
15. Although the appeal site is not within a Conservation Area, the development plan policies and the National Planning Policy Framework (the Framework) are

clear that new development should be of a high standard of design, with the Framework requiring that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

16. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policies 7.4 and 7.6 of the London Plan; Core Strategy Policy CS1; Policy DM1 of the Harrow Development Management Policies Local Plan 2013 (DMP); and the Harrow Supplementary Planning Document: Residential Design Guide 2010 which seek a high standard of design in new developments that has regard to its context and local character. It would also be inconsistent with the policies in the National Planning Policy Framework.

*Living conditions of neighbouring occupiers*

17. It is not in dispute between the parties that, as the proposed new dwelling would be located to the north of the existing properties on Eastcote Lane, there would be no overshadowing or loss of light to these properties.
18. The proposed new dwelling would be located directly to the rear of number 106 Eastcote Lane, approximately 10 metres from the existing house. I note that the appellant states that the separation distance would be 30 metres, but from my site visit, I saw that this cannot be the case and that the 10 metres stated by the Council is more accurate. There are a number of windows on the ground floor and first floor rear elevation of number 106 which look directly over the appeal site. There would be no windows in the first floor rear elevation of the proposed dwelling and the ground floor window on the rear elevation is proposed to be opaque glazed. As a consequence there would be no mutual overlooking between the existing houses and the proposed new dwelling.
19. The proximity to the existing house and the height of the proposed new dwelling with an essentially blank wall, two storeys high, facing the rear of number 106 Eastcote Lane, would in my opinion, result in an undue degree of enclosure to the rear of number 106 and a considerable loss of outlook from the rooms at the rear of the house. Although there is a slight change in level across the site, with the appeal site being lower than the houses on Eastcote Lane, this would not mitigate the effect of the proposed new dwelling on the existing house.
20. There are no windows proposed in the first floor side elevations of the new dwelling with the exception of a bathroom window and, consequently, there would be no loss of privacy to the occupiers of numbers 104 and 108 Eastcote Lane. Due to the offset between the rear of these properties and the proposed new dwelling, it would have a lesser effect in terms of enclosure and outlook but would nonetheless be harmful due to its proximity and as it would be plainly visible from the rear windows and rear gardens of these properties.
21. I conclude that the proposed development would cause harm to the living conditions of the occupiers of the neighbouring residential properties. It would be contrary to the relevant requirements of Policy 7.6 of the London Plan, Policy DM1 of the DMP and the Council's Residential Design Guide Supplementary Planning Guidance 2010 which seek to ensure that new development does not have an adverse impact on neighbouring occupiers. It would also be inconsistent with the policies in the Framework which seeks to ensure a good standard of amenity for all occupiers of land and buildings.

*Living conditions of the future occupiers*

22. It is common ground between the parties that the proposed dwelling would meet the minimum floor space requirements set out in the London Plan and that the habitable rooms would receive adequate levels of natural light. The principal area in dispute is whether the proposed dwelling would be accessible for disabled people and adaptable to meet any changing needs of the occupants.
23. When read together Policies 3.5, 3.8 and 7.2 of the London Plan seek to ensure that new development is of a high standard of design that takes into account the needs of disabled persons, and set a target of 90% of new housing meeting the requirements of Part M4(2) of the Building Regulations. Core Strategy Policy CS1 and DMP Policy DM2 require all new dwellings to meet 'Lifetime Homes' standards. In March 2015 a new set of national technical standards were published which introduced new optional Building Regulations on access. From 1 October 2015 existing Local Plan, neighbourhood plan, and supplementary planning document policies relating to water efficiency, access and internal space are required to be interpreted by reference to the nearest equivalent new national technical standard, in this case the equivalent standard is Part M4(2) of the Building Regulations.
24. I saw when I visited the site that there are marked parking bays on the highway outside the appeal site and that there was a generally level approach to the appeal site from these. I also saw that it would be possible to achieve a level access to the proposed dwelling within the appeal site. Whilst details are not shown of these on the submitted drawings and the drawings do not include details of where future hoist tracks or a thorough the floor lift could be installed from the submitted floor plans of the proposed dwelling I am satisfied that these could be accommodated and the details required by a planning condition.
25. However, it is a requirement of Part M4(2) that every dwelling has a room within the entrance storey that provides a WC and basin. The submitted floor plans do not show this and in order to accommodate this facility, there would need to be a revision to the design of the house. I am not satisfied that this aspect could be addressed by way of a condition as it would result in a material change to the submitted scheme. The proposal therefore fails to meet the requirements of Policy CS1 and DM2 in this respect.
26. I also note that the appellant states that the proposed dwelling is intended for occupants such as a young couple and concedes that the design as a whole would not fulfil the needs of all people.
27. I therefore find that the proposed dwelling would not provide suitable living conditions for the future occupiers with particular regard to accessibility and suitability for changing needs. It would not meet the requirements of Policies 3.5, 3.8 and 7.2 of the London Plan, Policy CS1 of the Core Strategy and Policy DM1 of the DMP.

**Conclusion**

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

*John Dowsett*  
INSPECTOR