
Appeal Decision

Site visit made on 31 July 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 16 August 2017

Appeal Ref: APP/M5450/W/17/3171440
42 Harrow View, Harrow HA1 1RQ

- 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 Seamus Quinn against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4823/16, dated 12 October 2016, was refused by notice dated 16 December 2016.
 - The development proposed is the demolition of two existing garages and the extension of a two-storey building containing 2 no apartments.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of two existing garages and the extension of a two-storey building containing 2 no. apartments at 42 Harrow View, Harrow HA1 1RQ in accordance with the terms of the application, Ref P/4823/16, dated 12 October 2016, subject to the conditions in the schedule to this decision below.

Application for costs

2. An application for costs was made by Mr Seamus Quinn against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Procedural matter

3. In the interests of clarity, the description of development given in the banner heading above contains minor amendments to the form of words included in the planning application form¹.

Main Issue

4. I consider the main issue in this appeal to be the effect of the proposed development on the character and appearance of the area, including its effect on the protected cypress tree.

Reasons

5. Aside from the telephone exchange to its side, the immediate environs of the appeal site are predominantly residential, though the type, style, scale, plot

¹ Which reads: "The demolition of two existing Garages and the proposed extension of a 2 storey building containing 2 no Apartments"

ratio and varied materials palette impart a somewhat eclectic character to the streetscene. The appeal site comprises part of the garden, forecourt, and two flat roofed garages to the side of a pair of dwellings, which have a symmetrical arrangement imparted by the paired gable projections, party wall upstand and bay windows. Faced in a mixture of brick and render and featuring barge boards, and contrasting decorative ridge tiles, the pair of houses has something of an Edwardian character.

6. Although plot sizes in the immediate surroundings of the appeal site are far from generous, mature trees in front and back gardens, taken together with those on the street impart a pleasant and verdant character to the streetscene, of which the cypress, protected by virtue of a Tree Preservation Order² (TPO) is a prominent specimen, which contributes considerably to the amenity of the area.
7. The appeal scheme seeks to demolish the existing garages on the site and replace these with a two-storey structure attached to No 42, gable fronted, with a bay window and party wall upstand reflecting the details of its host building. The two-storey extension would supply two apartments, which would share the resultant rear garden.
8. A portion of the appeal site is residential garden, and thus not previously developed land for the purposes of the National Planning Policy Framework (the Framework); however, I saw that the existing garages covered a considerable proportion of the appeal site. I also saw in the immediate environs of the appeal site that the development pattern, and plot sizes vary, with the flank wall of the house on the opposite side of Balfour Road being much closer to the footway than the siting proposed for the side wall of the appeal scheme. Moreover, the proposed development would still retain a substantial amount of the rear garden free from development. Furthermore, the proposed development would create a harmonious architectural composition taken together with its attached neighbours, and would have a prominent presence and frontage in the street.
9. Consequently, these matters, taken together, lead me to the view that the appeal scheme would neither read as visually harmful backland development at variance with the development pattern of its surroundings nor erode a prevailing sense of spaciousness.
10. I note also that two previous appeals³ concerning the site were dismissed. However, beyond the references for these appeals I have been supplied with little substantive evidence regarding the scope of the proposals concerned, or the material considerations taken into account. Accordingly, the weight that I attach to these previous appeal decisions is very modest.
11. The siting of the protected cypress at the bottom corner of the garden close to Balfour Road combined with its scale gives it a great degree of prominence in the streetscene. In contrast to the existing garage block at the site, the proposed development would be set in from the site's boundary with the pavement. This would serve to both increase the sense of spaciousness around the tree, and improve its visibility from some viewpoints. As a result, the

² Tree Preservation Order No.931: Harrow View. (No. 5) Headstone South

³ T/APP/N5450/A/87/66218/P2 and T/APP/M5450/A/88/86705/P4

- proposed development would neither compete with nor erode the tree's contribution to the wider character and amenity of the area.
12. I note the Council's concerns about the potential for additional boundary treatments associated with the subdivision of the garden to cause harmful effects to the protected tree; and in these regards I am also mindful of the appellant's comments that no additional boundary treatments are proposed. However, the submitted plan is not clear in this regard, and the boundary line around the area annotated as "APT 2 Proposed Garden"⁴ appears to show a gate in the environs of the protected tree.
 13. However, in these regards, I am conscious of the Framework, which states at paragraph 203 that decision-takers should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Therefore, in this instance I consider that an appropriately worded condition to ensure adequate tree protection measures should any boundary treatments be implemented as a result of the proposed sub-division of the garden would be a reasonable safeguard against any potential harmful impacts to the cypress.
 14. Accordingly, I consider that the proposed development would cause no harm to the character and appearance of the area or to the protected cypress tree.
 15. Whilst I note that the appeal site is neither in an intensification area or a town centre for the purposes of the development plan, I have no substantive evidence before me that such a modest proposal would undermine the spatial objectives set out in Policy CS1A of the Harrow Core Strategy (adopted February 2012) (the Core Strategy) to any substantial degree.
 16. The appeal scheme would also conflict with Policy CS1B of the Core Strategy insofar as it seeks to resist garden development. Nevertheless, for the reasons given above, it would avoid harm to the character of its surrounding suburban area, and thus would meet the requirements of CS1B more generally.
 17. The development's lack of harm in this regard, and the benefits it would supply in terms of provision of additional housing in an accessible location, whilst still being of a modest scale are considerations that justify a departure from the requirements of Policies CS1A and CS1B in respect of garden development and the development plan's wider spatial objectives in this instance. These factors also outweigh the proposed development's conflict with Harrow's Garden Land Development Supplementary Planning Document (adopted April 2013).
 18. In all other respects, as the proposed development would cause no harm to the character and appearance of the area, or to the protected cypress tree I conclude that it would not conflict with Policy DM22 of Harrow's Development Management Policies (adopted July 2013); or Policy 3.5 of The London Plan: The Spatial Development Strategy for London-Consolidated with Alterations since 2011 (adopted March 2016). Taken together, and amongst other matters, these policies seek to ensure that housing development is of the highest quality in relation to its context and the wider environment; and that development avoids removal of, and harm to, protected trees.

⁴ On Drawing no. 201 Rev no. P.01

Conditions

19. I have been supplied with a list of suggested conditions by the Council. In attaching conditions, I have been mindful of the tests given in paragraph 206 of the Framework. This establishes that conditions should only be used where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. I have amended the wording of conditions that I have attached, where necessary, in the interests of clarity and precision.
20. I have attached the standard implementation condition to comply with the requirements of the Town and Country Planning Act 1990 (as amended). In the interests of certainty I have attached a condition that specifies the approved plans. In the interests of the character and appearance of the area and the proposed development's host building, I have attached a condition that requires the submission of details involved in the proposed development's external construction to be submitted to, and approved by the Council prior to the development progressing beyond damp proof course level. However, given the scale of the scheme, I consider it unnecessary to require samples of the relevant materials to be submitted.
21. I have amended the suggested tree protection condition to refer only to measures in relation to boundary treatments for the rear gardens, due to the ambiguity of the plan in this regard. The condition requires submission of details of tree protection measures to the Council for its approval prior to the implementation of any additional boundary proposals.
22. I have attached a condition requiring details of bin storage to be submitted to, and approved by, the Council to ensure that the proposed development makes appropriate arrangements in these regards in the interests of the character and appearance of the area; and the residential amenity of its future occupants, and those of adjacent dwellings. However, I consider that it is not essential that this should take effect prior to the commencement of development in this case.
23. In order that the proposed development makes adequate arrangements for cycle storage I have attached a condition requiring submission to the Council of details in this regard. However, it is unnecessary for compliance with this condition prior to commencement of development.
24. The Written Ministerial Statement of 25 March 2015 (the WMS) makes it clear that standards such as Part M of the Building Regulations 2015 can only be applied where there is a relevant local plan policy. In this case I have not been supplied with a relevant policy that supports the Council's suggested condition relating to Part M. Consequently, the necessity of this condition has not been established in this instance.
25. The Government's Planning Practice Guidance advises⁵ that conditions seeking to restrict permitted development rights would rarely pass the test of necessity and should only be used in exceptional circumstances. In the current case, I consider that no exceptional circumstances pertain to justify a restriction of permitted development rights under A,B,D E or F of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order

⁵ Paragraph: 017 Reference ID: 21a-017-20140306
Revision date: 06 03 2014

2015 (as amended), or those relating to insertion of windows and doors in the flank elevation. I have thus not attached the suggested conditions that would give effect to these restrictions.

26. The proposed development is relatively modest in scale, and a considerable part of the site it would occupy is already developed. As a consequence, I consider that the suggested condition regarding drainage would be excessive and thus unnecessary in this instance.

Conclusion

27. In this instance, for the reasons set out above, material considerations have outweighed the appeal scheme's conflicts with the development plan. Accordingly, for the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Plans & Elevations drawing no. 101 rev. no. P.01; Proposed Plans + Elevations drawing no. 201 rev no. P.01.
- 3) No development above damp proof course level shall commence until details of the materials to be used in the construction of the external surfaces, roof covering, windows and doors, rainwater goods, boundary treatments and hard surfacing of the development 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 boundary treatments relating to the area annotated as "APT 2 Proposed Garden" on drawing no. 201 rev no. P.01 shall be erected until a scheme for the protection of the cypress tree (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the cypress tree shall be carried out as approved.
- 5) Notwithstanding condition (2) the development hereby permitted shall not be occupied until details of the means of storage of rubbish bins and recycling receptacles have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted, and retained thereafter.
- 6) Notwithstanding condition (2) the development hereby permitted shall not be occupied until details of bicycle storage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted, and retained thereafter.