



Appeal Decision

Site visit made on 14 January 2019

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/M5450/W/18/3213211

2 Boxtree Road, Harrow, HA3 6TG

- 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 P Khakharia against the decision of London Borough of Harrow.
 - The application Ref P/3088/18, dated 13 July 2018, was refused by notice dated 21 September 2018.
 - The development proposed is the demolition of existing residential dwelling and garage/lean to and erection of a new residential building housing one replacement dwelling and 5 new dwellings with associated parking, bin and cycle provision.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing residential dwelling and garage/lean to, and erection of a new residential building housing one replacement dwelling and 5 new dwellings with associated parking, bin and cycle provision at 2 Boxtree Road, Harrow, HA3 6TG in accordance with the terms of the application, Ref P/3088/18, dated 06/08/2018, subject to the conditions set out in the attached Schedule.

Main Issues

2. There are three main issues. These are:
 - (a) Whether the proposed development would represent the unacceptable use of garden land;
 - (b) The effect of the proposed development on the character and appearance of the area; and
 - (c) The effect of the proposed development on the living conditions of the occupiers of neighbouring properties with particular regard to privacy.

Reasons

The development of garden land

3. The appeal site falls within the definition of garden land as set out in paragraph 3.1 of the Council's Garden Land SPD¹. The aim of the SPD is to assist interpretation and application of strategic spatial policies which encourage

¹ Harrow Local Plan Supplementary Planning Document: Garden Land Development 2013

development on allocated sites in accordance with the Core Strategy² (CS). The SPD advises, however, that an element of judgement is necessary when applying its aims.

4. Paragraph 3.6 of the SPD states that garden land development excludes the redevelopment of an existing dwelling or group of dwellings to provide multiple dwellings or flats on the same building footprint, plus any appropriate enlargement. An appropriate enlargement is considered to be the footprint of any permitted extensions that could be exercised, or the footprint of an extension which would be consistent with the LPA's Residential Design Guide SPD (both options exclude outbuildings).
5. The proposal would result in a substantial enlargement in built form to that which exists (around 40% greater footprint) and as a result, there would be a loss of garden land. However, the site is currently occupied by outbuildings and a large extent of hardstanding and is relatively enclosed. As such, the extent of quality existing garden land is limited. The appeal scheme would result in a lesser quantity of garden land, but a higher quality, which could be secured by way of conditions relating to landscaping. Moreover, the scheme includes a green roof, which does not appear to have been taken into account.
6. The proposal would conflict with the SPD in so far as it would be located on garden land and it is not a gap site. However, there are clear material considerations which weigh in favour of the scheme. The existing hardstanding would be removed and, when taking into account the proposed green roof, the garden and lawn area would create a defined and functional green space which would contribute positively to the site and its surroundings. Furthermore, the proposal would provide a net gain of 4 new dwellings, in accordance with the Framework's³ commitment to boost significantly the supply of housing.
7. The principle of the development of this site would conflict with Policy 3.5A of the London Plan 2016, Policy CS1 of the CS and the Garden Land SPD which collectively aim to secure appropriately located development. However, I find that in this particular case, on the basis of its own merits, the conflict with these policies would be outweighed by the other material considerations that I have identified above.

Character and appearance

8. The appeal site is located on the corner of High Road and Boxtree Road. The existing dwelling fronts Boxtree Road. The front of the property is laid to hardstanding. The site is close to a commercial area and a park lies between it and the site which is also set back behind mature vegetation which forms a screen. The site therefore more legibly forms part of the street scene of Boxtree Road and High Road. There are a mix of architectural styles along these roads from arts and crafts style dwellings to art deco. Boxtree Road and High Road are predominantly made up of traditional detached dwellings in reasonable sized plots.
9. The design of the appeal proposal is traditional in form, albeit in a different architectural style than the dwellings immediately surrounding it. The eaves height, roof height, width and proximity to boundaries of the proposal are similar to other substantial detached dwellings in the area, including 4 Boxtree

² Harrow Core Strategy 2012

³ National Planning Policy Framework

Road. The mansard roof form and architectural features of the appeal proposal would reduce the apparent bulk of the building. As a result, the appeal proposal would integrate into the character of the area. I therefore find that the appeal proposal would be in accordance with policies 7.4B, 7.6B and 3.5A of the London Plan and Policy DM1 of the Local Plan⁴ and the Residential Design Guide SPD. Together, and amongst other things, these policies seek to ensure that development achieves a high standard of design, having regard to the character and context of the area by complementing the surroundings and enhancing their quality.

Living conditions

10. The appeal proposal would be sited side to side with 4 Boxtree Road and does not propose to include windows in the side elevation. The windows to the western side of the rear elevation would be angled across the rear garden of 4 Boxtree Road to avoid direct overlooking of the rear garden of 469 High Road. These angled windows would face the far end of the rear garden of 4 Boxtree Road, which is substantially screened by vegetation, at an oblique angle and would not gain any overlooking of the area of the garden closest to the house.
11. The rear elevation of the proposal would face the side elevation of 469 High Road. There are windows within the side elevation of 469 High Road, however, these do not appear to serve rooms used for primary living purposes and at least one of the windows is obscure glazed, moreover, the windows of the appeal proposal which would face the side elevation of 469 High Road would mostly be secondary windows to dual aspect rooms. As outlined above, the remaining windows in the rear elevation are proposed to be angled to avoid any overlooking of the rear garden of 469 High Road.
12. For these reasons, I conclude that the appeal proposal would have an acceptable impact in respect of the living conditions of occupiers of neighbouring properties and would therefore accord with Policies 7.6B of the London Plan, Policy DM1 of the Local Plan and the Residential Design Guide SPD. Amongst other things, these policies seek to ensure that development has a high standard of design which does has regard to, and does not cause unacceptable harm to, the living conditions of neighbouring occupiers.

Other Matters

13. A previous appeal decision⁵ considered the approach to the use of garden land and the related policies. Whilst the Council has taken the view that the previous decision supported the reasons for refusal for the current appeal, the previous decision did find that there are material considerations which weighed in favour of the previous scheme and concluded that the conflict with the garden land policies was outweighed by other material considerations. I have considered this appeal and have reached a similar conclusion in respect of the approach to garden land and the particular merits of the appeal.

Conditions

14. I have imposed the following conditions for the reasons I have given above, taking into account those suggested by the Council. I have made some changes to wording in the interests of clarity and enforceability.

⁴ Harrow Development Management Policies Local Plan 2013

⁵ APP/M5450/W/18/3205143

15. As well as the conditions relating to the standard timescale for commencement of development and specifying the approved plans, I have imposed conditions relating to the agreement of a landscaping scheme along with a reasonable timescale for its implementation and management. It would be sufficient to agree this detail at a certain stage of the development as suggested by the Council. I have also imposed a condition requiring the submission of levels details which, owing to its nature and potential effect, needs to be carried out prior to the commencement of development, which has been agreed by the Appellants. I have imposed this condition because it ensures that local character would be maintained and would avoid unacceptable impacts on the living conditions of occupiers of neighbouring dwellings by identifying surrounding ground levels and ensuring the approved height of the building is enforceable.

Conclusion

16. A planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that there would be conflict with the development plan with regards to the location of the development but that it would be outweighed by a number of material considerations which I have identified. The scheme would provide additional units which would boost the supply of housing in the area in line with one of the aims of the Framework. The appeal site is located in a sustainable location and I am satisfied that it is acceptable in all other respects, subject to the imposition of conditions.
17. Therefore, I conclude for the reasons outlined above, and taking all other matters into account, the appeal should be allowed.

Kim Langford Tejrar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: L2317 - T; BT2-02-SK1 Revision 1st; BR2-02-1001 1st Revision; BT2-02-1002 1st Revision; BT2-02-1003 1st Revision; BT2-02-1004 1st Revision; BT2-02-1005 1st Revision; BT2-02-1006 1st Revision; BT2-02-1007 1st Revision; BT2-02-1008 1st Revision; BT2-02-1009 1st Revision; Amenity Provision for Flats Development; Sewell and Gardner Property Details; Flood Risk Assessment; Existing and Proposed images; Design and Access Statement; Technical Transport Note; Garden Land Additional Statement; Additional Statement - Appropriate Enlargement.
- 3) The development hereby permitted shall not progress beyond damp proof course level until there has been submitted to, and approved in writing by the local planning authority, a scheme of hard and soft landscape works for the forecourt and rear of the site. Soft landscape works shall include: planting plans, and schedules of plants, noting species, plant sizes and proposed numbers / densities.
- 4) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the occupation of the approved building or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species, unless the local authority agrees any variation in writing.
- 5) No site works or development shall commence until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s), and any other changes proposed in the levels of the site, have been submitted to, and approved in writing by, the local planning authority. a detailed Levels Plan of the proposed finished levels. This document needs to explain details of the levels of the proposed building and car parking adjacent to the existing tree and hedge in relation to the adjoining land, road and surrounding area and any other changes proposed in the levels of the site.