



Appeal Decision

Site visit made on 18 June 2019

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2019

Appeal Ref: APP/R5510/W/19/3220492

Land adj. 14 & 15 and land adj. 18 & 19 East Walk, Hayes UB3 3JJ

- 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 & Mr Majithia & Raimondo of Touchstone Properties (2000) Ltd & Southern Capital Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 63226/APP/2018/1807, dated 10 May 2018, was refused by notice dated 17 July 2018.
 - The development proposed is a joint application for plots that symmetrically sit either side of the terrace that closes off the cul de sac at 15-19 East Walk. We're proposing a pair of semi-detached houses on each site i.e. a total of four new houses.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. The appellant has asked that the appeal is determined based on revised drawings which differ from those on which the Council determined the planning application. New evidence has also been submitted that was not before the Council at the time they made their decision in the form of a parking survey carried out in December 2018. However, I have not been presented with evidence that interested parties have been given the opportunity to comment on these documents, and as they may be affected by the proposed changes, I have considered and determined the appeal on the basis of the scheme, plans and documents which were before the Council when it made its decision.
3. Following the Council's decision on the application that led to this appeal, a new version of the National Planning Policy Framework has been published. The main parties had the opportunity to make comments on the bearing of this on the appeal. Whilst there have been further revisions to the Framework contained in the new version published in February 2019, no changes have been made to the content directly relevant to the main issues of this appeal. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment.
4. Policies in the Draft New London Plan (2017) are referred to in the submissions. However, I am not presented with evidence that these policies will be adopted in the form that they are presented to me and as such I afford them limited weight in my consideration of this appeal.

Main Issues

5. The main issues are the effect of the proposed development on the character and appearance of the area including the Area of Special Local Character, highway safety, and the living conditions of the existing occupiers with particular regard to overlooking and loss of privacy to 14, 15, 18 and 19 East Walk.

Reasons

Character and Appearance

6. The appeal site is within the wider Hayes Garden Village area, however its immediate setting is characterised by the roads which form the East and West Walk, Botwell, Area of Special Local Character (ASLC). The ASLC derives its significance from features including the relatively regular design of the houses arranged in a symmetrical pattern of semi-detached pairs or terraces of four. The gaps between these groups of buildings and the larger gaps which are evident on the corner plots result in a sense of spaciousness in this area and contribute to the area's significance for this reason. The building line is staggered and frontages are generally set back from but parallel to the road with generous front gardens, some of which are used for parking, further contributing to the open character of the area. The appeal site includes two areas of open land, which comprise the open gaps on the corner plots. Their open, undeveloped nature makes a positive contribution to the ASLC.
7. Many of the properties in the surrounding area have various extensions and alterations, including No 18. However, these are generally subservient and retain gaps between the neighbouring dwellings so the original form, layout and design in this area remain apparent.
8. The sites for both the 'Northern Cottage' and the 'Southern Cottage' (as labelled on the submitted plans) are surrounded by residential curtilages, mainly adjoined by rear gardens. Notwithstanding that there are some outbuildings in these gardens, this layout contributes to the feeling of spaciousness. The sites are overgrown and have suffered from fly tipping, nevertheless their undeveloped nature makes a positive contribution to the open character of the site and surroundings. The appeal sites have pedestrian access from East Walk and Minet Drive in respect of the 'Northern Cottage' and East Walk and Hunters Grove in respect of the 'Southern Cottage'. The only road frontage for these sites is the narrow access paths.
9. The proposed built development and domestic use on these plots would undermine the open undeveloped character of the appeal sites. The proposed residential use and built form would undermine these important breaks in development and as a result would harm the spacious character of the surrounding area. Furthermore, the proposed design would not align with the street frontage and its curved design would not be characteristic of the surrounding area. I note that the proposed appearance would share some of the features of this area including the depth of front gardens, albeit that these would be broadly triangular in shape and would not have a road frontage. Nevertheless, for the reasons set out above, the proposed development would be harmful to the significance of the ASLC.

10. Even though the proposed development may not be visible in long views, it would be seen in closer views and from the adjacent dwellings. Consequently this would not overcome the harm identified above.
11. The ASLC does not have the same statutory protection as a conservation area, however this local designation is nevertheless representative of the positive qualities of the character and appearance of this area which includes the appeal site.
12. For the reasons above, the proposed development would have a harmful effect on the character and appearance of the area including the Area of Special Local Character. Consequently, in this respect, it would be contrary to the policies I find to be most relevant to the proposed development: Policies BE5, BE13 and BE19 of the UDP¹, Policies BE1 and HE1 of the Local Plan² and Policies 3.5 and 7.4 of the London Plan³ which together require that, amongst other things, development should be of high quality design, harmonise with the character and appearance of the area of local character and the existing streetscene, and should complement or improve the character of the area.
13. The Council refer to policy BE15 of the UDP in their reason for refusal, however as this refers to alterations and extensions to existing buildings I find the policies above to be more relevant in this case.

Highway Safety

14. The proposed development is stated by the Council to generate a parking shortfall of 8 spaces. I am presented with a parking survey, however this is dated May 2014 and the survey relates to kerb space within 200m of the site adjacent to 14 East Walk only. For these reasons, I attach limited weight to this information.
15. I acknowledge that increased on street parking which may be generated by the proposed development may lead to some inconvenience to residents in having to look for a car parking space. Local representations indicate concerns with inconsiderate parking and that there is currently difficulty finding parking spaces in this area. However, I have not been presented with substantive evidence to suggest that current levels of car parking in this vicinity are at capacity, nor that the limited number of additional cars parking on street associated with 4 new dwellings would have such an impact on parking levels or queuing as to lead to an unacceptable impact on highway safety.
16. I accept that East Walk and some of the surrounding streets are narrow, however there are double yellow lines which create space for cars to pass. As such, if there were an increase in on street parking, there would still remain areas where cars were able to pass and I am not presented with evidence that this would lead to a harmful amount of queuing in surrounding roads. Therefore the residual cumulative impacts on the road network would not be severe.
17. Saved policy AM14 of the UDP requires parking to be provided in accordance with the standards in Annex 1. I am referred to recent appeal decisions⁴ in the

¹ London Borough of Hillingdon Unitary Development Plan (adopted 1998) Saved Policies 27th September 2007. (The UDP)

² A vision for 2026 Local Plan: Part 1 Strategic Policies (Adopted November 2012) (The Local Plan)

³ The London Plan The Spatial Development Strategy for London Consolidated with alterations since 2011 March 2016 (The London Plan)

⁴ APP/R5510/W/15/3006538, APP/R5510/W/18/3204964

Borough where the Inspectors concluded that these requirements did not accord with the Framework and therefore should be given limited weight. It seems to me that there is some ambivalence between the supporting text to saved policy AM14 and the wording in Annex 1 regarding whether the residential parking requirement is a minimum or maximum. If the former is the case then the proposal would not comply. However, any conflict that arose would have very limited weight because the policy is not consistent with paragraph 109 of the Framework. This makes clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impacts on the road network would be severe.

18. For the reasons above, the proposed development would not have an unacceptable impact on highway safety. Therefore, in this respect, it would not be contrary to saved policy AM7 of the UDP which requires that development should not prejudice the conditions of highway safety. Any conflict with saved policy AM14 of the UDP would be outweighed by the provisions of the Framework for the reasons given above.

Living Conditions

19. Each of the four proposed dwellings has a bedroom at second floor level served by a rooflight. As the window is set within the roofslope at an angle, any views towards neighbouring properties from these rooflights would be very limited. A single side window is proposed at the first floor of the dwelling which would adjoin 19 East Walk. This would create some views towards the rear garden of No 19.
20. Gardens in this area are already overlooked to a certain extent by the upper level windows in the adjoining properties. As such, even if I were to find that there may be some overlooking towards gardens, perceived or otherwise, this would not be significantly harmful over and above the existing situation in the surrounding area.
21. For the reasons above I conclude that the proposed development would not be unacceptably harmful to the living conditions of the existing occupiers of 14, 15, 18 and 19 East Walk with particular regard to overlooking and loss of privacy. In this respect, the development would not be contrary to Policies BE19, BE21 and BE24 of the UDP which together seek that new development should not result in a significant loss of residential amenity, should protect the privacy of occupiers and should complement and improve the amenity of the area. This is also reflected in the advice in the SPD which seeks adequate privacy for adjoining residential properties.

Other Matters

22. I am presented with evidence that the site has been subject to fly tipping and anti social behaviour including drug use and that the development of this site would prevent this from occurring. I agree that preventing these activities would be a benefit of the development. However, I am not persuaded that the scheme before me, nor the suggested alternative of erecting a fence around the sites, would be the only way to prevent these activities from occurring.
23. I accept that the proposed development would provide benefits in terms of a contribution to housing stock, development of small sites, and the provision of

family sized housing. It is also put to me that the proposed development would be a more effective use of this land. However, given the scale of the development and the fact that these benefits are not unique to this site, these matters would not be sufficient to mitigate the harm to the character and appearance of the area identified above.

24. Other development has been drawn to my attention which is said to have been constructed on infill sites within Hayes Garden Village, although I note that none of these developments are located in the ASLC. In relation to both site A⁵ and B⁶ these appeal schemes are significantly different in scale and design to the proposed development. As such, these cases are notably different to the appeal scheme before me now. With respect of sites C, D and E⁷ I am presented with limited evidence in relation to these cases and therefore I afford limited weight to their specific circumstances.

Conclusion

25. Whilst I do not find harm in relation to highway safety, living conditions or any other matters, this does not outweigh my finding in respect of the unacceptability of the scheme's effect on the character and appearance of the area.
26. Consequently, for the reasons above, this appeal should be dismissed.

H Miles

INSPECTOR

⁵ APP/R5510/A/07/2056926 and APP/R5510/A/07/2053828, 22 and 24 Birchway and to the rear of Birchway and Halsway, Hayes, Middlesex UB3 3PA

⁶ 40169/APP/2011/243, Glenister Hall and Sports Ground, Minet Drive

⁷ Between 30 and 32 Hunters Grove, 2 East Way and 15 Hermon Grove