



Appeal Decision

Hearing Held on 23 July 2019

Site visit made on 23 July 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2019

Appeal Ref: APP/M5450/W/18/3208629 231-233 High Road, Harrow HA3 5EE

- 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 Eric Gadsden of W E Black Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3568/17, dated 13 July 2017, was refused by notice dated 8 February 2018.
 - The development proposed is: Redevelopment to provide three to four storey building to create 15 flats; parking; associated landscaping; refuse and cycle storage; widening of one existing vehicle access.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. At the Hearing an application for costs was made by Mr Eric Gadsden of W E Black Limited against the Council of the London Borough of Harrow. An application for costs was also made by the Council of the London Borough of Harrow against Mr Eric Gadsden of W E Black Limited. These applications are the subject of separate Decisions.

Preliminary Matters

3. At the hearing the appellant agreed the description of development used by the Council on their decision notice is correct. Accordingly, I have used this in the heading above.
4. Since the Council issued its decision the National Planning Policy Framework (the Framework) has been revised. Both main parties have had the opportunity to comment on any relevant implications for the appeal and any comments made have been taken into account in my reasoning.
5. Additional information and amended plans have been submitted by the appellant since the Council's decision was issued. The additional information includes an arboricultural report. The Council has confirmed this addresses its concerns in respect of the third reason for refusal stated on its decision notice and I have made my decision on this basis.
6. Among the principle changes, the amended drawings received relocate windows on a side elevation of the proposed building, relocate a bin store from

the side boundary to the front of the building, and reduce the number of car parking spaces proposed. Prior to the hearing I sought comments from the Council on these amendments and the Council's written response was set out in a letter dated 17 July 2019.

7. At the hearing the Council confirmed the changes proposed to the windows resolve its concerns expressed in the first reason for refusal stated on its decision notice in respect of privacy. However, as reflected in their letter, the Council considers the window changes mean the development would not provide an acceptable standard of accommodation for prospective occupiers of the proposed flats in respect of outlook, light and overlooking between proposed flats.
8. In addition, the Council confirmed the relocation of the bin store has resolved its concerns in respect of nuisance set out in its fifth reason for refusal stated on its decision notice. But as a consequence of this change the Council now objects to the effect of the bin store on the character and appearance of the area. Furthermore, whilst the amended plans reduce the number of car parking spaces proposed, the Council has maintained its objection to the amount of hard landscaping and the effect of this on the character and appearance of the area and the living conditions of neighbouring occupiers in respect of noise and disturbance.
9. Therefore, the receipt of amended plans has affected the main issues, insofar as the Council considers it has resolved some issues but introduced others. Prior to the hearing the appellant confirmed that, notwithstanding the Council's letter of 17 July 2019, they wanted the appeal determined on the amended plans. Having regard to the *Wheatcroft* principles¹, I am satisfied the development is not so changed from the scheme the Council considered that third parties would be deprived from the opportunity to comment by my acceptance of the amended plans. Therefore, I have made my decision based on the amended plans received.

Main Issues

10. The Statement of Common Ground makes clear there is disagreement between the main parties over whether an affordable housing review mechanism is appropriate in this case. Taking into account this, the amended plans received and the decision notice, the main issues, agreed with the main parties at the hearing, are:
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook, noise and disruption;
 - whether the proposal would provide an acceptable standard of accommodation for prospective occupiers with particular regard to outlook, light and privacy;
 - the effect of the proposal on the character and appearance of the area particularly as a result of the provision proposed for landscaping and bin storage; and

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

- whether, having regard to national and local policy, an affordable housing review mechanism is necessary and appropriate to make the development acceptable in planning terms.

Reasons

Living Conditions – Outlook

11. The appeal scheme would result in a building being constructed on the appeal site close to its side boundary with Durrant Court which is a retirement home. The proposed building would be significantly taller and deeper than the house which currently exists on the site close to this boundary. The Council consider this arrangement would result in a loss of outlook from habitable rooms of Durrant Court and its side garden.
12. From the information provided, the side garden is part of a much larger communal garden for Durrant Court. Therefore, I am satisfied the loss of outlook from the side garden would not be significant for occupants of this building given there are other private garden areas they have access to.
13. At the hearing the Council clarified that, in respect of outlook, the rooms about which it is concerned are those on the ground floor of Durrant Court and not those on the upper floors. At my site visit I viewed Durrant Court from the street, where I could see the windows on its side elevation, the side boundary treatment with the appeal site and the significant change in levels between the two sites.
14. At the hearing the appellant submitted an elevation drawing of Durrant Court which indicates the use of the rooms facing the boundary with the appeal site. Read with the figures in the appellant's statement, this drawing indicates that, with one exception discussed below, the ground floor rooms on the side of Durrant Court facing the appeal site are either not habitable rooms or are not single aspect. In this regard I am satisfied the appeal scheme would not harm the living conditions of the occupants of Durrant Court for those rooms.
15. However, the drawings show there is one ground floor bedroom in Flat 4 of Durrant Court which is highly likely to be single aspect. Based on the information available to me and taking into account the significant change in built form that would occur close to the boundary with Durrant Court, in my judgement, the appeal development would have an overbearing impact when viewed from this window inside this habitable room in Durrant Court.
16. I appreciate the side boundary as existing consists of a brick wall and vegetation but, in my judgement, this habitable room enjoys open outlook over the boundary and rear yard of No 231 and this would be significantly diminished by the appeal development. Considering the particular use of this room in Durrant Court, I conclude in respect of outlook the affect would be harmful to the living conditions of occupants of Flat 4 who would likely spend a considerable amount of time in this room.
17. This would not comply with Policy 7.6 of the London Plan 2016 (as amended) (the London Plan), Policy DM 1 of the Harrow Council Development Management Policies 2013 (the Development Management Policies) or the Residential Design Guide Supplementary Planning Document 2010 (the Design Guide) in this regard. Together, these resist developments which cause harm to the amenity of surrounding buildings, particularly residential buildings, and

developments which have an overbearing visual impact when viewed from within a neighbouring building and which leave inadequate outlook from a habitable room window.

Living Conditions – Noise and Disruption

18. The appeal scheme proposes a vehicular access from the main road to a new car park at the rear of the site. The access would adjoin the side boundary with No 235 and the parking area would adjoin the gardens of several existing dwellings and Durrant Court.
19. I am satisfied these car parking spaces would be far enough away from existing neighbouring dwellings such that their occupants would not be significantly adversely affected by noise or disruption when indoors. I am also satisfied that existing planting along the boundaries together with that proposed as part of the landscaping scheme would provide adequate protection from noise and disruption for neighbouring occupiers when they are in their gardens. Whilst some of this planting may be deciduous, in my judgement, the use of the neighbouring gardens would be likely to be less in the winter months when planting is not in leaf meaning the effect overall would not be likely to be significant.
20. As I saw on my site visit, a substantial outbuilding stands on the plot at No 235 adjoining the proposed vehicular access on the appeal site. It presents a substantial blank wall to the appeal site. There is also a significant change in levels between the two properties. For these reasons I am satisfied occupants of No 235 would not be subject to an unacceptable level of noise or disruption as a result of the proposed access.
21. Consequently, in respect of noise and disruption, the living conditions of neighbouring occupiers would not be materially harmed. Accordingly, the proposal would not conflict with the policy relevant to noise and disruption identified by the Council in respect of this issue which is Policy DM 1 of the Development Management Policies. This resists development which causes unacceptable harm to the amenity of surrounding land and buildings.

Standard of Accommodation

22. In the proposed building, Bedroom 2 of Flats 1, 5 and 9 and the kitchen of Flat 13 each have a window which looks out into a recess and which would be opposite a blank wall of another part of the appeal building. At the hearing the appellant confirmed the wall would be brick-faced and both main parties agreed it would be at a distance of 2 metres from these windows. Consequently, the Council considers the outlook and light availability to the rooms noted above in these flats would be significantly diminished and that overlooking would occur between these windows and the kitchen of the adjoining flat on each level, i.e. the kitchen in Flats 2, 5, 9 and 14.
23. The drawings show the kitchen window in Flats 2, 5, 9 and 14 would be obscure glazed and at the hearing the appellant stated that each of these kitchen windows would be fixed shut. On this basis there would be no actual overlooking as a result. The window in Bedroom 2 of Flats 1, 5 and 9 and the window of the kitchen in Flat 13 would be close to the side elevation of the building and relative to the kitchen window in the adjoining flat these windows would be obliquely positioned. Therefore, I am satisfied no perceived

overlooking would occur either. The proposal is therefore acceptable in respect of privacy matters.

24. However, no information has been provided which satisfies me that this window arrangement would provide adequate natural light into Bedroom 2 of Flats 1, 5 and 9 or the kitchen of Flat 13. Moreover, whilst I accept oblique views looking left out of the windows of these rooms may be possible, from the information provided, occupants' general experience in these rooms would be that of looking out at a blank wall at close proximity. Therefore, in my judgement outlook would be significantly compromised. I conclude on this issue that the proposal would not provide an acceptable standard of accommodation for prospective occupiers with regard to outlook or light.
25. At the hearing the Council confirmed the relevant policies in this regard are Policy DM 1 of the Development Management Policies and Policy 7.6 of the London Plan. Together these resist proposals that would fail to achieve satisfactory amenity for future occupiers including adequate light and outlook and in my judgement the proposal would not comply with these policies in this respect.

Character and Appearance

26. The appeal site consists of two plots, each containing a detached building fronting the main road with a long back garden containing heavy planting. Viewed from the rear of the site, all of the adjoining plots are residential in use and exhibit a similar verdant character and appearance. Whilst the wider area contains a mix of uses the appeal site is nestled within a predominantly residential area.
27. The appeal scheme involves merging the two plots and constructing a single block of flats towards the front of the site with a hardstanding at the rear to provide 15 car parking spaces. This would be accessed by a long driveway running from the front to the rear of the site.
28. The effect of the appeal scheme would be to provide a substantial area of hardstanding for car parking and turning in a location that currently has a distinct garden feel with soft landscaping. This effect would be clearly seen from windows of Durrant Court and No 235, from the appeal development itself and from the street looking down the long proposed access. The loss of soft green landscaping at the rear to areas of hardstanding would significantly change the character and appearance of the area and would appear incongruous in this context.
29. My attention has been drawn to other examples of areas of hardstanding in the wider area including at the rear of a nursing home further along the street. But these examples are either considerably smaller or associated with the servicing of commercial premises and/or not viewed within the context of the hardstanding proposed for the appeal site, as is the case with the nursing home.
30. Whilst I accept that the appeal site is in a predominantly urban area I am not satisfied this justifies the loss of soft landscaping and the extent of hardstanding proposed in this case. I also appreciate areas of hardstanding already exist on the appeal site but these are considerably smaller and

concealed from view immediately adjacent to the rear of existing buildings on the site.

31. I conclude in respect of the provision proposed for landscaping, the appeal scheme would harm the character and appearance of the area. It would not comply with Policies 7.4 and 7.6 of the London Plan, Policies DM 1 and DM 22 of the Development Management Policies or the Design Guide. Together these seek high quality design, landscaping which is appropriate to the character of the area and resist proposals which are detrimental to local character and appearance.
32. In respect of this issue the Council's decision notice draws my attention to Policy DM 42 of the Development Management Policies and Policy D1 of the draft London Plan 2017. However, Policy DM 42 contains no specific reference to landscaping so I do not find it relevant and I do not know to what extent there are unresolved objections to draft policy D1 so I give it limited weight in this decision as it may be subject to significant change.
33. In respect of bin storage, the drawings show this would be at the front of the site enclosed within timber fencing and soft landscaping. At my site visit I saw the storage of bins at the front of neighbouring properties is commonplace in this area. In this context and considering the proposed design of the bin store I am satisfied the arrangements proposed in this case would not harm the character or appearance of the area. I am therefore satisfied there would be no conflict with any of the aforementioned policies in respect of character and appearance.

Affordable Housing

34. Following a viability assessment and a review of construction costs, the main parties have agreed the proposed scheme could not reasonably provide an affordable housing contribution and the proposed offer of zero affordable housing is the maximum reasonable amount in this case. Nevertheless, the Council considers a mechanism is required to review affordable housing viability across the lifetime of the development, to make it acceptable in planning terms.
35. Guidance on this matter is contained in the Council's Planning Obligations and Affordable Housing Supplementary Planning Document 2013 (the SPD) and the Mayor's Affordable Housing and Viability Supplementary Planning Guidance 2017 (the SPG). However, the Viability Planning Practice Guidance² states that plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be assessed over the lifetime of the development.
36. My attention has been drawn to Policy DM 50 of the Council's Development Management Policies. However, this contains no reference to review mechanisms. My attention has also been drawn to Policies H5 and H6 of the draft London Plan 2017. However, the Inspectors' report into that draft plan has not yet been received and there are unresolved objections to the policies I have been referred to. Therefore, only limited weight may be given to those policies.

² Paragraph 009 Reference ID:10-009-20190509

37. In this case, whilst the SPD and SPG are material considerations, I give them limited weight in respect of this specific issue as there is no adopted plan which supports a review mechanism. Moreover, the appeal scheme consists of a single residential building with a single stair core. I am satisfied therefore that it would be built in a single phase and therefore, based on the evidence provided, a review mechanism is not appropriate in this case.
38. I conclude on this main issue that in this case an affordable housing review mechanism is not necessary or appropriate to make the development acceptable in planning terms. The development would therefore not conflict with Policy DM 50 of the Development Management Policies or the Framework in this regard.

Planning Balance

39. The appeal scheme would provide 15 new dwellings on previously developed land in a location with good access to services and facilities. In this respect it would make a more efficient use of land than the development which currently exists on the site and contribute to housing supply. I also appreciate the scheme would generate employment opportunities during its construction. These are benefits of the scheme to which I give significant weight.
40. However, the appeal scheme would harm the living conditions of neighbouring occupants and the character and appearance of the area. Whilst, in accordance with the Framework (and as discussed at the hearing), a flexible approach should be taken in applying policies or guidance relating to light, overall I am not satisfied the scheme would provide an acceptable standard of accommodation for occupants. Taking these points together, I consider the harm identified above in this case outweighs the benefits of the scheme.
41. Moreover, the proposal would be contrary to the adopted development plan when taken as a whole, and there are no material considerations indicating a decision otherwise than in accordance with it.

Conclusion

42. For the reasons given above the appeal is dismissed.

L Perkins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jill Bell	HGH Consulting
Eric Gadsden	W E Black Limited
Richard Henley MRTPI	HGH Consulting
Bill Macleod	W J Macleod Limited

FOR THE LOCAL PLANNING AUTHORITY:

Faye McElwain	London Borough of Harrow
Nicola Rankin	London Borough of Harrow

DOCUMENTS SUBMITTED AT THE HEARING

1. Elevation drawing of Durrant Court
2. Aerial photograph of existing hardstanding areas
3. Email correspondence regarding application validation