



Appeal Decision

Site visit made on 16 July 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2019

Appeal Ref: APP/N1540/W/19/3220966

Paradise Lodge, Netteswell Hall, Park Lane, Harlow CM20 2QH

- 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 J Ghadami of Netteswell Limited against the decision of Harlow District Council.
 - The application Ref HW/FUL/18/00318, dated 9 July 2018, was refused by notice dated 11 October 2018.
 - The development proposed is erection of 30 dwellings and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs J Ghadami of Netteswell Limited against Harlow District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Amended plans were submitted by the appellant as part of the appeal. However, the appeal process is not the place to evolve a scheme and as neighbours were not consulted on the revised plan I have determined the appeal using the plans that were considered by the Council and which views of interested parties have been sought.
4. As part of the appeal the appellant has submitted a Unilateral Undertaking (UU) to secure the provision of affordable housing and a financial contribution towards mitigating the impact of the proposal on primary education. The Council has confirmed that the UU is acceptable and is therefore no longer defending the third reason for refusal. I have determined the appeal on this basis.

Main Issues

5. The main issues are:
 - The effect on the character and appearance of the area including the effect on a non-designated heritage asset and the Netteswell Cross and Town Park Conservation Area.

- The effect on the living conditions of the future occupants of the development with regards outlook, amenity space and the fear of crime.

Reasons

Character and Appearance

6. The irregularly shaped appeal site with varying land levels houses a vacant building which was most recently known as Paradise Lodge Social Club. It was formerly known as Netteswell Hall and is a non-designated heritage asset. The site also contains some additional ancillary buildings and a notable number of trees which also mark much of the site boundary, obscuring some views into the site. The vegetative appearance of the site makes a positive contribution to the verdant and low density character and appearance of the Town Park Netteswell Cross Conservation Area within which the site sits.
7. A Council leaflet identifies that the Conservation Area was designated to reflect the importance and significance of Netteswell Cross as one of the original hamlets in Harlow before the New Town. It also identifies that the Town Park was planned with no hard boundaries so that it merged with its surroundings. The appeal site provides a verdant low density buffer between the park and the more built up nature of the nursery and residential development on the other sides of the site which are outside of the Conservation Area.
8. There is dispute between the parties regarding the significance of Netteswell Hall. Despite its current dilapidated state the Council say the non-designated heritage asset is of historic, aesthetic and communal value. The value of the building and its historic use is contested by the appellant. Documented evidence about the history of the building is limited. Irrespective of the conflicting and lack of conclusive evidence by either main party, the building has nevertheless been identified as a non-designated heritage asset by the Council.
9. Even if the building was not used as Council offices it is apparent that it has some historic value as a surviving retained building of pre-New Town Harlow and is an example of architecture under represented in the New Town, regardless of the reason for its retention. This is despite the unsympathetic extensions and alterations to the building over time and the alterations to its setting since original construction. The Planning Practice Guidance says Local Planning Authorities may identify non-designated heritage assets. The formal identification of the existing building as a non-designated heritage asset is not therefore a necessary requirement for it to hold this status. Nor does the building have to be locally listed.
10. The proposal would lead to the demolition of Netteswell Hall and therefore would harm the existing building and its heritage value, even if its loss would not necessarily lead to the removal of the site from the Conservation Area. Paragraph 197 of the NPPF says the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing an application that directly or indirectly affects non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I shall return to this later in my decision.

11. The proposal would lead to a development comprising a mix of 2 and 3 bedroom houses and one bedroom flats. Generating a development of 30 properties in total, the proposal would comprise of small plots creating a dense urban appearance. The distinctly urban appearance of the scheme would contrast markedly with the Town Park setting.
12. Elements of the scheme's design would be particularly harmful in the area closest to the park. The 3 storey block of flats close to Netteswell Orchard would be at odds with the lower density character of the Conservation Area. The incongruity would be compounded by the positioning of the rear boundary treatments and bin store for the flats with the development turning its back to the road. The backland character would be devoid of active edges. This would also be replicated with the orientation of plots one and 2 with the gardens and likely domestic paraphernalia fronting the road, along with an area dominated by car parking. The appellant identifies that a large area of the site is already given over to hardstanding but this was not evident at the time of my site visit. As acknowledged by the appellant, much of the existing hardstanding is overgrown with vegetation. The proposal would create a poor setting for the park.
13. Whilst the appellant says it is not possible to orientate the properties along Netteswell Orchard differently without fundamentally changing the character of the area, there is little to substantiate this and so I am not convinced. The scheme would not create an attractive and interactive elevation as suggested by the appellant. Instead, it would lead to the loss of the existing transitional function the site provides between the park and the wider built up area. The scheme would not provide integration with the natural environment in line with the original design of the park, as suggested by the appellant. The shallow depth of the gardens and boundary treatment proposed would be insufficient to obscure the harm.
14. A backland appearance would also be experienced in the vicinity of plots 9-18 and 22-27. Even if the scheme would provide opportunities for overlooking the orientation of these plots would have a harmful impact on the character and appearance of the area and be at odds with development in the rest of the Conservation Area. Irrespective of length of setback from the road, the wider area is characterised by development fronting onto the highway.
15. The proposed terraced formed from plots 9-18 would be excessively long with little relief. It would have a domineering effect which would be compounded by the design features on the facades. I do not consider that the vertical emphasis of the cladding and the creation of recessed elements would be sufficient to balance out the horizontal prominence, even if the design seeks to replicate those found in nearby roads.
16. The amount of built development and the positioning of properties within plots would make the garden areas small and would provide little opportunity for landscaping to the front of dwellings. Even if parking in turning heads was considered acceptable, the location, amount of hardstanding and road surface combined with the lack of soft landscaping would mean that the scheme would lead to a significant loss in the verdant character of the site. Even if some of the existing trees on the site have a short lifespan the impact of their premature loss on the character and appearance of the area as a result of the

scheme has not been sufficiently mitigated. The design of the scheme means that the matter cannot be addressed through a landscaping condition.

17. The appellant says the design of the scheme reflects the topography of the site, in line with the approach taken in the wider area. I also note the need to retain access to the nursery. However, the resultant scheme with 2 separate accesses, in conjunction with the position of the long terrace block would make the site appear incongruous and disjointed. This is irrespective of the absence of an objection from the Highways Authority in terms of meeting the requirements of access provision. I do not consider that the complementary elevation treatments of the 2 parts of the scheme are enough to overcome this, as suggested by the appellant.
18. The appellant says the variation in land levels creates a significant constraint, indicating an alternative scheme would make the development unviable. Whilst I accept that the variation in levels creates a design challenge, I have not been provided with sufficient evidence to be satisfied that the scheme before me is the only viable option. As such it has not been demonstrated that the site topography provides sufficient justification to find the proposed scheme acceptable.
19. The appellant refers to other schemes in support of their proposal which are said to be typical of Harlow. As acknowledged by the appellant, not all fall within the Conservation Area. They are also in different locations and have a different relationship to the Town Park. As such I consider them to be materially different to the case before me.
20. The appellant also cites a scheme in the Churchgate Conservation Area. However, I have limited details of the scheme in which to make a meaningful comparison with the case before me. The site is in a different location where the circumstances are likely to be different. In any event, each case is determined on its own merits and my assessment is based on the information before me.
21. The appellant says the current condition of the site detracts from the Conservation Area and that the Civic Society support a redevelopment of the site. This does not provide justification for a scheme that would cause harm to the Conservation Area.
22. The proposal would fail to preserve the character or appearance of the Conservation Area, causing harm, albeit less than substantial, to its significance as a heritage asset. It would also harm a non-designated heritage asset. It would therefore conflict with Policies BE9 and BE10 of the Adopted Replacement Harlow Local Plan (Local Plan) which among other things requires that the demolition and redevelopment of buildings in a Conservation Area along with new development in a Conservation Area should not be detrimental to the architectural or historical character or appearance of the Conservation Area. It would also conflict with Policies BE1, BE2 and H10 of the Local Plan, the relevant parts of which require new development, including the redevelopment of vacant plots, to relate to their setting to strengthen, enhance and protect local character and expect the layout of buildings, routes and spaces to be clearly related.
23. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or

enhancing the character and appearance of Conservation Areas. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. I will return to this later.

Living Conditions

24. Although the appellant identifies no back to back relationship between properties, there would be a front to rear relationship at very short distance between plots 19-21 and 28-30. Even if the distance suggested in the Essex Design Guide were not applied, I am of the view that the close proximity between the properties would lead to a harmful impact on the privacy of the occupants of the dwellings in plots 19-21. Whilst the windows would be offset there would still be clear views into the gardens of these properties at close range. The row of trees on the boundaries of the properties would do little to mitigate the harm, even if the interrelationship is not usual in urban areas as proffered by the appellant.
25. The Council has raised concern regarding the size of the amenity space of the houses and flats with the appellant stating in response that in lieu of any space standards set by the Council, provision complies with best practice elsewhere and that the site is in close proximity to the park. Be that as it may, even if the size of the amenity space were deemed acceptable, there would be a harmful impact on the usability of the space, particularly in the case of plots 19-21, as a result of the design and layout of the scheme.
26. The design and layout of the scheme, including the lack of active edges and blank facades on the side of building facing public areas, would reduce opportunities for natural surveillance. This would harm the living conditions of future occupants because of the increased risk of crime and the fear of crime.
27. The proposal would harm the living conditions of the future occupants of the scheme and as such would conflict with Policy BE2 of the Local Plan which requires the public spaces of new development to be clearly distinguished from private areas and ground floor use that encourages activity and interest. It would also conflict with the part of Policy BE5 of the Local Plan which requires new development to demonstrate how the potential for preventing crime has been satisfactorily addressed through the design, layout and landscaping of a scheme.

Planning Balance and Conclusion

28. Whilst the Council say they can demonstrate a 5 year housing land supply of deliverable housing sites, this is contested by the appellant. Even if it were proven that the Council could not demonstrate a 5 year housing land supply, paragraph 11 of the NPPF says that in such instances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies in the NPPF indicate that development should be restricted.

29. The scheme would lead to the delivery of 30 dwellings, 10 of which would be affordable on previously developed land in an urban area. This carries some weight in favour of the development. Paragraph 117 of the NPPF requires an effective use of land and favours the use of previously developed land which also generates some support for the proposal.
30. The appellant identifies that there would be no impact to the living conditions of the occupants of surrounding dwellings. However, this indicates a lack of harm rather than a benefit and therefore carries neutral weight. The appellant also identifies that matters such as materials and refuse stores can be addressed through planning conditions. Again, this carries neutral weight.
31. Against this I have found that the development would harm the character and appearance of the area. This would include a failure to preserve the character or appearance of the Conservation Area, causing harm, albeit less than substantial, to its significance as a heritage asset. It would also harm a non-designated heritage asset. There would also be harm to the living conditions of future occupants of the scheme. These matters conflict with paragraphs 127, 184 and 197 of the NPPF.
32. In balancing the above, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The development would not therefore benefit from the presumption of sustainable development. There are no public benefits that would outweigh the harm to a designated heritage asset. There are no other material considerations to indicate that the proposal should be determined otherwise than in accordance with the development plan to which I have identified conflict with the policies above.
33. I therefore conclude that the appeal should be dismissed.

K Ford

INSPECTOR