



Appeal Decision

Site visit made on 27 August 2019

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/N1540/W/19/3225381

Land adjacent to No 25 and to rear of No 8 The Drive, 25 Lavender Close, Harlow CM20 3QJ

- 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 Paul Quatremain against the decision of Harlow District Council.
 - The application Ref HW/FUL/18/00398, dated 23 August 2018, was refused by notice dated 22 March 2019.
 - The development proposed is the construction of 2 no 2 bedroomed 2 storey houses with private gardens and parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2 no 2 bedroomed 2 storey houses with private gardens and parking spaces at land adjacent to No 25 and to rear of No 8 The Drive, 25 Lavender Close, Harlow CM20 3QJ in accordance with the terms of the application, Ref HW/FUL/18/00398, dated 23 August 2018, subject to the conditions set out in the schedule attached to this decision.

Procedural Matters

2. The Council has submitted a new Local Plan for Examination. The National Planning Policy Framework (the Framework) indicates the weight that may be attributed to an emerging plan depends on the stage of preparation, the extent of any unresolved objections and the degree of consistency with the Framework. I have not been provided with any evidence as to the extent of any unresolved objections to the emerging plan, and on that basis, only limited weight can be attributed to it at this time. As such, I have determined this appeal in accordance with the adopted Replacement Harlow Local Plan (2006).
3. The scheme was subject to a number of amended plans during determination of the planning application, however, for the avoidance of doubt I have determined the appeal on the basis of the revised plans listed in the Council's decision notice as these were the basis upon which the Council determined the application.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is an area of unused land located to the rear of Nos. 8 and 8A 'The Drive', and adjacent to No. 23 Lavender Close. It is currently overgrown and contains a number of trees and mature planting consistent with its former use as garden land. The Drive is characterised by a mix of detached and semi-detached two storey dwellings. At the end of the cul-de-sac are a number of properties (Nos. 11-15 The Drive) which are separated from it by a pathway and landscaped area containing further mature planting and large trees. The site would be accessed via Lavender Close which is a more recent development than The Drive and is characterised by a mix of two storey semi-detached and terraced properties.
6. The Drive and Lavender Close have different characters in terms of the pattern of development, and the proposed design relates more closely to that of Lavender Close than that of The Drive by virtue of being a pair of two storey dwellings with pitched roofs with facing brick and render finishes. The proposed dwellings would face that street have a direct relationship with it, and their size and scale would be similar to a number of properties in Lavender Close. The size of the plots would also be commensurate with those of Nos 8 and 8A The Drive and with a number of properties in Lavender Close. As such, the proposed dwellings would be in keeping with the density of the existing properties in Lavender Close and would continue the pattern and rhythm of development in this part of the street.
7. The proposed dwellings would be located centrally within the site with parking to the front and sides. As a result, they would not fill the full width of the plots and would be separated from their boundaries by either parking spaces or gardens. As such, I consider the development would have an acceptable relationship with its boundaries and would not be a cramped form of development or represent an over development or intensification of the site or the surrounding area.
8. The site is verdant due to the presence of established trees and mature planting, and there are further trees adjoining the site on land in front of 11-15 The Drive. These collectively make a positive contribution to the character of the area. The proposed eastern plot is bordered by mature vegetation and trees and the tree protection plan indicates a larger tree outside the site boundary which overhangs the site is proposed to be reduced. However, the most important trees on site would be retained and further planting is proposed which would ensure that their contribution to the character of the area is maintained to some extent.
9. Access to the site would be via the turning head in Lavender Close which would require the removal of part of an existing wall built as part of that development. The wall is of relatively modern construction, and whilst it creates a sense of definition to the end of the close, it does not make any significant contribution to the wider character and appearance of the area. As such, its partial removal to form the site access would not detract significantly from the appearance of the street scene. However, in order to ensure that the appearance of the wall is not harmed, a condition can be imposed to ensure details are provided of the remediation of the remaining wall to ensure that it is made good.

10. In light of the above, I conclude on the main issue that the proposal would not result in harm to the character and appearance of the area. As such, it would accord with Policies H10 and BE3 of the adopted Replacement Harlow Local Plan (2006), which seek to support proposals where, amongst other things, they would not have an unacceptable effect on the character of the locality, and where this does not result in over development and over intensification of the plot. It would also accord with Principle DG28 of the Harlow Design Guide Supplementary Planning Document which seeks to ensure that infill development would not represent overdevelopment and are of a similar scale, massing and height to the surrounding precedent. The proposal would also accord with paragraph 127 of the National Planning Policy Framework (The Framework) which seeks to achieve well-designed places.

Other Matters

11. A number of objections have been raised to the scheme from the occupiers of adjoining properties regarding the potential harm to their living conditions. In terms of the potential loss of privacy to Nos 8 and 8A The Drive, whilst there would be windows in the rear elevations of the proposed houses at first floor level, these would serve the first floor landings, bathrooms and en-suites on both the proposed dwellings. As such, there would be no habitable rooms that would overlook Nos 8 and 8A, the rear elevations of which would in any event be some distance away and well separated from the proposed dwellings. Furthermore, a planning condition could be imposed to secure obscure glazing and restricted opening to the rear first floor windows proposed. There is an existing close board fence of approximately 1.8 metres high between the site and the existing dwellings at Nos 8 and 8A The Drive which would obstruct visibility into habitable rooms at Nos 8 and 8A at ground floor level from the proposed dwellings. However, a condition could be imposed revoking Permitted Development rights for additional windows at first floor level, as these might not be obscure glazed and could have full opening, these could result in harm to living conditions.
12. Concerns have been raised in respect of the potential for overlooking of No 11 The Drive from the window in the side elevation of the proposed house on the eastern plot and overlooking of the rear garden of 7A The Drive from the window in the side flank of the house on the western plot. However, a condition could be imposed to ensure the first floor side windows serving the bedrooms on the east and west flanks of the proposed houses are obscure glazed and fixed shut in order to ensure that there is no harm to the living conditions of Nos 7A and 11 The Drive.
13. In terms of the potential for overlooking into the rear garden of No.23 Lavender Close, the proposed eastern dwelling would have some views into its rear garden. However, I consider the separation distance of 7.5 metres (as estimated by the Council) would be sufficient to minimise any harmful loss of privacy.
14. Turning to noise and disturbance, construction activity and associated noise and disturbance would be temporary in nature and relatively shortlived given the limited scale of the proposal. However, a condition requiring the submission of and adherence to a construction method statement which includes the hours of construction and demolition would address any concerns in this regard. I also consider the associated noise arising from the occupation of two dwellings

due to the comings and goings of future occupiers would be limited and not unusual in an established residential area. Taking all these factors into account, and bearing in mind that the Council raised no objections to the proposal in these respects, I am satisfied that the proposal would not result in harm to the living conditions of nearby occupiers.

15. Whilst the proposal would result in some additional traffic due to the likelihood of additional occupiers having private vehicles, this would be relatively modest in scale due to the fact the proposal is only for two dwellings. Concern has been raised regarding manoeuvrability for residents and emergency vehicles due to existing levels of on-street parking in Lavender Close and the potential for additional parking of vehicles on the street from the proposed development. I note there are no concerns raised by the local Highway Authority, and both dwellings would have adequate car parking spaces that would limit the need for on-street parking associated with the proposal. As such, it would not increase on-street parking unduly over and above the existing levels in the area. A planning condition could be used to ensure that the parking spaces associated with the appeal scheme are laid out before the occupation of the dwellings. Concerns have also been raised regarding the effects of construction traffic on highway safety, albeit these would also be limited and temporary. However, a condition requiring the submission and adherence to a method statement would address this concern.
16. Whilst the proposal would redevelop a currently overgrown area of land which contains some mature tree species, the Tree Protection Plan indicates a number of trees to be retained with further planting proposed. Other trees are located outside the site boundary and would be retained but pruned. Details of these matters can be secured via a planning condition to ensure the provision of appropriate root protection areas, the retention of the more significant trees, and to manage the proposed works to the trees. Whilst I acknowledge that the site may have some wildlife value as an undeveloped piece of land, it is not statutorily designated for wildlife and the Council has raised no objections in this regard. Thus, I do not regard this as a reason to resist planning permission.
17. Details have been supplied from an adjoining owner's property deeds that seek the retention of the wall on the site's boundary in Lavender Close. However, this is a private legal matter and I am satisfied that to grant planning permission for the appeal scheme would not negate any such rights in this regard.
18. My attention has been drawn to evidence of local surface water flooding in adjoining gardens. The Council do not raise this as a concern, and the site is not in an area at increased risk of flooding. Therefore, I am satisfied that details of the proposed drainage arrangements can be secured by a suitably worded planning condition.

Conditions

19. The Council has suggested a number of conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the Framework and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.

20. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.
21. In the interests of ensuring the satisfactory appearance of the proposed development, conditions are imposed to secure details of the materials, surface finishes, details of tree planting.
22. In order to ensure the security of the occupiers of No.7A, a condition is imposed requiring details of boundary treatments to be supplied and agreed.
23. In order to ensure the satisfactory retention of and control the work carried out to important trees, a condition is imposed requiring an arboricultural method statement and adherence to this.
24. The Council has suggested two conditions which seek to remove Permitted Development Rights by revoking provisions that might allow for further first floor rear windows on both plots and restricting extensions to the side and rear of the eastern plot. Whilst I have found that the development proposed would not result in harm to the character and appearance of the area, any erosion of the separation distance between either the side or rear boundaries of the eastern plot through extensions or outbuildings could result in harm to the character and appearance of the area due to the impact on trees. As such, in this exceptional circumstance I consider it is necessary to remove these rights by condition in order to ensure control over side and rear extensions and outbuildings to avoid future harm.
25. In order to ensure that the appearance of the area is maintained following the demolition of the wall on the site's southern boundary in Lavender Close, a condition is imposed to ensure it is suitably remediated and made good.
26. In order to ensure that the proposal minimises any impact on the surrounding area through additional on-street parking, a condition is imposed requiring the laying out of the car parking spaces prior to the occupation of each of the houses and their subsequent retention.
27. In order to protect the living conditions of adjoining occupiers, conditions are imposed requiring obscure glazing and limited or no opening for the rear and side windows at first floor level on both properties.
28. In order to ensure that the development is adequately drained, I consider that foul and surface water drainage methods need to be addressed and conditions requiring these details are imposed to this effect.
29. In order to ensure that there is no harm to the living conditions of adjoining occupiers and highway safety due to construction and demolition, a condition is imposed requiring the submission and adherence to a construction method statement.

Conclusion

30. For the reasons set out above, the appeal is allowed and planning permission is granted subject to the conditions listed in the attached schedule.

P Mileham

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:

Location Plan

MDP.LC/01 Rev. B

MDP.LC/02 Rev. C

Tree Protection Plan Drawing No. 001 Rev A. dated 05.12.18
- 3) Prior to the commencement of any above ground construction work, samples of the external finishes to be used in the construction of the dwellings and the surface materials to be used for the access road and parking spaces shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of any above ground construction work, details of the species and size of replacement trees to be planted in the positions shown on the Tree Protection Plan (Drawing No. 001 Rev. A) included in the Arboricultural Implication Assessment (Reference No. 180512-181203 Rev. A, dated 05.12.18) shall be submitted to and approved in writing by the Local Planning Authority. These trees shall be planted within the next planting season following the first occupation of either of the dwellings. The trees shall then be maintained for a period of five years during which time if they die, or become seriously diseased or damaged they shall be replaced with the same types of tree and these shall similarly be maintained during this period.
- 5) Prior to the commencement of any above ground construction work, a scheme for providing boundary treatments, including along the western site boundary, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be constructed in accordance with the approved details prior to the first occupation of either of the proposed dwellings.
- 6) Prior to the commencement of demolition of the wall along the southern site boundary, details of a scheme for making good the exposed surfaces shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of either of the proposed dwellings.
- 7) Work shall be carried out in full accordance with the Arboricultural Implication Assessment (Reference No. 180512-181203 Rev. A, dated 05.12.18).
- 8) Prior to the first occupation of either of the dwellings the access road and parking spaces shown on the approved drawing number MDP.LC/01 Rev B shall be constructed in accordance with the approved plans and surfaced as specified in condition 3 above. They shall thereafter be permanently retained for use in connection with the proposed development.

- 9) The rear first floor windows of both dwellings shall be obscure glazed and fitted with restrictor stays preventing opening by more than 12 cms and they shall be permanently retained in that condition.
- 10) The side first floor windows of both dwellings shall be obscure glazed and fixed shut and they shall be permanently retained in that condition.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no development falling within Classes A or E of Part 1 of Schedule 2 to that Order shall be carried out to the dwelling on the eastern plot.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no first-floor windows falling within Class A of Part 1 of Schedule 2 to that Order shall be shall be inserted in the rear elevation of both the proposed dwellings unless planning permission has been obtained for them.
- 13) The dwellings hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 14) The dwellings hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 15) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of Schedule