



Appeal Decision

Site visit made on 5 November 2019

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/M5450/W/19/3235784

Land to the rear of 49 Roxborough Park, Harrow HA1 3BA

- 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 M Whitely against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4578/18, dated 18 September 2018, was refused by notice dated 4 April 2019.
 - The development proposed is a new dwelling following demolition of shed outbuilding.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mrs M Whitely against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Procedural Matters

3. The Council refers to the Draft London Plan 2017 (DLP) and policies relevant to the appeal within its delegated report and decision notice, but no policies from the DLP are referred to in its reason for refusal. Bearing in mind Paragraph 48 of the National Planning Policy Framework (the Framework), I have not been provided with any substantive details regarding the stage of preparation of the emerging plan, the extent of any unresolved objections to the relevant policies and the degree of consistency of the relevant policies to the Framework. Therefore, I can only afford limited weight to the emerging plan.
4. The site visit procedure was altered from an access required site visit to an unaccompanied site visit as the appellant was not present when I arrived at the appeal site during the pre-arranged period. With the agreement of the appellant's agent, I was allowed access into the site by a third party and was able to see the relevant parts of the site and consider the main issue on this basis.

Main Issue

5. The main issue is whether the appeal site is a suitable location for new residential development, having regard to the development plan.

Reasons

6. The appeal site is located to the rear of No 49 Roxborough Park (No 49) which is a large, three storey, semi-detached Victorian villa, and Jacaranda Cottage, which is a two storey off-shoot to the rear of No 49 which appears to have historically been part of the main house.
7. It is a linear plot of land which extends through to Whitehall Road. It possesses close-boarded timber fences and vegetation to the side boundaries, a planted area with some trees, a small timber shed and at the eastern end there is a section of concrete hardstanding and a timber car port with gates which exit out onto Whitehall Road.
8. The site is located within the Roxborough Park and the Grove Conservation Area (CA). The CA comprises mainly large, detached and semi-detached Victorian and Edwardian houses which are set back from the wide streets in generous plots with mature trees and landscaping. These elements combine with the open spaces of the Grove and Church Fields to give a pleasing spacious and verdant character and appearance to the area.
9. The proposal comprises the construction of a detached, two storey dwelling fronting onto Whitehall Road. Whilst it is not in dispute between the parties that the proposed dwelling would have an acceptable impact on the character and appearance of the surrounding area and CA (a point which I have dealt with under Other Matters), there is disagreement over whether residential development on the appeal site would accord with the Council's growth strategy for the Borough.
10. Policy 3.5(A) of the London Plan 2016 (LP) allows Councils to introduce a presumption against development on back gardens or other private residential gardens where this can be locally justified. Policy CS1(A) of the adopted Harrow Core Strategy 2012 (CS) sets out the growth strategy for the Borough and seeks to focus development in the Harrow and Wealdstone Intensification Area, town centres and strategic, previously developed, sites. The appeal site is not within any of these identified areas.
11. Policy CS1(B) of the CS states that garden development will be resisted. This presumption against garden land development exists to ensure that the Borough's housing growth is delivered in accordance with the spatial strategy set out in the CS by preventing unmanaged incremental residential growth on (greenfield) garden land leading to a harmful degree of dispersal. Further guidance in respect of garden land development is set out in the Harrow Supplementary Planning Document: Garden Land Development 2013 (SPD).
12. The SPD defines garden land as 'any land within the curtilage of a building, the principal use of which is residential'. It goes on to clarify that the definition includes 'any land that formed part of a garden but which has been legally and/or physically severed off from the donor property(ies)', and any 'hardstandings, outbuildings and other structures located on the garden land.' It also states that garden land is not 'any land that historically formed part of a garden but which now has another lawful use and which has not reverted to have a garden use.'
13. I am aware that the appeal site is a separate piece of land to No 49 and Jacaranda Cottage, with separate legal title and separately owned by the

appellant. However, when viewing it on site and comparing it with the garden of the adjacent property of No 47 Roxborough Park, it was apparent that, even though the land has been legally severed off, it has the characteristics of garden land, has formed the garden to No 49 and Jacaranda Cottage and has been associated with their residential use. In addition, there is no evidence before me to suggest that any part of the site has any other lawful use. Therefore, on the basis of the evidence submitted and my site visit, I am satisfied that the appeal site falls within the SPD definition of 'garden land'.

14. It is evident that the proposed dwelling would be classed as 'garden land development' as stated within the SPD, which is development on garden land that results in the formation of one or more new dwellings (houses or flats).¹ Moreover, given that the appeal site is not an obvious vacant plot within the street scene, it would not constitute a gap site as defined by the SPD for which exceptions are made for garden land development.
15. Taking the above into account, I consider that the proposal would not be consistent with the relevant development plan policies, and that this would amount to harm because it would undermine the Borough's adopted spatial strategy for housing delivery. Therefore, I conclude that the appeal site is not a suitable location for new residential development, having regard to the development plan. As such, it would conflict with Policy 3.5(A) of the LP, Policies CS1(A) and CS1(B) of the CS and the SPD, the relevant requirements of each are set out above.

Other Matters

16. I have had regard to the fact that the appeal site is located within the CA and, in accordance with the statutory duty¹, paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. The proposed dwelling would introduce built form into land that has the character and appearance of the rear garden area associated with No 49 and Jacaranda Cottage and, in this respect, would be out of keeping with the pattern of development within the CA. However, given the form, design and materials of the proposed dwelling, which would reflect the context of the surrounding area, I consider that it would have a neutral effect on the street scene and, therefore, would preserve the character and appearance of the CA. However, the avoidance of harm in this regard weighs neutrally and does not amount to a consideration in support of the appeal.
17. I am aware that the Council raised no issues in relation to the design and appearance of the proposed dwelling, landscaping, refuse storage, the living conditions of occupiers of neighbouring properties, the living conditions of future occupiers of the proposed dwelling, highway safety, parking, accessibility and flood risk. However, these are neutral considerations in the balance and do not outweigh the conflict with the development plan and consequent harm to the Council's adopted spatial strategy for housing delivery.
18. I note the appellant's frustration that, after receiving positive pre-application advice and submitting a planning application which took a number of months to determine, the issue of the proposed development being sited on garden land was raised at such a late stage and formed the single reason for refusal. However, informal advice provided before an application is made is given

¹ Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990

without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. Furthermore, I have concluded that the appeal site falls within the SPD definition of garden land and that the proposed development would be contrary to the development plan. As such, it does not alter or outweigh my conclusion on the main issue.

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

F Cullen

INSPECTOR