



Appeal Decision

Site visit made on 3 December 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2020

Appeal Ref: APP/R5510/W/19/3236950

Land at 30 - 32 Chester Road, Northwood, Middlesex HA6 1BQ

- 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 Salim Rhemtulla – Seymour House Residential Care Homes Limited against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 13800/APP/2019/604, dated 18 February 2019, was refused by notice dated 22 August 2019.
 - The development proposed is development of 29 bed residential care home, alterations to access, to vehicular crossover and associated landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Salim Rhemtulla against the Council of the London Borough of Hillingdon. This application is the subject of a separate Decision.

Procedural Matter

3. The Council's decision notice refers to Policies contained within the emerging Hillingdon Local Plan: Part Two - Development Management Policies with Modifications (March 2019) (Emerging HLP2). The Council has confirmed that the Inspector's final report was received on 22 October 2019 and that the plan has been found to be sound subject to modifications that are not relevant to this appeal. The Council intends to progress the Emerging HLP2 to adoption at its Full Council meeting on 16 January 2020. Given the advanced stage of the emerging plan, I am able to attach substantial weight to those policies of the Emerging LP2 that are referred to in the Council's decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of Chester Road and the Old Northwood Area of Special Local Character (ASLC);
 - the effect of the proposal on the living conditions of the occupants of No 34 Chester Road with particular regard to outlook and light;
 - the effect of the proposal on the living conditions of the occupants of No 28 Chester Road with particular regard to odour, noise and disturbance and outlook; and

- whether an appropriate legal agreement would be necessary to secure the development for C2 use class.

Reasons

Character and appearance

5. Chester Road is a traditional residential street located within the ASLC. The road is characterised by predominantly two-storey accommodation with traditional pitched or hipped roofs mainly dating from the Victorian and Edwardian periods. Existing buildings are of a variety of styles but with a broad similarity in terms of their scale, alignment in relation to the street and the separation gaps between neighbouring buildings. Where second floor accommodation is provided this is more often contained within the roofspace and served by dormers or by windows set within gabled pitched roof forms. Where newer development on Chester Road incorporates alternative roof designs, such as the mansard roofs at the neighbouring Nos 34 – 38, second floor accommodation is still generally provided as a subservient feature within the roofspace.
6. The raised eaves on the appeal proposal would intersect mid-way through the second-floor windows on the front and rear elevations of the building. The windows to either end of the second floor level would also be double width. The combination of these factors would give the impression of increased height, bulk and scale, particularly when compared with the neighbouring care home at No 34. Even accounting for the position of the eaves and ridge at similar level to the respective roof levels on the neighbouring dwellings at Nos 28 – 26, the additional brickwork above the first floor and the incursion of the second-floor windows within this area would give the building more of a three-storey presence. Consequently, the design is at odds with the building heights predominant in the area and the generally more subservient approach to providing second floor accommodation seen on neighbouring buildings and elsewhere on Chester Road.
7. I agree with the Inspector who dealt with a previous appeal¹ on the site that the separation gaps between buildings on Chester Road, particularly at first floor level, play an important role in the articulation of the streetscene. I note that the similarity in design between the previous appeal proposal and that of the buildings at Nos 34 – 38 was an influencing factor in the Inspector having concerns in respect of the collective frontage. This appears to have been overcome through the differing design approach on the subsequent planning permission on the site² (the 2012 Planning Permission). The reduction in the gap between the proposed development and flank walls of neighbouring buildings on Chester Road, when compared with the previous planning permission on the site, would not be highly perceptible. However, there would be a visible reduction in space at roof level, particularly to the side of the building closest to No 34 by virtue of the increase in eaves height. This would disrupt continuity of scale within the streetscene and further emphasise the dominance and incongruity of the building.
8. The appellant suggests high quality materials would be utilised and that other elements of the design draw on some of the detailing on the neighbouring care

¹ APP/R5510/A/10/2139386

² Ref 13800/APP/2011/1140

home development. However, these aspects of the scheme would not be sufficient to compensate for the negative aspects of the design.

9. My attention has been drawn to an anomaly on the Council's the decision notice which refers to a mansard roof. Whilst it is clear from the drawings that the proposal is not for a mansard roof, this does not alter my findings that the design of the development would not respond well to the scale and design of neighbouring buildings or the prevailing character of the wider ASLC.
10. To conclude, and for the reasons set out, the development would have a harmful effect on the character and appearance of Chester Road and the ASLC. Consequently, in that regard, the proposal would be contrary to Policy BE1 (Built Environment) of the Hillingdon Local Plan: Part One - Strategic Policies (2012) (the HLP1) and Policies BE5, BE13 and BE19 of the Hillingdon Local Plan: Part Two - Saved UDP Policies (2007) (the UDP Saved Policies) which amongst other things require all new development to improve and maintain the quality of the built environment, achieve a high quality of design and that within areas of special local character new development should harmonise with the materials, design features, architectural style and building heights predominant in the area.
11. For the same reasons, the proposal would also conflict with Policy DMHB5 (Areas of Special Local Character) of the Emerging HLP2 which amongst other things requires that development should reflect the character of the area and respect the established scale, height and design of the area.
12. The Council's reasons for refusal also cite Policies BE15 and BE22 of the UDP Saved Policies. Policy BE15 relates to alterations and extensions to existing buildings. Given the proposal is for a new building, I have not identified conflict with this particular policy. Policy BE22 requires buildings of two or more storeys to be set back a minimum of 1 metre from the side boundary of the property for the full height of the building. The evidence before me suggests that this minimum distance would be achieved. Even so, this does not override the conflict with the policies identified in my conclusion on this main issue.

Living conditions of the occupants of No 34 Chester Road

13. The neighbouring care home at No 34 has clear glazed windows at ground, first and second floor level to its rear elevation. These windows sit close to and set back from a two-storey rear projection on No 34. The evidence before me confirms these neighbouring windows serve bedrooms and storage areas. The part of the proposed building that would sit closest to this neighbouring boundary would project past these windows and align with the rear projection serving No 34. In combination the tunnel effect created by the two opposing brick walls of considerable height and depth and their close proximity to these windows would be oppressive and would result in material harm to the means of outlook for occupants of No 34.
14. I have no substantive evidence before me, for example in the form of daylight / sunlight surveys, to clarify whether or not there would be a material effect on the levels of light experienced by occupants of the rooms served by these neighbouring windows. Even so, this does not detract from the overbearing impact of the proposal on the specified neighbouring windows.

15. The appellant suggests that the Inspector for the appeal³ which granted planning permission for the care home at No 34 would have considered a similar relationship between the L-shaped footprint of No 34 and windows on the recessed part of the rear elevation serving No 36 – 38. However, the Inspector in that instance considered the proposal on the basis that it could be implemented in conjunction with the care home at Nos 36 – 38 unlike the standalone development before me. Furthermore, the main issue in respect of living conditions raised by the Council in that instance related to the relationship with the former building at No 32. The Inspector exercised their judgement in the cited appeal based upon the evidence before them, as shall I in relation to the evidence before me in relation to this appeal. For the reasons that I have given, I am not persuaded that the relationship with No 34 would be acceptable.
16. The appellant suggests that the overall standard of amenity of the care home at Nos 34 - 38 is excellent and that the effect of the proposal only relates to 5 windows. However, some of these neighbouring windows serve bedrooms. For the residents in those bedrooms, this is potentially their only private space. I am therefore not convinced that acceptable living conditions for the neighbouring residents that would be affected should not be protected.
17. To conclude, the development would have a harmful effect on living conditions for occupants of No 34 Chester Road. Consequently, in this regard, the development would be contrary to Policy BE1 (Built Environment) of the HLP1 and Policies BE19 and BE21 of the Saved UDP Policies which amongst other things seek to ensure that new development complements or improves the amenity of an area and that planning permission will not be granted for new buildings which by reason of their siting, bulk and proximity, would result in a significant loss of residential amenity. The proposal would also conflict with Paragraph 127 of the National Planning Policy Framework which promotes a high standard of amenity for existing and future users.
18. The Council has cited conflict with Policy BE13 of the Saved UDP Policies in respect of this main issue. However, this policy is not specific to the protection of living conditions. Policies BE20, BE22 and BE24 of the Saved UDP have also been cited. However, I have not identified any material loss of daylight or sunlight, the proposal would provide more than a minimum 1.0 metre gap between the building and the side boundary with No 34 and there would not be a material loss of privacy for neighbouring occupiers. Finally, Policy DMHB 5 of the Emerging HLP2 has been cited, however, this policy is specific to the character of the ASLC. Whilst I have therefore not identified conflict with these particular policies in respect of this main issue, this does not override the harm already identified.

Living conditions of the occupants of No 28 Chester Road

19. The proposal would include three light wells, two of which would serve an activity lounge and the third a main kitchen. Details for ventilation of the kitchen have not been provided and the activity lounge has the potential to be multi-functional. I acknowledge the Council's concerns in these respects owing to the position of the windows serving these rooms to the boundary with the garden serving No 28.

³ APP/R5510/A/07/2045006

20. My attention has been drawn to a condition attached to the 2012 Planning Permission on the site which prevented any air extraction, chimney or extraction vent being installed unless a scheme was first submitted to the Council for approval. Whilst the previous condition only required confirmation of ventilation details should there be an intention to install them, I see no reason why a similar condition could not be attached to the latest proposal requiring ventilation details for the kitchen to be approved and installed prior to the development first coming in to use. There could be a requirement for the windows to be kept shut and for the ventilation details to demonstrate how odour from the kitchen would be dispersed away from neighbouring boundaries.
21. Having regard to the proposed residential care use of the building, the likelihood for there to be some increase in noise and disturbance from an activity room cannot be ruled out. However, I note the position of the windows serving the activity room set in from the boundary and consider the appellant's suggested condition requiring the lightwell windows to be fixed shut and served by mechanical ventilation would be reasonable given this would not be a main habitable room and would be sufficient to mitigate the potential for any material increase in noise and disturbance.
22. The side elevation of the proposal would align closely with the side elevation of No 28 which has a mixture of clear glazed and obscure glazed windows facing the site. The relationship with neighbouring windows on the side elevation would not be markedly different to the relationship with the building approved under the 2012 planning permission. I also note the Inspector for the previously dismissed appeal on the site⁴ was of the view that the side elevation of the proposal in that instance, which also sat on a similar alignment and proximity to the boundary, would be somewhat overbearing but not to the point that it warranted dismissal of the appeal on that ground. I share this view and overall, I consider that the levels of outlook retained for occupants of No 28 would be acceptable.
23. To conclude, subject to the inclusion of the aforementioned conditions, the development would not have a material effect on the living conditions of the occupants of No 28. Consequently, in this regard, the development would comply with Policy BE1 (Built Environment) of the HLP1 and Policies BE19, and BE21 of the Saved UDP Policies.
24. The Council also cited Policies BE13, BE20, BE22 and BE24 of the Saved UDP Policies and Policy DMGB 5 of the Emerging HLP2 in their reason for refusal relating to this main issue. However, given these policies are not specific to matters of outlook, odour or noise and disturbance, I have not identified any conflict with these policies.

Legal agreement

25. Had the Council been minded to grant planning permission, they would have sought a legal agreement to secure the use of the premises for residential care under Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended). The evidence before me confirms that the development would fall under a C2 Use Class and would provide end of life/hospice care and dementia care. There would be no self-contained

⁴ APP/R5510/A/2139386

accommodation, communal facilities would be provided and round the clock care would be available for residents. There would be no extra care provision or sheltered accommodation on the site.

26. The Council's appeal statement includes a suggested condition to restrict the use of the building for purposes associated with residential care falling within Class C2. If the Council had any future concerns that the accommodation was not being used for this specified use, this could be reasonably investigated and enforced against such a condition. On this basis, I am not persuaded that the absence of a legal agreement on its own should prove fatal in this particular instance.
27. To conclude, the use of the proposed building for residential care falling under a C2 Use Class could be secured by condition and a legal agreement would not be necessary. Consequently, the proposal would accord with Policy 3.17 of the London Plan (2016) which amongst other things supports development proposals which provide high quality health and social care facilities. In this particular regard, the development would also adhere to Policy DMH 8 of the Emerging HLP2.
28. The Council cited Policy R17 of the UDP Saved Policies and Policy DMCI 7 of the Emerging HLP2 in its reasons for refusal. These policies amongst other things confirm that planning obligations will be sought on a scheme-by-scheme basis including where it is required to secure the provision of community facilities and where the development is required to make the proposal acceptable. On the basis that the proposed use could be secured by condition in this particular instance, I have not identified any material harm that would result from any conflict with these particular policies.

Other Matters

29. Even if the previous permission on the site for a care home remains extant, this does not persuade me that the alternative design before me should be accepted. The appellant submits that there is a quantitative and qualitative need for purpose built residential care home accommodation in the area. I also acknowledge there would be economic benefits to the local economy through employment opportunities that would be created and through the investment in the construction of the building. However, bearing in mind there is a previous planning permission on the site for a care home, I am not convinced that the proposal is the only way that any demand could be met or such benefits could be achieved.
30. The appellant contends that an affordable housing contribution would not be required. The Council's delegated report also confirms that the proposed C2 use would not generate planning obligations and therefore this has not been influential in my conclusions. The acceptability of the scheme in terms of highways matters, the relationship with trees, matters of sustainability and drainage only means that other development plan requirements could be met but does not overcome the harm I have identified.

Conclusion

31. I have concluded that living conditions for neighbouring occupants at No 28 could be protected and that the proposed C2 Use Class could be secured by an appropriate condition. However, the development would have a harmful effect

on the character and appearance of the ASLC and would materially harm living conditions for occupants of No 34. These matters represent significant and overriding issues which are decisive in this case.

32. Therefore, for the reasons set out, the appeal is dismissed.

M Russell

INSPECTOR