

Appeal Decision

Site visit made on 29 September 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/M5450/W/20/3256326

3 Lyncroft Avenue, Pinner HA5 1JU

- 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 Murtuza Hasnaini against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1031/20, dated 16 March 2020, was refused by notice dated 12 May 2020.
 - The development proposed is the change of use from use class C3 dwellinghouse to sui generis house in multiple occupations (up to 8 bedrooms and 10 people).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the decision of the Council, the appellant has submitted amended drawings to address the reasons for refusal by amending the parking provision and reconfiguring the internal communal space. The fundamental proposal would not be altered by the proposed amendments.
3. The Procedural Guide to Planning appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the submissions of the appellant regarding the Wheatcroft Principles, as well as the degree of engagement of all parties with the issues, natural justice and fairness. I have therefore determined the appeal on the basis of the plans that were before the Council when it made its decision, on which parties were consulted, and on which many representations were made. I am not persuaded otherwise by the example cited by the appellant.
4. It appears from submissions that there is an ongoing dispute between the appellant and the Council as to the status of the appeal site. For the purposes of the application which led to this appeal, the appeal site was treated as a dwellinghouse, and I have done the same. I do not consider that the argument between the parties on this point or their various submissions on it are relevant to my decision and I have therefore not taken them into account.

Main Issues

5. The main issues are;

- whether or not the proposal would provide acceptable living conditions for future occupiers having regard to privacy and the quality of the internal space
- the effect of the proposal on the living conditions of occupiers of adjoining properties with regard to the intensity of the proposed use
- the effect of the proposed parking provision on transport sustainability in the area, and
- whether or not the proposal would expose the occupiers to unacceptable risk from flooding.

Reasons

6. The appeal site is a previously-extended, semi-detached, dwellinghouse, with a paved parking area to the front and garden to the rear. Its character and appearance is consistent with the rest of Lyncroft Avenue. I note that the broad principle of the proposal is considered acceptable by the Council in light of Policy DM30 of the Harrow Development Management Policies Local Plan 2013 (the Local Plan). I also acknowledge the representations on this point. The acceptability of the principle in Policy DM30 is however conditional and the Main Issues in this decision essentially relate to those conditions.

Living conditions for future occupiers

7. The windows of bedrooms 1 and 2, the ground-floor front-facing rooms, face directly onto the block-paved area to the front of the house which is to be used for parking. There is no planting, screening or other feature proposed to buffer those windows from that area, or any users of it.
8. The proposed layout shows cars parked slightly away from these windows, but this layout would encourage anyone accessing the communal garden, where the cycle store is located, to walk immediately past these windows. In addition, the step up to the front door would give an elevated view into bedroom 2. As such, I do not consider that those bedrooms would provide satisfactory living conditions for their occupiers with regards to their sense of privacy, disturbance from cars being parked, people passing the windows or the general overarching requirement for high quality internal space.
9. Bedroom 3, also on the ground floor but to the rear, is to have a patio door to the communal garden. The communal garden has block-paving to the rear of the house and steps to the grassed area are in line with this patio door. No screening or separation is proposed between bedroom 3 and the communal garden area. As a result, I do not consider that bedroom 3 would provide a future occupier with a suitable degree of privacy or screening from the communal garden, and in particular, the part of it most likely to be used. Bedroom 3 would not therefore meet the requirements for high quality internal space.
10. I note that no new rear door is proposed to access the communal garden from either kitchen area. As a result, access to the garden would either be through a side door or the front door. This arrangement could, in my view, further harm

the living conditions of future occupiers of bedrooms 1 and 2 as a result of residents walking past their windows and could even result in pressure to use bedroom 3 to access the communal garden.

11. I note that the bedrooms provide, and the proposal overall provides sufficient internal space with regard to its quantity. However, for the reasons set out above, the ground-floor bedrooms would not provide acceptable living conditions for future occupiers having regard to the quality of the internal space, and privacy in particular. As a result, the proposal would be contrary to the requirements of Policy 3.5 of the London Plan 2016, Policy D6 of the Draft London Plan 2019, and Policies DM1 and DM30 of the Local Plan. These seek, amongst other things, to ensure that development is of the highest quality internally and externally, that internal spaces are fit for purpose, functional, meet the needs of occupiers, including for privacy, and provide overall satisfactory living conditions.

Living conditions for occupiers of neighbouring properties

12. Notwithstanding the level of activity, in terms of comings and goings from the site as a relatively large dwellinghouse, the proposal would intensify the use of the site. It would lead to an increased level of occupation of the property, and this would inevitably lead to an increased level of activity with regard to use of the communal spaces, including the garden, as well as comings and goings to and from the property. This, at the scale proposed, would be significantly greater than the level of such activity which would normally or reasonably be expected from a dwellinghouse, even one as large as the appeal site.
13. I note, but do not agree with the argument of the appellant that the proposal is not significantly larger than the 6-person HMO which could be implemented using permitted development rights. To my mind, it is a substantial and significant increase, and would have a materially different, increased, effect over both the current use as a dwellinghouse, or any other scale of use which may not require planning permission.
14. I therefore consider that the proposal would, as a result of the increased intensity of use and associated activity, use of the garden, communal spaces and increased comings and goings, cause harm to the living conditions of occupiers of adjoining properties.
15. The proposal would therefore be contrary to Policy 3.5 of the London Plan 2016, Policy D6 of the Draft London Plan 2019, and Policies DM1 and DM30 of the Local Plan. These policies seek, amongst other things, to ensure that development is of the highest quality, and that proposals of this nature in particular have no adverse impact on the amenity of neighbouring properties.

Parking

16. Although the PTAL rating for the appeal site is moderate to poor, Policy 6.13 of the London Plan 2016, Policy T6 of the Draft London Plan and Policy DM42 of the Local Plan seek to limit the amount of car parking for new development, in order to encourage the use of more sustainable modes of transport. The car parking proposed exceeds those requirements.
17. Policy DM42 goes further, noting that parking layouts should be fit for purpose and not create wider highway problems. I do not consider that the proposed layout would be particularly convenient or easy to use, as access to it is

constrained both by the neighbouring boundary wall and a cabinet within the verge to the front. As a result, attempts to park the number of cars shown would be awkward and likely instead to lead to increased parking on Lyncroft Avenue itself, potentially increasing the effect of the proposal on the wider highway network.

18. Notwithstanding my concerns over how it is accessed, and the effects of that on living conditions, as set out above, I note that the cycle parking proposed meets policy requirements set out in Policy 6.9 of the London Plan 2016, Policy T5 of the Draft London Plan 2019, and Policy DM42 of the Local Plan. However, with regard to car parking, the proposal would not meet the requirements of Policy 6.13 of the London Plan 2016, Policy T6 of the Draft London Plan 2019 or Policy DM42 of the Local Plan, which seek to limit the use of the private car, reduce parking, and encourage more sustainable means of transport.

Flood risk

19. Following the decision of the Council, the appellant has carried out the assessment required by Policy DM9 of the Local Plan and demonstrated to the satisfaction of the Council that the proposal would be resistant and resilient to all relevant sources of flooding. I agree with that assessment. As such, the proposal would comply with that policy and would not expose future occupiers to unacceptable risk from flooding.
20. I am satisfied that it was appropriate and consistent for me to consider this information in determining the appeal. Unlike the amended plans discussed in the Procedural Matter above, the flooding information did not change the proposal or otherwise evolve it from that which the Council considered and upon which parties were consulted.

Conclusion

21. Although the proposal would not now expose future occupiers to unacceptable risk from flooding, I consider that it would not provide acceptable living conditions for future occupiers having regard to privacy and the quality of the internal space, and that it would cause harm to the living conditions of occupiers of adjoining properties with regard to the intensity of the proposed use. In addition, the level of parking proposed is excessive and contrary to the development plan.
22. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

S Dean

INSPECTOR