
Appeal Decision

Site visit made on 6 October 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2020

Appeal Ref: APP/R5510/W/20/3246164

13A North Common Road, Uxbridge UB8 1PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Gary Wynne of Trafalgar Properties against the Council of the London Borough of Hillingdon.
 - The application Ref 74738/APP/2019/1181, is dated 4 April 2020.
 - The development proposed is erection of 5 two storey, 3-bed, attached dwellings with associated parking and amenity space, involving demolition of existing detached house.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. The details before me indicate that the scheme was reduced from six to five dwellings during the application. I have therefore dealt with the appeal on the basis of the amended scheme and taken the description of development from the planning committee report.
3. The appellant has provided further plans since the submission of the appeal and after the application was last presented to the Planning Committee¹. While these sought to clarify dimensions at the access lane, the revised site plan also made amendments to the layout of the lane and turning area. The appellant in their final comments has suggested considering the 'various options' discussed in their submissions, including the original Proposed Site Plan Drawing No 532/P/03. However, this included a different layout showing 6 properties.
4. I cannot be satisfied that interested parties who commented on the planning application have had sufficient and fair opportunity to comment on the additional details or various options suggested. I have therefore considered the plans that were submitted at the outset of the appeal and presented to the Planning Committee, in order to avoid prejudice to the interested parties.
5. The appeal was submitted prior to the Council reaching a decision. As part of their appeal submissions, the Council have raised concerns over highway safety, the loss of hedgerows and the need for a contribution towards ecological improvements. The appellant has had the opportunity to respond to these matters.

¹ Proposed Site Plan Drawing No 532/P/09 Rev C and Topographical Survey Drawing No 111218/Topo Rev B

6. The Highway Planning Ltd report dated April 2020 addresses the punitive refusal reasons from the Council, rather than amending the scheme. Therefore, I have taken this into consideration.
7. A planning obligation has been submitted in relation to a contribution towards ecology/biodiversity enhancements. I shall address this further below.

Application for costs

8. An application for costs was made by Mr Gary Wynne of Trafalgar Properties against Council of the London Borough of Hillingdon. An application for costs was also made by Council of the London Borough of Hillingdon against Mr Gary Wynne of Trafalgar Properties. These applications are the subject of a separate Decision.

Main Issues

9. The main issues of the appeal are the effect of the proposed development on:
 - Highway safety;
 - Biodiversity; and
 - The character and appearance of the area, with particular regard to the North Uxbridge Area of Special Local Character (ASLC).

Reasons

Highways Safety

10. The appeal site is located off a narrow lane that runs between properties fronting North Common Road. It currently serves several dwellings and planning permission has been granted at the rear of 12 North Common Road for an additional property. The edge of the lane is mostly lined with hedgerow and other vegetation, although there are some parts where fencing and existing properties are the initial features.
11. The narrowness of the lane prevents vehicles being able to pass along much of its length. I acknowledge that the lane would be widened as far as the appellant's ownership would allow. Nonetheless, until the site opens up at the shared manoeuvring area in front of 13A North Common Road, or immediately adjacent to the access on to North Common Road, there would be no opportunities for vehicles to pass.
12. During my visit, which I appreciate is only a snapshot in time, that was in the middle of the day, vehicles speeds were slow passing the site and the road was not heavily trafficked. However, at certain times of the day, vehicle movements would be greater than when I visited. While no evidence has been presented to suggest the existing access is not operating safely, the proposal would result in 4 additional properties, intensifying its use. I note the appellant's figures for vehicle movements from the proposed scheme. Nevertheless, the site has a PTAL 2 rating, suggesting car usage would be expected. Moreover, no detailed assessment of existing movements along the lane has been provided
13. Even if I were to take the appellant's figures for the length of the single lane access, the appeal scheme would lead to an increased likelihood of vehicles meeting and being unable to pass. They would need to reverse a substantial

- distance back into the site or on to North Common Road to find space where they could pass each other.
14. While visibility splays would be provided at the access onto North Common Road, the narrowness of the lane would result in vehicles having to reverse onto the road or back into the site. In doing so, the potential sight lines would be more limited.
 15. The scheme would be likely to result in an increase in vehicles waiting on North Common Road. This may not be for a significant period and North Common Road has a straight and level alignment. As there are frequent residential access points, vehicles coming on to the road would not be unexpected. Nonetheless, properties generally have turning areas that allow vehicles to enter the road in a forward gear.
 16. Given the limited lane width and visibility for vehicles when reversing, their speeds would be low increasing the duration where such conflicts would disrupt the flow of vehicles along North Common Road. This would be detrimental to the safety of pedestrians and vehicles.
 17. Lighting, widening and surfacing of the lane would aid existing and future users of it. Nonetheless, the scale of the appeal scheme would greatly increase its use, and the likelihood of conflicting movements between vehicles and pedestrians. Even if the colour of the tarmac provided some differentiation, there would be no separate designated pedestrian facilities. This and the varying width of the lane would limit opportunities for them to take refuge from vehicles.
 18. Alternatives to fire vehicle access have been put forward. I note comments from the London Fire Brigade and the Council have confirmed that they no longer have concerns with this. In addition, the provision of a formalised turning area would assist in reducing the need for appliances to reverse. If the appeal were to be allowed conditions could be imposed in relation to the provision of such alternatives and parking cycle facilities.
 19. Appeals at a nearby site² had a rear access serving only 3 units and did not have as long a stretch of road without passing places as the scheme before me. The approval at 12 North Common Road was only for 1 property and therefore would have generated less movements than the appeal proposal. These other schemes are therefore materially different to this appeal.
 20. Both parties have referred to guidance set out in Manual for Streets. I have been mindful of this and have also made my assessment on the individual circumstances of this scheme. In this instance, on the basis of the information before me, the carriageway width would not be appropriate to accommodate the appeal scheme.
 21. Consequently, the proposal would be detrimental to highway safety. It would conflict with Policies DMT1 and DMT2 of London Borough of Hillingdon Local Plan Part 2 Development Management Policies (2020) (LPP2). These, in part, require a development to address its transport impacts in a sustainable manner and that they have safe and efficient vehicular and pedestrian access.

² APP/R5510/W/15/3078165 and APP/R5510/W/15/3135376

Biodiversity

22. The application was accompanied by an Ecological Appraisal that stated there was limited terrestrial habitat at the site and the main potential value of the site for amphibians is associated with the pond. Nonetheless, it also found that the pond is an ecological resource, which will provide habitat for a variety of species groups and that its loss would need to be offset.
23. The existing ponds would be removed with a new one created at the rear of the site. This along with the planting proposed would give potential to offset the loss. Notwithstanding this, the main parties agree that offsite enhancements would be necessary, and a planning obligation is needed to secure these. On the basis of the information provided, and in the absence of a detailed analysis to show that the onsite enhancements would be sufficient, I have reached the same finding.
24. I have considered the contribution in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and the Framework. The contribution requested has been costed and I see no reason to question the amount. It is a necessary provision and relevant to the development proposed.
25. Annexe N of the appeals procedural guide states that if the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector they must make sure that it is executed and a certified copy is received no later than 7 weeks from the start date. An obligation has been provided. I note efforts by the appellant to progress the agreement and their willingness to enter into it. Nevertheless, the obligation is not signed or dated. Therefore, it cannot be relied upon to secure the contribution.
26. As a result, the scheme before me would have an unacceptably adverse effect on biodiversity. It would be contrary to Policy DMCI 7 of the LPP2 where it requires developments to provide or fund improvements to mitigate site specific impacts from a proposal. It would fail to accord with the National Planning Policy Framework (Framework) where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Character and Appearance

27. The appeal site is located within the ASLC. The area is characterised by suburban housing that is located around and close to Uxbridge Common (the Common). There are views across the largely open Common with occasional landscaping towards North Common Road with the water tower beyond as a key local landmark. The frontage landscaping along North Common Road contributes to the verdant appearance of the area.
28. The appeal site would use an existing access and lane. The proposed widening and introduction of fencing alongside it would involve the removal of some existing vegetation and other parts being screened. Nonetheless, even with widening, the lane would not become a prominent feature. It would only be seen in passing. Other vegetation along nearby plots would largely screen the proposed fencing and hard surfacing. Moreover, although overgrown in part,

sections of the current boundary to the lane is fencing. I saw that walls and fences were present along side boundaries and accesses to other backland development nearby.

29. Views from within the Common would also be limited due to the separation distances involved, mature vegetation and extent of the proposed works. Were the appeal to be allowed, conditions could be imposed requiring a landscape scheme, which could in part seek to soften the appearance of the proposed fencing.
30. Backland development is part of the character of the area and there is an existing access and lane. Similarly, properties and hard surfacing located behind frontage development would not be at odds with the surrounding area. The proposed terrace of properties reflects aspects the development either side of the appeal site. Given the lack of consistency to the scale and form of properties in the wider area, the design of the proposed dwellings would not be discordant.
31. The proposed development would have little impact on the verdant and attractive frontage of North Common Road and the ASLC as a whole. The proposed development would not harm the character and appearance of the area. As a result, no conflict would occur with design and character aims of Policies DMHB 1, DMHB 11, DMHB 12 and DMHB 14 of the LPP2.
32. Policy DMHB 5 of the LPP2 refers to the ASLCs as non-designated local heritage assets. The effect of an application on the significance of non-designated heritage assets should be taken into account according to paragraph 197 of the Framework. The analysis above has done that but there would be no harm to or loss of any heritage asset. The appeal scheme would therefore not be contrary to DMHB 5 of the LPP2 or the Framework.

Other Matters

33. I acknowledge that the application was initially presented to the Planning Committee with a recommendation of approval and favourable comments from the Highways Officer. Nonetheless, the Council have put forward a case in support of their concerns in their subsequent report and during the appeal. Moreover, the conduct of the Council is not a matter for this appeal.
34. The appellant has sought to overcome concerns from the Council by amending the scheme during of the application. However, this, and that the proposal would be a more efficient use of land, do not alter my findings on the main issues. The Framework excludes land in built-up areas such as residential gardens from its definition of previously developed land.
35. While third parties have raised issues with the effect of the scheme on matters such as living conditions, flooding and drainage, the Council have not. As I have found sufficient harm to dismiss the appeal on other grounds, I do not need to consider these matters further. In any event, a lack of harm would be a neutral factor.
36. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise. The LLP2 is now adopted and as such forms part of the development plan at the time of my decision.

Conclusion

37. While I found the scheme would be acceptable with regard to its effect on the character and appearance of the area, my findings on highway safety and biodiversity are determinative.
38. Therefore, for the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR