



Appeal Decision

Site visit made on 20 October 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2020

Appeal Ref: APP/L5810/W/20/3246676
56 Heathside, Whitton, Hounslow TW4 5NN

- 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 Manrik Thiara against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1027/FUL, dated 22 March 2019, was refused by notice dated 14 August 2019.
 - The development proposed is erection of 1 no. dwelling with parking provision and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development description in the banner heading above is taken from the planning application form. At Part E of the appeal form, it is stated that the description of development has not changed. Nevertheless, a different wording has been entered which describes the proposal as 'erection of 1 no. single storey 3 bed dwellinghouse, with parking provision and associated hard and soft landscaping, cycle store and new access road'. As this reflects the description stated on the Council's decision notice and I consider it a more accurate account of the proposal, I have determined the appeal on that basis.
3. The appellant's evidence includes an Access Road Noise Assessment, an ecological survey letter, and a Landscape Proposals Plan which were not before the Council at the time of its decision. None of these alter the nature of the scheme from that considered by the Council, but seek, not unreasonably, to address concerns raised in the reasons for refusal. The Council's appeal statement includes comments on the additional information, and in this context I see no reason to discount it from my consideration of the appeal.

Main Issues

4. Part of the appeal site to the side of the existing dwelling is within an area designated as Metropolitan Open Land (MOL), to which the development plan gives the same level of protection as Green Belt. The main issues are therefore:
 - i) whether or not the proposal would be inappropriate development on land designated as MOL;
 - ii) the effect of the proposal on the openness of the MOL;
 - iii) the effect of the proposal on the character and appearance of the area;
 - iv) the effect of the proposal on the living conditions of the occupiers of

- 56 Heathside with particular regard to noise and disturbance;
- v) whether or not the proposed access to the highway would be acceptable with particular regard to visual effects and the safety and convenience of pedestrians and other highway users;
 - vi) whether or not the proposal would make appropriate provision for affordable housing; and
 - vii) if the development would be inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate Development

5. The appeal site is located at the end of the residential cul-de-sac of Heathside. It includes the dwelling at 56 Heathside which has a fenced garden to its rear, as well as predominantly open land to the side and rear. Land within the wider part of the site beyond the side of the dwelling and garden falls within the MOL designation, which also includes the adjacent cemetery.
6. Policy LP 13 of the Local Plan 2018 states that MOL will be protected and retained in predominantly open use, and that inappropriate development will be refused unless 'very special circumstances' clearly outweigh the harm to the MOL. The Local Plan further confirms that requirements within the National Planning Policy Framework (the Framework) for development within the Green Belt are also applicable to development on MOL.
7. The appeal site is separated from the neighbouring cemetery by fencing and vegetation and is not publicly accessible, but these factors do not alter the designation of land within the site as MOL. Irrespective of their design or proposed landscaping, the construction of a new building and access road would not fall within any of the exceptions to inappropriate development specified within the Framework or Policy LP 13. The development within the area of the MOL designation to the side of No 56 would therefore comprise inappropriate development on land designated as MOL which is by definition harmful, and would conflict with Policy LP 13 of the Local Plan.

Openness

8. The concept of openness of the MOL relates to the absence of built development, and has both a spatial and a visual dimension. Although I observed an outbuilding on the appeal site beyond the rear of the garden to No 56, it is of modest height and scale, and the area to the side of the dwelling within the MOL is principally open and undeveloped in quality.
9. The proposed dwelling would increase the overall built form on the site, and the access driveway would further result in a much more engineered and urbanising appearance than the part of the site to the side of No 56 which is currently largely free of development. Where these elements are within the MOL, their presence would inevitably result in a loss of openness in spatial terms. Landscaping to the site including reinforcement of boundary vegetation would soften the appearance of the development and would offer some screening, including from the adjacent cemetery. Nevertheless, screening would not be complete. The development would also be apparent from the

front of the site on Heathside. While public views would not be wide-ranging, there would therefore be some loss of openness on the site in visual terms.

10. However, given the separation and screening along the boundary as well as the green roof which would soften the appearance of the dwelling itself, the visual impact when seen from the neighbouring cemetery would be limited and I find that the openness of the adjacent MOL would not be harmfully diminished. In this regard, my findings are consistent with those of the Inspector who considered an appeal for a dwelling to the rear of 65 Heathside where no harm was found to the adjacent MOL. Be that as it may, neither my reading of that appeal decision nor any other evidence before me indicate that the MOL designation extended onto the site of No 65. Accordingly, the full circumstances are not comparable to the appeal which is before me.
11. While I find no harm to the openness of MOL outside of the site, I conclude that the proposal would reduce the openness of the MOL within the site which would be harmful, albeit that the harm would be relatively modest given the scale of the development and the limited views of it.

Character and Appearance

12. Heathside is a residential cul-de-sac which is predominantly characterised by detached dwellings of mixed scale and appearance fronting the street. The appeal site is to the southern side of Heathside where views between buildings reveal backdrops of typically long gardens and mature vegetation which result in a distinctive spacious setting to the buildings. This contrasts somewhat with the northern side of Heathside, where buildings on Atherley Way and Dunleary Close as well as 67 Heathside are apparent to the rear of the frontage dwellings, reducing open views and in many cases the depth of the gardens.
13. Given the diverse architectural styles of other buildings on Heathside, I find that the indicated materials and contemporary appearance of the development would not be unsympathetic. The single-storey height and overall scale of the dwelling would also be appropriate as subservient to No 56.
14. However, individual dwellings positioned behind frontage buildings are not a characteristic of this side of Heathside. Indeed, I observed that around the appeal site, even outbuildings were generally of such limited scale and number as to be little evident in views from the street scene or site itself. Boundary fences to the rear of dwellings have a similarly modest visual impact given their height, and while there are trees present I find that these add a pleasant verdant character to the area rather than detracting from its openness.
15. The position of the proposed dwelling to the rear of No 56 would be at odds with the generous back gardens and openness which are characteristic to this side of the street. It would be an isolated feature, and the encroachment of the development onto the spacious setting to the rear of buildings on this side of Heathside would erode the positive contribution that the open appeal site makes to the character and appearance of the area. In addition, the access, parking, and further hard landscaping to the rear of the dwelling would result in hardsurfacing across a fairly extensive area of the site. This would further contrast with the adjacent back gardens which typically comprise soft landscaping with areas of lawn and vegetation.

16. Moreover, the proposal includes 2m high fences which would extend up to the footway of Heathside. To the boundary with the cemetery, the fencing would be similar to that along the side of Nos 65 and 67 opposite. However, forward of other dwellings nearby, boundary treatments typically comprise low walls or fences that maintain openness in the street scene, or hedges which while of greater height, have a soft and natural quality that enhance the appearance of the area. The fence between the new access and landscaping to the front of No 56 which is relied on to reduce noise to this property would be much higher than other similar formal front boundaries between dwellings along Heathside. As a result, it would be a conspicuous feature and would detract from the openness of the street scene. There would be some new planting to the front part of the site, but this would be of limited extent and I find that it would not offset the visual effect of the fencing. The proposal would thus fail to enhance the street frontage overall.
17. The visual impact of the development to the rear part of the site on the street scene and surrounding area would be fairly small given the modest height and green roof of the dwelling, and screening provided by No 56 and the proposed landscaping. The position of the site at the end of the street would also reduce passing traffic and public views. These factors would moderate the harm caused to the character and appearance of the area.
18. I also note that the dwelling at No 67 which is to the rear of No 65 forms part of the established character of the area, and so the proposal would not be wholly incongruous in the wider context. There are also many similarities between the appeal proposal and No 67 and I note the appellant's comments that the appeal site is of greater width and would result in a lower density of development. Nevertheless, in addition to the distinction arising from the absence of MOL designation on the site of No 65, the larger aggregation of longer rear gardens and limited presence of outbuildings results in a more open and spacious character to the rear of the dwellings on this side of Heathside. Furthermore, parking for No 67 is provided to the front part of the site close to the street, reducing the extent of hardsurfacing, and the boundary to the frontage of No 65 is additionally a fairly low wall in keeping with others nearby. For these reasons, the appeal proposal is not directly comparable to No 65 where the Inspector determining the appeal found that the rear garden did not have a particularly open character, and that the development would not detract from the character or appearance of the area in that specific case.
19. Additional information provided with the appeal demonstrates that the site is of low ecological value, and I am satisfied that suitable amenity space would be retained to serve No 56. The development would comply with many of the criteria listed within Policy LP 39 of the Local Plan which relates to infill, backland and backgarden development. However, part B of the policy states that there is a presumption against loss of back gardens including due to the need to maintain local character. For the reasons above, I find that the proposal would diminish the distinctive spacious nature of the area to the rear of dwellings on this side of Heathside. Although the overall impact would be fairly modest, taken together with the additional harm caused to the street scene by the incongruous boundary fencing, the development would be harmful to local character and the appearance of Heathside.
20. I therefore conclude on this main issue that the proposal would cause harm to the character and appearance of the area and would conflict with Policies LP 1

and LP 39 of the Local Plan which broadly seek development that reflects and maintains the character of the surrounding area. It would also be contrary to guidance within the Small and Medium Housing Sites Supplementary Planning Document (SPD) 2006 which seeks new housing that reflects the character of the local area and which is sympathetic to its surroundings.

Living Conditions

21. Given that it would serve only a single dwelling, usage of the access driveway to the side of No 56 would be fairly limited, reducing potential for noise disturbance to the surrounding area. In addition, the Council has not disputed the conclusions of the appellant's Access Road Noise Assessment (ARNA) that vehicle movements would not lead to a significant increase in noise, and that noise within neighbouring properties would remain below relevant guideline levels. These findings are based on the provision of a fence to the front of No 56, but while I have found that this fence would result in harm to the character and appearance of the area, it is part of the proposal which is before me. I am therefore satisfied that the ARNA is an appropriate assessment of noise effects of the development.
22. I therefore conclude on this main issue that the proposal would not result in unacceptable harm to the occupiers of 56 Heathside with particular regard to noise or disturbance. Accordingly, I find no conflict with Policy LP 8 of the Local Plan which includes a requirement that development protects amenity and living conditions for occupants of adjoining and neighbouring properties.

Highway Access

23. The development includes the formation of a crossover to Heathside at the front of the site which would serve the proposed dwelling and a parking space to the front of No 56. At around 9.1m wide, the crossover would exceed the maximum width of 3.5m suggested within the Front Garden and Other Off Street Parking Standards SPD 2006.
24. However, at the time of my visit, Heathside was not heavily parked and while I acknowledge this is a snapshot, there is no firm evidence before me of existing parking pressure in the area which would be exacerbated by the proposal. I further saw little consistency in the width of crossovers to other properties along the street, and noted a number of fairly wide examples, including some serving multiple properties such as for 50 and 54 Heathside nearby. Against this diversity, the width of the crossover would not be conspicuous. Its visual impact would further be limited given the location at the end of Heathside, reducing potential passers-by.
25. The site is not within an area which is identified as at particular risk of surface water flooding. There is no compelling evidence before me that adequate provision to manage drainage within the appeal site could not be achieved or that the development would be likely to cause ponding to the front of the site. Moreover, the location of the appeal site at the end of a cul-de-sac would restrict passing pedestrian or vehicular traffic, and vehicle speeds would be low. Given these factors, I am satisfied that the crossover would not harm the safety or convenience of pedestrians or other highway users.
26. For these reasons, I conclude on this main issue that the proposed access to the highway would be acceptable with particular regard to visual effects and

the safety and convenience of pedestrians and other highway users. Despite a technical breach of guidance in the SPD on crossover widths, I therefore find that in this regard, the proposal would comply with Policy LP 1 of the Local Plan which includes requirements that development is compatible with local character including with regard to access. I similarly find no conflict with requirements within the Framework seeking safe and suitable access to sites.

Affordable Housing

27. Policy LP 36 of the Local Plan requires housing sites for 10 or fewer units to make a financial contribution towards affordable housing provision. This requirement is at variance with the Framework which outlines that affordable housing should not be sought unless a development provides 10 or more homes. The Framework was published after the adoption of the Local Plan. It advises that existing policies should not be considered out-of-date simply because they were adopted prior to publication of the Framework, and that due weight should be given to them according to their degree of consistency with it. However, at paragraph 9 it also highlights the planning policies should play an active role in guiding development taking local circumstances into account.
28. The Framework is a material consideration of significant weight. Even so, the supporting text to Policy LP 36 points to average house prices in the borough as one of the highest in the UK, and a substantial unmet need for affordable housing. It further stresses the significant contribution that small sites make to housing supply, and their cumulative importance to affordable housing provision in the borough. I therefore consider from the information before me that the Framework does not in this case outweigh the development plan, and that local circumstances justify the continued application of the requirements of Policy LP 36.
29. While disputing the requirement for a contribution, the appellant has provided a completed Unilateral Undertaking dated 28 May 2020 (UU) which secures the Council's requested financial contribution to affordable housing. This contribution as required under Policy LP 36 is necessary to the acceptability of the development, is directly related to it, and is fairly related in scale and kind. It would therefore accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) which are reflected at paragraph 56 of the Framework, as would the associated monitoring fee which is proportionate and reasonable.
30. Accordingly, and for the avoidance of doubt, I find that the planning obligations within the submitted UU meet the tests within Regulation 122 of the CIL regulations and the Framework. As a result, I have taken it into account as a material consideration. I therefore conclude on this main issue that the proposal would make appropriate provision for affordable housing and would comply with Local Plan Policy LP 36.

Other Considerations

31. The Framework seeks to boost significantly the supply of housing. It emphasises the important contribution that small and medium sized sites can make to this, and that they are often built out relatively quickly. The London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 also identifies a significant need for housing in London, and confirms that boroughs should seek to achieve and exceed minimum

housing targets. These targets are likely to increase in future as part of the emerging London Plan, which additionally includes targets to increase the contribution of small sites to meet housing needs.

32. Against this backdrop, the proposal would make effective use of the site. The delivery on a small site of a new dwelling towards the supply of housing would be an important benefit, and the development would make a financial contribution to support the delivery of affordable housing locally. There would be some associated economic benefits through construction and occupation of the dwelling, and residents would be able to access nearby local facilities on foot and public transport. The development includes photovoltaic panels to make use of renewable energy sources, and offers scope to enhance biodiversity on the site overall. However, the contribution to housing supply and affordable housing, and the extent of these benefits, would be relatively limited given the small scale of the development.
33. There would also be additional planting, including between the site and the adjacent cemetery. This would strengthen the boundary and provide some screening for the development, but would not mitigate or offset the increase in built form and hardstanding on the site overall and the consequent harm to the MOL on the site and character and appearance of this part of Heathside.
34. The site is not publicly accessible, and the development would not affect the use or function of the adjacent MOL area to any material degree. However, the absence of harm in this respect is not a benefit which would weigh in favour of the proposal.

Other Matters

35. The Council's decision notice cites the absence of a surface water drainage strategy as the fifth reason for refusal. However, there is no compelling evidence before me that a suitable strategy could not be secured by condition to accord with the requirements of Policy LP 21 of the Local Plan that development avoids or minimises contributing to flooding. I do not therefore consider that this matter solely warrants refusal.
36. In addition, while the absence of a Preliminary Ecological Appraisal formed the sixth reason for refusal, the appeal includes an ecological survey. This indicates no records of protected species on the site and that it is of low ecological value and I have no reason to take a different view. Suggested mitigation and enhancement measures could also be secured by planning condition. I am therefore satisfied that the proposal would comply with Policies LP 15 and LP 39 of the Local Plan which broadly require protection and enhancement for the borough's biodiversity.

Planning Balance

37. Drawing matters together, the proposal includes inappropriate development which is, by definition, harmful to the MOL and which should not be approved except in very special circumstances. I have also found that the proposal would result in modest harm to the openness of MOL within the appeal site, and there would be some further harm to the character and appearance of the area. In accordance with Policy LP 13 of the Local Plan and the Framework, I give this harm substantial weight. The other considerations in support of the proposal, either individually or cumulatively, would not clearly outweigh the harm that I have identified so as to amount to the very special circumstances necessary to

justify the development in the MOL. The proposal would therefore be contrary to the Framework and Policy LP 13 of the Local Plan, as well as conflicting with Policies LP 1 and LP 39.

Conclusion

38. The proposal would conflict with the development plan when it is read as a whole, and material considerations would not outweigh this conflict. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR