



Appeal Decision

Site visit made on 10 November 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2020

Appeal Ref: APP/M5450/W/20/3250019

Land at the rear of 36-38 Spencer Road, Harrow, London HA3 7AP

- 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 Mercury 2 Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/5198/19, dated 13 December 2019, was refused by notice dated 10 March 2020.
 - The development proposed is the redevelopment to provide two storey building comprising of seven room House of Multiple Occupancy (HMO); hard and soft landscaping; re-instatement of two dropped kerbs; bin and cycle stores.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are the effect of the development on:
 - (i) the character and appearance of the area; and
 - (ii) the occupiers of the existing building and neighbouring properties with particular regard to outlook, privacy, and noise and disturbance.

Reasons

Character and appearance

4. The appeal site is located on the west side of Spencer Road which is a residential street. To the rear of the site is a school building and an industrial building. There is also a nursery and scout headquarters building which adjoins the site to the south which is accessed off Claremount Road.
5. The site itself contains an existing building which is used as an HMO with the vast majority of the side and rear of the curtilage to the building being built over with hardstanding.
6. As noted by the Appellant, the Council Officers' report is contradictory in relation to whether the appeal site is previously developed land, with one

section concluding that it is 'garden land' and a later section suggesting the opposite.

7. As I understand it, the use of the site as an HMO was established through the granting of a certificate of lawful development¹. From the various aerial photography images² provided by the Appellant, the area of land to the rear of the HMO has been used for the parking of motor vehicles to varying degrees.
8. The Councils Garden Land Development Supplementary Planning Document (GLDSPD) sets out what is not to be considered as garden land at paragraph 3.3 with one example being communal parking courts and garages within the curtilage of housing estates and purpose-built blocks of flats. Paragraph 3.4 goes on to state that the example list is not intended to be exhaustive and a degree of judgement will be required by decision makers.
9. In my view, the area of land to the rear of the existing building has clearly been used for the parking of motor vehicles for a considerable period of time including the time when the site has been used for residential accommodation. As such the use of the land is akin to a communal parking court for the occupiers of the existing HMO. With this in mind, the site is not garden land for the purposes of the GLDSPD, and as such I also consider that the site is previously developed land.
10. In coming to that view, I acknowledge that it would be normal for some form of amenity space to be provided with residential accommodation. I also acknowledge that there has been, and was at my site visit, a washing line over part of the hardstanding area. However, there was little other evidence to suggest that this area has been, or is being, utilised as a garden/amenity area.
11. The Council have also made reference to an extant planning permission³ which would create a soft landscaped garden area to the rear of the existing building. Whilst this would provide a garden area for the occupants of the existing HMO it is significant that this permission has not been implemented yet, a point which is acknowledged by the Council itself.
12. The Council has also set out that development should be focussed on the Harrow & Wealdstone Opportunity Area, town centres and, in suburban areas, to strategic previously developed sites. Whilst the appeal site does not fall into any of these categories, Policy CS1 does allow for development on previously developed land. As such, I find that the principle of further development at the appeal site would accord with the objectives of the Development Plan.
13. The acceptability of the scheme is therefore dependant on its impact on the character and appearance of the area.
14. From my site visit I saw that the overriding pattern of development in the area is of buildings which directly front onto the road network. Whilst there were some buildings to the rear of the main frontage development, these were of a single storey nature and much smaller than the host building to which they related. This is also reflected in the pattern of development plan in the Appellants Design and Access Statement.

¹ Reference P/4256/19 dated 29 November 2019

² Photos in 1999, 2006, 2010, 2015, 2017 and 2019

³ Reference P/4251/19 dated 06 December 2019

15. In contrast to the limited development to the rear of properties in the area, the appeal proposal would be a two-storey structure and as a result would be of a much greater scale than the other the existing development in the area. In that sense, I find that this would be harmful to the general pattern of development in the area as a result of its scale and massing.
16. In coming to the above view, I acknowledge that the building would not be readily visible from public vantage points and that it would be lower in height than the host property and the properties on Claremount Road to the rear. However, it would still nevertheless appear as an overly large building in the context of its immediate setting and would be visible from the rear of several residential properties, the school and from the nursery/scout headquarters.
17. I also acknowledge that the appeal site is larger than other residential properties in the area and that the area as a whole has evolved over time. However, this does not in itself justify the proposal before me.
18. In addition to the above, I have given positive weight to the fact that the site is previously developed land and that the emerging London Plan⁴ recognises that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. However, it is clear that this should occur in appropriate locations and, in my view, this does not indicate that the proposal before me is acceptable.
19. Turning to the overall design of the building, whilst this would not reflect the appearance of the host building, it would be viewed in the context of the buildings on Claremount Road, and in particular the Sacred Heart School building. With that in mind, I find that the overall design concept of the building is not objectional. However, that does not outweigh the harm I have found.
20. For the above reasons the proposal would harm the character and appearance of the area and would conflict with Policies 3.5A, 7.1D, 7.4B and 7.6A/B of The London Plan (2016), Policy D4 of the emerging London Plan, Core Policy CS1B of the Harrow Core Strategy (2012), Policy DM1 of the Harrow Development Management Policies Local Plan (2013) (DMPLP), which amongst other matters seek to ensure that development is of a high quality in relation to its context and the wider environment, has regard to the pattern and grain of existing spaces, and that proposals that have a detrimental impact on local character will be resisted. It would also be at odds with the overarching aims of the National Planning Policy Framework (the Framework).

Living conditions

21. The principal access route to the proposed building would be alongside the existing HMO and the boundary with 34 Spencer Street. This is also one of two existing access routes to the rear of the existing building. I also note that the extant planning permission at the site also includes a similar access route along this section of the site to the current appeal proposal. In that sense, the principle concern must therefore be related to the intensification of the use of the accessway.
22. However, I am conscious that there is no restriction in the use of this currently or is any proposed as part of the extant permission. The appeal proposal sets

⁴ The London Plan – Intend to Publish version December 2019

- out (in the outline management strategy) that only access to the new building would use the accessway alongside No.34 with residents in the existing HMO using the accessway on the other side of the building. This would assist in limiting the amount of activity alongside No.34 and the ground floor rooms in the existing building.
23. With that in mind, and that the proposal to include new trellis above the existing boundary wall to No.34, I consider that the proposal would not result in any significant change to the current or extant position in respect of potential noise and disturbance from pedestrians walking along this accessway or in relation to the privacy of the occupiers of the ground floor rooms.
24. In addition to the above, the Council have raised concerns over the effect of the development on the nursery and scout headquarters at 43 Claremount Road and the Scared Hearts school building to the north-west of the appeal development.
25. The appeal building would be located alongside the rear area of No.43 and as such it would inevitably create a sense of enclosure. However, it is significant that the other aspects of that site are largely open. I therefore consider that a building of the scale proposed would not have an adverse impact on the users of this building or its rear area.
26. In respect of the school building, the Councils concern relates to the perception of overlooking from the obscure glazed windows of the proposal. Whilst these windows would be close to the boundary of the site, I consider that this is not so significant as to warrant the withholding of planning permission on this ground.
27. Finally, the Officers' report raises living condition concerns over the future occupiers of the development. This relates to the first-floor accommodation where the obscure glazing is proposed and the resultant level of outlook possible from these rooms. Whilst I note that this issue was not included within the reasons for refusing planning permission, it is nevertheless a matter before me. That said, whilst the obscure glazing would restrict outlook from the bedrooms and the kitchen area, there is also a clear glazing aspect which would also allow for views out of these rooms. To that end, I consider that there would be adequate outlook from these rooms.
28. For the above reasons the proposal would provide for suitable living conditions for the future occupiers of the development and would not materially harm the living conditions of the occupiers of 34 Spencer Street or the existing HMO. The proposal would therefore accord with Policies 7.4B and 7.6B of The London Plan (2016) and Policy DM1 of the DMPLP which amongst other matters seek to ensure that proposals allow for people to feel comfortable with their surroundings, and not cause unacceptable harm to the amenity of surrounding land and buildings, including matters relating to privacy and noise disturbance. It would also accord with the overarching aims of the Framework in this respect.

Planning balance

29. It has been put to me that the existing Development Plan is not up-to-date, particularly in the context of paragraph 33 of the Framework and the emerging London Plan. Whilst the Development Plan for Harrow is over five years old,

this does not mean that it is automatically out of date. In this case, the key policies which have been referred to are largely consistent with current national planning policy and as such I must give them significant weight. That said, even if that were not the case, I have also found harm on the character and appearance main issue against Policy D4 of the emerging London Plan.

30. In addition to the above, I recognise that the appeal scheme would provide benefits in that it would provide much needed additional residential accommodation. It is also clear that the proposal would deliver excellent HMO accommodation and would utilise previously developed land.
31. Whilst these factors weigh in favour of the development, to my mind, they do not outweigh the harm I have found.

Conclusion

32. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR