
Appeal Decision

Site visit made on 19 January 2021

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/M5450/W/20/3257956
34 Culver Grove, Stanmore HA7 2NW

- 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 FPG (UK) Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/1175/20, dated 30 March 2020, was refused by notice dated 15 June 2020.
 - The development proposed is demolition of a garage and erection of a single dwelling of 3 bedrooms on land next to 34 Culver Grove.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's Decision Notice refers to Policy D6 from the Draft London Plan 2019 (DLP). In accordance with paragraph 48 of the National Planning Policy Framework (the Framework) weight may be given to emerging policies subject to the stage of preparation and extent of unresolved objections. There is little substantive evidence before me which allows me to make this judgement. However, as this plan is at an advanced stage but not yet adopted, I give this policy in the emerging DLP moderate weight as a material consideration.

Application for costs

3. An application for costs was made by London Borough of Harrow against FPG (UK) Ltd. This application is the subject of a separate Decision.

Main Issues

4. Based on the evidence before me and my observations during my site visit, the main issues are:
 - (i) Whether the principle of a new dwelling on garden land is acceptable;
 - (ii) the effect of the proposed development on the character and appearance of the area;
 - (iii) Whether the proposed development would provide acceptable living conditions for the future occupiers of the proposed dwelling with particular regard to standard of accommodation; and

- (iv) the effect of the proposed development on the living conditions of the occupiers of the proposed dwelling and existing dwelling at No. 34 Culver Grove with particular regard to privacy.

Reasons

Development on Garden land

5. The appeal site forms part of the garden area at the side of No. 34 Culver Grove (No. 34), a two storey semi-detached property with a detached garage/outbuilding at the side. It occupies a prominent corner plot at the junction of Culver Grove and Charmian Avenue.
6. The proposal would involve the demolition of the existing garage/outbuilding and construction of a 3 bedroomed, two storey detached dwelling with parking and ancillary works. The location of the proposed dwelling is broadly similar to a previous appeal dismissed for a 4 bedroomed dwelling on the site in 2019¹.
7. The National Planning Policy Framework (the Framework) and Policy 3.5.A of the London Plan 2016 (LP) allow Councils to introduce a presumption against development on private residential gardens, albeit that the Framework phrases this as being in circumstances where such resistance is where it would be 'inappropriate development of residential gardens, for example where development would cause harm to the local area'².
8. Policy CS1.A of the Harrow Core Strategy 2012 (CS), directs new development to the Harrow & Wealdstone Intensification Area, town centres and, in suburban areas, to strategic previously developed sites. In managing growth on other sites outside these areas, Policy CS1.B of the CS, resists development that would harm the character of suburban areas and development within garden sites. This is supplemented by the Harrow Garden Land Development Supplementary Planning Document 2013 (GLDSPD). This policy and guidance approach is broadly consistent with the overall aims of the Framework.
9. Whilst the main parties agree that the proposed development falls within the curtilage of No. 34 Culver Grove, the appellant argues that the site of the proposed dwelling within the footprint of the existing garage/outbuilding, would be on previously developed land and as such does not constitute garden land.
10. However, irrespective of the difference between the main parties, based on the evidence before me and my observations during my site visit, in my view, the proposed development would be located on garden land as set out in the GLDSPD³. It does not fall within any exceptions to this policy, such as gap sites within a built-up-street frontage, which specifically excludes side gardens, corner sites and side garages/driveways⁴. It would also not fall within the definition of previously developed land, that excludes land in built-up areas such as residential gardens⁵.
11. I therefore concur with the conclusions of the Inspector on the previous appeal on the site, that the proposed development would therefore result in an unacceptable incursion of existing residential garden land.

¹ APP/M5450/W/19/3232502

² Paragraph 70 of the Framework

³ Paragraphs 3.1 and 3.2 of the GLDSPD

⁴ Paragraphs 3.10 and 3.11 of the GLDSPD

⁵ Annex 2: Glossary of the Framework

12. I therefore conclude that the principle of the proposed development located on residential garden land would be unacceptable. It would be contrary to Policy CS1.B of the CS, Policy 3.5.A of the LP and the GLDSPD where, amongst other things, there is a presumption against residential development on garden land. In addition, it would be contrary to the Framework, that seeks to resist inappropriate development of residential gardens (Paragraph 70).

Character and appearance of the area

13. The appeal site is located in a mature well-established residential area, typically characterised by two storey semi-detached dwellings set back from the road behind front gardens/driveways. The properties are relatively evenly spaced, of comparable scale and form, with uniform separation distances between them. Where garages and other structures exist between dwellings, these are very low, clearly subsidiary, and have little impact upon the sense of separation. No. 34 being situated on a corner plot has more expansive grounds, which add to the open character and appearance of the area.
14. Whilst visually the design of the proposed dwelling would be acceptable, the two storey form of the dwelling would nevertheless be substantial in this location. Such positioning, on what would be an atypically narrow plot, would compromise the sense of space and openness between the dwelling and the highway, interrupting the established pattern of development in the area and appear as a visually cramped and incongruous addition to the street scene.
15. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points along Culver Grove and Charmian Avenue. I therefore consider that the proposed development, by virtue of its scale, siting and layout, would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
16. I have considered the appellant's arguments that the design and layout of the proposed development has been carefully considered and redesigned in response to the previously dismissed scheme at the property⁶ in order to minimise any impacts on the area. Whilst the use of matching materials, fenestrations and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.
17. Consequently, I conclude that the proposed development would have a harmful effect on the character and appearance of the host property and the area. It would be contrary to Policies 7.4B and 7.6B of the LP, Core Policy CS1.B of the CS, Policy DM1 of the DMP and the Council's Supplementary Planning Document: Residential Design Guide 2010 (SPD), which I consider are relevant in this case. These policies and guidance, amongst other things, seek to ensure that new development demonstrates a high quality design that respects and responds positively to existing buildings and the local character and distinctiveness of the area. In addition, the proposal would not accord with the Framework that developments should seek to secure a high quality of design (paragraph 124) that are sympathetic to the local character (paragraph 127).

⁶ APP/M5450/W/19/3232502

Living conditions of the future occupiers and standard of accommodation

18. The Council indicate that the proposed dwelling at 87 sqm would not meet the minimum gross internal floor area (GIA) of 93 sqm required for a two storey 3 bedroomed 5 persons dwelling set out in the Government's National Technical Housing Standards (NTHS)⁷ and Policy 3.5 of the LP. The appellant's statement sets out that the proposed dwelling would be in excess of the minimum gross internal floor area (GIA) of 84 sqm required for a four person, three bedroomed, two storey dwelling in the NTHS. The appellant points out that the layout allows flexibility to meet the requirements and for adequate storage to be provided.
19. However, irrespective of the difference between the main parties over the GIA figures, based on the evidence before me, it is apparent that the single bedroom in the proposed dwelling with a GIA of 4.4sqm would not achieve the minimum standard set out in the NTHS. I therefore consider that the proposal would result in a poor quality living environment and would not provide a satisfactory standard of accommodation for the future occupants of the proposed dwelling in this particular case.
20. Consequently, I conclude that the proposed development would result in an unacceptable impact on the living conditions of the future occupiers of the proposed dwelling with particular regard to standard of accommodation. It would be contrary with the overall aims of Policy DM1 of the DMP, Policy 3.5C of the LP, Policy D6 of the DLP, the Mayor of London Housing Supplementary Planning Guidance 2016 and the Council's SPD. These policies and guidance seek, amongst other things, to ensure that new development achieves a high standard of amenity and does not cause unacceptable harm to the amenities of existing and neighbouring occupiers. It would also not accord with the Framework that development should seek to create places with a high standard of amenity for future users (paragraph 127).

Living conditions of the existing/future occupiers and privacy

21. The small ground floor windows to the hallway and kitchen on the side of the proposed dwelling would set back from the side elevation of the existing property at No. 34 and would be separated by a pedestrian accessway running between the properties.
22. Given the design and layout of the development and the separation distance between the properties, I consider that the proposed dwelling would not result in significant harm to the privacy, nor result in significant overlooking of the occupiers in the rooms at the side of the existing and proposed dwelling. If I had been minded to allow the appeal, then the use of obscured glazing to the windows on the side elevation through a planning condition would safeguard the amenities of the occupiers of the existing dwelling and proposed dwelling.
23. Consequently, I conclude that the proposed development would not result in an unacceptable impact on the living conditions of the occupiers of the proposed dwelling and existing dwelling at No. 34 Culver Grove with particular regard to privacy. It would be consistent with the overall aims of Policy DM1 of the DMP, Policy 7.6B of the LP and the Council's SPD. These policies and guidance seek, amongst other things, to ensure that new development achieves a high

⁷ Department of Communities and Local Government (DCLG) Technical Housing Standards – Nationally described space standards (March 2015)

standard of amenity and does not cause unacceptable harm to the amenities of existing and neighbouring occupiers. It would also accord with the Framework that development should seek to create places with a high standard of amenity for existing and future users (paragraph 127).

Other Matters

24. I have noted the other developments in the area drawn to my attention by the appellant. However, the various extensions and alterations to the properties on Culver Grove and Brookshill Avenue have different development and locational characteristics to the appeal scheme. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases. I therefore accord them limited weight as precedents in this case.
25. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the scheme's design, the additional dwelling contributing to the supply of housing in the area and making the effective and efficient use of the land on a small site within an accessible location. While I have given them some weight in favour of the appeal, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

26. Notwithstanding my findings on the lack of significant harm to the privacy of the occupiers of the existing and proposed dwelling, this is significantly outweighed by the harm found regarding the principle of the development, the character and appearance of the area and the standard of accommodation provided for the future occupiers of the proposed dwelling. The proposal would conflict with the development plan and the Framework taken as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR