



Appeal Decision

Site visit made on 2 February 2021

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/R5510/W/20/3249211
67 Horton Road, West Drayton UB7 8ET

- 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 Aynstone Limited against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 6800/APP/2019/3254, dated 24 September 2019, was refused by notice dated 13 January 2020.
 - The development proposed is demolition of existing buildings and erection of replacement building comprising nine residential units.
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Decision

1. The appeal is dismissed.

Procedural matters

2. In looking at the plans submitted it appears that there is a discrepancy between the ground floor plan and the south elevation. The ground floor plan shows four parking spaces in a row, but the elevation shows two pairs with a column between. Had I been minded to allow the appeal I would have reverted to the parties on this, but as I am going to dismiss the appeal for reasons unconnected with this, I considered that this was not necessary.
3. At the appeal stage, the appellant sought to submit an amended ground floor plan removing a raised patio area to the rear of the proposed building. However, this plan has not been the subject of consultation with third parties who may have an interest in this change and to accept this could lead to unfairness. Consequently, I will not take this into account in my decision.
4. The Council refused the application for six reasons, but in light of information submitted at the appeal stage, it withdrew one relating to parking and highway safety. Taking into account that additional information I am satisfied on this issue and will say no more.
5. Following the issuing of the decision the Council adopted the Local Plan Part 2 – Development Management Policies (the LPP2). This superseded the Hillingdon Local Plan: Part Two – Saved UDP Policies which was referred to on the decision notice. I have therefore not used the policies in the latter document in making this decision.
6. On 29 January 2021 the Secretary of State wrote to the Mayor of London to confirm that he is content for the new London Plan to be published. Although

the latest version of the Plan, which I will refer to as the "Publication London Plan", varies in some respects from the version on which representations were made, the material parts do not. Therefore, I considered it was not necessary to revert to the parties. I will discuss the weight I give to the Publication London Plan below.

Main Issues

7. The main issues are:

- the effect on the character and appearance of the area;
- the effect on the living conditions of the occupiers of:
 - 57 and 59 Horton Road in respect of outlook and overbearing effect;
 - 1 and 3 Colham Avenue in respect of outlook, overbearing effect and privacy;
- whether the proposal would provide good quality amenity space for the proposed occupiers; and
- whether the proposal would provide accessible dwellings.

Reasons

Character and appearance

8. The appeal site lies on the corner of Horton Road and Colham Avenue. Properties on these roads in the immediate vicinity of the appeal site to the north of Horton Road generally have two storeys with low pitched roofs and consist of short terraces.
9. On Horton Road the properties are set down from the highway by approximately 1.5 m. This change of levels is provided for in a grassed bank down to a path, which runs parallel to Horton Road and the front elevations which are behind short front gardens. In Colham Avenue, which is also set down from Horton Road by a similar distance, the properties are closer to the highway but still have small front gardens. These properties look over a grassed and treed area between the two carriageways of Colham Avenue.
10. The properties on the southern side of Horton Road in this vicinity are set back from the highway, and this area exhibits a different character to the northern side of the road. Some of the properties have three or four storeys, but due to the distance from Horton Road, a level change, being beyond another, wider, grassed area and boundary treatments, these buildings have little presence on Horton Road.
11. Further to the east there are larger buildings; from what I am advised this is an older persons' development. But again, these have little contextual relationship with the appeal site due to the separation formed by the grassed and treed area between the two carriageways of Colham Avenue.
12. On the eastern part of the appeal site is a predominantly two storey building, although it has a single storey flat roofed element on the eastern end and a semi-basement to the rear which utilises the level change. It is two dwellings, Nos 67 and 67A. To the west of this building is an area of hardstanding used for parking. Between Nos 67 and 67A and 1 and 3 Colham Avenue is an area of

open land which has a small outbuilding towards the rear; this is located to the north of the parking area. The existing building is somewhat anomalous to the street scene of Horton Road in it is located effectively at the back edge of the footway, while buildings generally are set a short distance back.

13. The proposal is to demolish the existing building and construct a building for nine flats. Facing Horton Road this would extend across the whole width of the appeal site and would have three substantial gables addressing the road. The three gables would rise in sequence to the corner, from three to four to five storeys, although the corner with Colham Avenue would be chamfered and provide balconies. The three gables would have different widths to ensure that the gables were proportionate. Parking would be accessed from both Horton Road and Colham Avenue, although as noted above there is some inconsistency as to precisely how this is to be laid out.
14. Due to its scale, height and design the proposed building would be incongruous in the street scene. The construction of such a tall building, effectively on the back edge of the footway, would result in an imposing form which would not relate to the human scale of the other buildings on this side of Horton Road or within Colham Avenue. It would thus intrude in a harmful way into both street scenes. As the ground floor would consist of open parking and an entrance hall the proposal would not address Horton Road at ground floor in a positive relationship.
15. The incongruity would be exacerbated because the building would effectively stand alone in a highly prominent location. This prominence is increased by the higher ground level in this location. While the trees in the area between the two carriageways of Colham Avenue would have some ameliorating effect, particularly when in leaf, this would only reduce the effect from the east and northeast.
16. The appellant makes the point about 'design by contrast' and this can be a valid design approach. However, as paragraph 127 of the National Planning Policy Framework (the Framework) makes clear, planning decisions should be sympathetic to local character. Appropriate innovation or change so as to allow for increased densities can be appropriate, but in this case the change would be fundamental and it would be so out of place and so visually separate from other built forms that it would give rise to significant harm. That the area does not fall in a Conservation Area or other similar designation does not obviate the need for a proposal to be appropriate to its context and this would not be the case here.
17. Consequently, the proposal would be significantly harmful to the character and appearance of the area. It would therefore be contrary to Policies DMHB 11 and DMHB 12 of the LPP2 which require development to harmonise with local context and be well integrated with the surrounding area. It would also be contrary to Policy 7.4 of the London Plan (consolidated with alterations 2016) which requires that buildings should provide a high quality design response, having regard to the pattern and grain of the existing streets and also be human in scale, ensuring buildings create a positive relationship to street level activity. As set out above, it would also be contrary to paragraph 127 of the Framework.

Living conditions

18. Although giving the appearance of a single dwelling, the property to the west at the end of the terrace adjacent to the appeal site, 57 and 59 Horton Road, is two dwellings. I have not been advised of the internal arrangements, but there is a large window in the front elevation facing Horton Road at first floor on the eastern side of this elevation which would appear to provide light to a habitable room. There are two other windows of reasonable size on the western side of this elevation which would also appear to provide light to habitable rooms.
19. Although the existing outbuilding is only a short distance from the front elevation, it is a low structure and does not have any material effect on the living conditions of the occupiers of Nos 57 and 59. In contrast, the appeal property would be a large substantial mass. With an effective height greater than three storeys due to the level change, it would result in a harmful overbearing effect resulting in a loss of outlook. While it would not harmfully affect the amount of sunlight and daylight received within the property it would visually dominate this building and the area in front. This would be significantly harmful to the living conditions of the occupiers.
20. The adjoining property in Colham Avenue is also two dwellings. This property is side on to the appeal site with a blank southern elevation. While the scale reduces slightly to the rear through the use of the gable the height of the proposed building would result in an overbearing effect to the front and rear of Nos 1 and 3. In addition, the mass of the building would result in the rear garden of Nos 1 and 3 becoming a materially less pleasurable place to sit out in when the weather is pleasant as the building would bear down upon this area. That sunlight would be able to come in an arc between the proposed building and 57 and 59 Horton Road would not be sufficient to avoid harm. The proposed raised patio would also allow those using it to look into the rear garden of Nos 1 and 3 leading to a harmful loss of privacy.
21. As such the proposal would be harmful to the living conditions of the occupiers of 57 and 59 Horton Road and 1 and 3 Colham Avenue. Consequently, it would be contrary to Policy DMHB 11 of the LLP2 which requires that development proposals should not adversely impact on the amenity of adjacent properties. It would also be contrary to paragraph 127 of the Framework that indicates planning decisions should result in a high standard of amenity for existing users.

On-site amenity space

22. Policy DMHB 18 of the LLP2 sets out requirements for outdoor amenity space for new residential development. As well as minimum quantities dependent on the size of the dwellings and whether they are flats or houses, the policy requires that the said space should be of good quality and useable. In this case it is not in dispute that the proposal meets the quantity criterion through the proposed balconies and communal gardens, the dispute is over the quality criterion.
23. This centres on the communal gardens which would be located to the north of the built form. This would not be a pleasant place to sit out in, since it would be in very close proximity to the proposed built form and the building would have an overbearing effect for anyone in this area. In addition, the narrow arc when sunlight would be able to access this area would also limit quality. Finally, the

western end, which would be the most open, and thus the most pleasant part, would be effectively in the public domain because those walking along Horton Road would be easily able to see down into this area. This would also limit its quality.

24. Consequently, the proposal would not give rise to amenity space of good quality and it would not be useable. Consequently, it would be contrary to Policy DMHB 18 of the LLP2 as set out above, and contrary to paragraph 127 of the Framework which indicates planning decisions should result in a high standard of amenity for proposed users.

Accessible dwellings

25. Policy 3.8 B of the London Plan indicates that ninety percent of new housing should meet Building Regulations requirement M4 (2) 'accessible and adaptable dwellings' and the remainder should meet requirement M4 (3) 'wheelchair user dwellings'. The Council is of the view that it should be demonstrated within an application that these standards can be delivered. Policy D7 in the Publication London Plan has the same requirement, but the explanatory text indicates that this can be secured by planning condition.
26. Paragraph 48 of the Framework indicates that weight may be given to relevant policies in emerging plans according to the stage of preparation (the more advanced, the greater the weight), the extent that there are unresolved objections and the degree of consistency with the Framework (the closer they are, the greater the weight).
27. It is now clear that the policies in the Publication London Plan have passed all the regulatory hurdles prior to publication, but it has not yet become part of the development plan, principally due to various administrative matters that need to be completed. This is the most advanced stage possible prior to publication, and all objections have been resolved. Given the Secretary of State's involvement in plan making, any inconsistency with the Framework will have been fully justified. Consequently, the Publication London Plan can be given very substantial weight.
28. The Planning Practice Guidance sets out advice on the use of planning conditions. This emphasizes (Reference ID: 21a-018-20190723) that it is good practice to keep the number of conditions to a minimum wherever possible and that engagement between the applicant and local planning authority can reduce the number of conditions. However, it is also clear that conditions can be used to reduce the amount of information that needs to be submitted at the application stage.
29. Given the advanced stage of the Publication London Plan towards publication and its explicit indication that matters relating to accessible development can be dealt with by condition, and the inclusion of a lift within the design, I am satisfied that this matter could be reasonably left to a condition. The Publication London Plan therefore is a material consideration which outweighs the development plan in this instance.
30. That being the case I am satisfied that the proposal would make adequate provision as accessible dwellings and would therefore comply with Policy D7 of the Publication London Plan, and, while not strictly complying with Policy 3.8 B of the London Plan, would comply with its intent.

Other matters

31. The appellant has emphasised the long pre-application involvement it had with the Council prior to making the application. However, this is not a matter for me. My responsibility is to look at the proposal and evidence in front of me and the merits of the planning appeal.
32. The proposal is a small and medium sized site which could make an important contribution to meeting the housing requirements of an area more generally and which can be built out relatively quickly. Weight in favour of the proposal should therefore be given in line with paragraph 68 of the Framework. However, this can only be limited when compared to the other planning considerations identified above.
33. The proposal would provide seven more dwelling units which would be economically and socially beneficial and would provide a small beneficial number towards boosting housing supply and the increased requirement in the local area that will occur with the final publication of the Publication London Plan. However, this additional housing should principally be identified by the Council as part of a planned strategy rather than provided through ad hoc developments that would be harmful to the character and appearance of the area, the living conditions of adjoining occupiers and not provide a high quality of amenity space.
34. The appellants have hypothesized that the area to the east of Colham Avenue may change in the medium to long term through comprehensive redevelopment. However, I have not been referred to any policy or programme for such a redevelopment and therefore can only give this negligible weight.
35. The site is currently in a reasonably accessible location and this will be enhanced when the Elizabeth Line opens with its connections with Central London. However, this does not alter my overall conclusions.

Conclusion

36. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR