
Appeal Decision

Site visit made on 11 November 2020

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal A Ref: APP/M5450/W/20/3248479.

Appeal B Ref: APP/M5450/W/20/3248941.

Land adjoining 48 Radley Gardens, Harrow HA3 9NY.

- Both appeals are made under section 78 of the Town and Country Planning Act 1990.
 - Appeal A is against a refusal to approve details reserved by condition 7 of planning permission P/1873/19 which permitted a two storey dwellinghouse (1 x 3 bed); detached garage at rear; proposed vehicle crossover; bin and cycle stores; boundary treatment (demolition of garage) (**"the Original Permission"**).
 - Appeal B is against a refusal to approve details reserved by conditions 4, 5 and 6 of the Original Permission.
 - The appeals are made by Mr Lalji Hirani against the decisions of the Council of the London Borough of Harrow.
Application Ref P/4789/19 (the subject of Appeal A) and application P/4788/19 (the subject of Appeal B) were both made on 14 November 2019 and were both refused by notices dated 9 January 2020.
 - The Appeal A application was for the approval of details of works for the disposal of sewerage and surface water, and of surface water attenuation and storage.
 - The Appeal B application was for the approval of a survey report providing plans and photos showing details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s), and all levels of the site.
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Decision

1. Both Appeal A and Appeal B are dismissed
2. An application for costs was made by the Appellant against the Council in relation to Appeal B. This application is the subject of a separate Decision.

Main Issue in Appeal A

3. The main issue in Appeal A is whether sufficient details of the pre-development and post development levels were provided in order to discharge condition 7 imposed on the Original Permission.

Main Issue in Appeal B

4. The main issue in Appeal B is whether sufficient details of foul and surface water drainage and surface water attenuation were provided in order to discharge conditions 4, 5 and 6 imposed on the Original Permission.

Reasons

5. The Original Permission was granted on 15 July 2017 and authorised the construction of a two-storey house. The house would be attached to the existing

end-of-terrace property at 48 Radley Gardens. Conditions 4, 5, 6 and 7 and their accompanying reasons are as follows:

Condition 4

The development hereby permitted shall not be commenced until works for the disposal of sewage have been provided on site in accordance with details to be submitted to, and approved in writing by, the local planning authority. The development shall be implemented on site and thereafter be retained in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided in accordance with Sewers for Adoption.

Condition 5

5 The development of any buildings hereby permitted shall not be commenced until works for the disposal of surface water have been submitted to, and approved in writing by, the local planning authority. The development shall be implemented on site and thereafter be retained in accordance with the approved details.

Reason To ensure that adequate drainage facilities are provided, reduce and mitigate the effects of flood risk following guidance in the National Planning Policy Framework.

Condition 6

6 The development of any buildings hereby permitted shall not be commenced until surface water attenuation and storage works have been submitted to, and approved in writing by, the local planning authority. The development shall be implemented on site and thereafter be retained in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided, reduce and mitigate the effects of flood risk following guidance in the National Planning Policy Framework

Condition 7

*No site works or development shall commence until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s), **and any other changes proposed in the levels of the site**, have been submitted to, and approved in writing, by the local planning authority. The approved details shall be implemented on site and shall be retained thereafter. (My emphasis)*

REASON: To ensure that the works are carried out at suitable levels in relation to the highway and adjoining properties in the interests of the amenity of neighbouring residents, the appearance of the development, drainage, gradient of access and future highway improvement, in accordance with policies DM1 of the Councils Development Management Policies Local Plan 2013.

Appeal A

6. The details submitted with the application were a site survey dated September 2019 accompanied by photographs of the property adjoining the development site (No 48) annotated with heights, relevant to the levels shown on the site survey. However, none of the information provided related to the levels of the new house in relation to No 48, to the footway and road forming Radley Gardens, and to the unmade road to the east of the development site. For that reason, the relevant consultees (the Landscape Architect and the Drainage Engineer) were unable to assess the proposed levels of the new house and garden against the levels of No 48 and the highway.
7. The Appellant makes the point that although the Council's officer's delegated report refers to a requirement for cross sections as part of the details required to discharge condition 7, there was no specific reference in condition 7 to cross sections.

8. However, I did note on my site visit that there is a gentle slope in the land, down from west to east along Radley Gardens. The highlighted part of the condition requires that details of changes to levels are required, one method of which is to provide cross sections.

Conclusion on Appeal A

9. For the reasons set out above, I conclude that the details submitted with the application the subject of this appeal were insufficient in terms of Policy DM1 of the Harrow Council Development Management Policies 2013, to allow condition 7 to be discharged.

Appeal B

10. The drainage details for the purposes of conditions 4, 5 and 6 of the Original Permission were submitted in a report titled "Surface Drainage (SuDS) Assessment" prepared by UK Flood Risk Consultants ("the Drainage Report"). Details of the disposal of sewerage are contained at paragraph 5 of the Drainage Report which relies on an Assets Location Search ("ALS") provided by Thames Water for details of the existing sewerage system. The Drainage Report states that the sewer on the appeal site is a combined sewer, i.e. one which carries both foul and surface water. That would be typical for properties of the age of those in Radley Gardens.
11. However, the ALS indicates the sewer to the rear of 44-48 Radley Gardens by a broken red line. On looking at the key to the plan with the ALS, a broken red line indicates a foul sewer. A combined sewer would be indicated by a solid red line.
12. Whether the existing sewer is a combined sewer or not, there is nothing in the report by way of detail of the means of connecting into the sewer, or of the capacity of the sewer to take the output from an additional house. Policy DM10, referred to in the Officer's report relating to the application, states that proposals for householder development must ensure a separation of surface and foul water systems. If the existing sewer is a combined sewer, the appeal proposal fails to demonstrate that separation, and does not provide a reason why such separation would not be possible.
13. The surface water details in the Drainage Report are more comprehensive and include construction details for a soakaway. The plan accompanying the Drainage Report indicates that the soakaway would take water from rainwater down pipes on the new house. The paving at the front of the house would be permeable and a "proposed drain" is shown by the bin store. However, there is no detail of connections of this drain to a surface water sewer or the soakaway. The Appellant's statement emphasises in several places that the Drainage Report proposes improvements to the surface water drainage of the site, but the proposals are clearly intended to deal with the increased runoff created by the new house, rather than an improvement in the current situation.
14. Condition 6 requires details of surface water attenuation and storage. As I have noted, the details submitted do not deal with attenuation. The NPPF, the Council's Development Plan Documents and the London Plan 2021 all require new development to deal with surface water runoff, in the light of increasing flood risk. The calculations set out in the Drainage Report show that the storage capacity of the soakaway exceeds what is required for the additional runoff caused by the new house, and I have no evidence that they are inadequate. However, I am not satisfied that a soakaway in the location shown on the plan is sufficient to attenuate surface water runoff from the appeal proposals, in the light of current policy requirements. For those reasons, I do not consider that the details submitted were sufficient to discharge conditions 5 and 6.

Conclusion on Appeal B

15. For the reasons set out above, I do not consider that the submitted details were sufficient to discharge conditions 4, 5 and 6 on the Original Permission, in accordance with Policy DM10 of the Harrow Council Development Management Policies 2013.

Jan Hebblethwaite

INSPECTOR