



Appeal Decision

Site visit made on 18 May 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/M5450/W/20/3263725

Garages rear of 24 St Paul's Avenue, Harrow HA3 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr R Devlin against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2540/20, dated 23 July 2020, was refused by notice dated 1 October 2020.
 - The development proposed is described as: 'the proposed demolition of 6no. existing garages and the construction of 2no. new semi-detached dwellings. The proposed dwellings are both 2-storey family units with off street parking and private amenity.'
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 6no. existing garages and the construction of 2no. new semi-detached dwellings, comprising 1no. 2-bedroom house (House A) and 1no. 1-bedroom house (House B) at garages rear of 24 St Paul's Avenue, Harrow HA3 9PS in accordance with the terms of the application, Ref P/2540/20, dated 23 July 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. For clarity and precision, I have taken the name of the appellant from the appeal form as it is more accurate. I have also taken the description of development in the banner heading above from the application form. However, in my decision, I have taken the description from the appeal form, adding 'comprising 1no. 2-bedroom house (House A) and 1no. 1-bedroom house (House B)' as this defines and more accurately describes the proposed development.
3. The London Plan 2021 (LonP) has been published by the Mayor during the course of this appeal and replaces the London Plan 2016. The LonP comprises the spatial development strategy for London and is now part of the development plan, to which I attribute full weight to its policies. S38(5) of the Act states that where there is conflict between policies in different plans, the conflict must be resolved in favour of the more recent policy. Both main parties have had the opportunity to comment on any implications for the appeal. In this instance, I will not prejudice either party in taking the LonP into account in the determination of this appeal.

Main Issues

4. The main issues of this appeal are the effect of the proposed development on:

- i. the character and appearance of the appeal site and surrounding area, including its existing use;
- ii. the living conditions of neighbouring occupiers, particularly through loss of privacy, dominance, outlook, day and sunlight; and,
- iii. whether future occupiers would have satisfactory living conditions.

Reasons

Character and appearance

5. The appeal site comprises a block of garages set behind a tall wooden fence, which fronts onto Ruskin Gardens, which amounts to 249.60m² in area. My attention has been drawn towards a Certificate of Lawful Use or Development¹ (CLUD) dated 12th January 1998 confirming the site and the 6no. garage block was used in connection with the storage of building materials within Use Class B8². Thus, whilst no application number is evident, it is clear given the details on the CLUD that it relates to the site and was issued by the Council. In the absence of any evidence to the contrary, I consider that the CLUD is a material consideration of significant weight.
6. Furthermore, the Harrow Garden Land Development Supplementary Planning Document 2013 (SPD1) includes in its definition of garden land, at paragraph 3.1e, as any land that formed part of a garden but which has been legally and/or physically severed from the donor property(ies), amongst other things. However, there is little before me to demonstrate that the site once formed part of No 24 St Paul's Road. In any event, SPD1 paragraph 3.3c, stipulates that any land that historically formed part of a garden but which now has another lawful use, and which has not reverted to have a garden use will not be treated as garden land. I find that SPD1 paragraph 3.3c is applicable to the site subject of this appeal. Therefore, in relation to this matter, the proposed development accords with the objectives of SPD1.
7. The proposed development would comprise a pair of semi-detached houses, which would be handed in appearance, constructed out of brick with hipped roofs, both with 2-storey bay windows and front facing gables. House A would comprise 2-bedrooms and House B would comprise 1-bedroom. The design of the proposed dwellings would complement the existing properties present in the locality. In particular, the proposed development would result in a positive visual relationship with No 2 Ruskin Gardens and the immediate street scene.
8. I accept that outside amenity areas of the proposed development and the overall plot sizes appears smaller than the neighbouring properties on Ruskin Gardens and St Paul's Avenue. These properties are all situated in generous plots, with long rear gardens, which gives a distinct sense of spaciousness, making a positive contribution to the surrounding area. In the context of the area surrounding the appeal site, the proposed development would be at odds with the character of neighbouring dwellings.
9. However, the introduction of the LonP is a matter which I attach very significant weight. The LonP seeks to make the best use of land³, exploring the

¹ Appendix B of the Design and Access Statement dated July 2020

² Town and Country Planning (Use Classes) Order 1987 (as amended)

³ LonP Policy GG2, p.17

potential to intensify the use of land to support additional homes, promoting higher density development, particularly in locations that are well-connected to jobs, services, infrastructure and amenities by public transport, walking and cycling. This approach is to ensure that more homes are delivered, delivering the homes Londoners need⁴, delivered through a design-led approach⁵. Furthermore, the LonP identifies that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites⁶, and the need for additional family housing and the role of one and two bed units in freeing up existing family housing⁷. The objectives of the LonP aligns with the thrust of the National Planning Policy Framework (the Framework), which requires more dwellings to be delivered.

10. For the reasons given above, I therefore conclude that the proposed development would not harm the character and appearance of the appeal site and the surrounding area. Although there would be minor conflict with Policies CS1.A and CS1.B of the Harrow Core Strategy 2012 (CS), Policy DM1 of the Harrow Council Development Management Policies 2013 (DMP) and the Council's Supplementary Planning Document – Residential Design Guide 2010 (SPD2), I have found that there would be no conflict with the Council's overall development strategy and character aims, including those in SPD1. Therefore, when the development plan is taken as a whole, I find the minor conflicts within the above policies are clearly outweighed through the objectives outlined in the LonP, with particular regard to Policies GG4, D3, D4, H2, H10. Furthermore, the proposed development would accord with the requirements of the Framework.

Living conditions of neighbouring occupiers

11. The rear boundary of the site forms the shared boundary with No 22 St Paul's Avenue, whilst the side boundaries of the site face No 2 and No 24. The design of the proposed development, in particular the siting and layout would ensure that a 2-storey development would not create any loss of amenity to the occupiers of neighbouring properties, particularly No's 2, 22 and 24. In addition, the orientation of the proposed development would ensure that the afore mentioned neighbouring properties and their respective garden areas would still receive a notable amount of day/sunlight.
12. I accept that the views from No's 2, 22 and 24 would alter as a consequence of the development, but I do not consider that this would result in any harmful effects, due to the distances that would be maintained between the existing and proposed development. Furthermore, the design of the proposed development would ensure that existing residents would not experience any loss of privacy, with such features present as no windows in the gable ends or no clear glazed opening in the proposed rear elevations. I find that all of the ground floor windows would not present any adverse issues as they would all be mitigated by the likely boundary treatment surrounding the site.
13. Although there would be windows located at first floor in the side elevations of the rear outriggers at both House A and House B, the distance maintained between the window on House A and No 2 would be notable. In the case of the

⁴ LonP Policy GG4, p.20

⁵ LonP Policy D3, p.110

⁶ LonP Policy H2, p.166

⁷ LonP Policy H10, p.190

side window at first floor in the side elevation of the outrigger at House B, this would be obscure glazed. In both instances there would be sufficient mitigation to prevent any loss of privacy to neighbouring occupiers. Whilst the Council has referred to a perception in loss of privacy, little evidence has been provided to substantiate this concern.

14. For the reasons given above, I therefore conclude that the proposed development would not significantly harm the living conditions of neighbouring occupiers, particularly through loss of privacy, dominance, outlook, day and sunlight. This would comply with the amenity aims of LonP Policy D3, DMP Policy DM1, SPD2 and the requirements of the Framework.

Living conditions of future occupiers

15. I note the concerns raised by the Council in respect of the rear room at first floor of House B, which has been described as a study and/or storage room by the appellant in his statement. However, I also acknowledge the reference in the description on the application form to 'The proposed dwellings are both 2-storey family units', which may have contributed to the concerns raised. Nonetheless, the application form clearly lists the proposed development would comprise 2no. market houses with the houses having 1no. and 2no. bedrooms respectively.
16. On this basis, I recognise that the appellant is disputing the shortfall in Gross Internal Area (GIA) and the classification of the rear room as a single bedroom. The appellant has not provided any other dimensions to those listed on the application form. There is a discrepancy in the figures presented for the GIA on the application form and in the Officer Report. However, on the balance of probabilities and in the absence of any substantive evidence to the contrary, I find the figures provided by the Council with regard to GIA are likely to be more accurate.
17. In its assessment the Council has calculated the total GIAs in House A and House B as 86.99m², which would be in excess of the minimum requirements stipulated in the LonP. However, concerns have only been raised in respect of the GIA to the rear study and/or storage room of House B, on the basis that it could be used as a bedroom. Therefore, as the evidence does not indicate that the rear room at first floor of the outrigger in House B, would be used for any other purpose than a study/storage room, the proposed development would comply with the relevant requirements in terms of GIA.
18. Furthermore, given the intended use of the disputed room, I do not consider that the use of obscure glazing to prevent any overlooking of neighbouring occupiers would have any detrimental effect on the living conditions of future occupiers of House B and their use of the study/storage room. Whilst the appellant has suggested a height of 1.5m for restricted openings in some of the proposed windows, this would not represent a satisfactory height and would need to be increased to at least 1.7m, in order to provide sufficient mitigation. Accordingly, I find that a suitably worded condition could be imposed in this instance, to ensure that otherwise unacceptable development could be made acceptable.
19. Additionally, due to the size of this window that would serve the proposed study/storage room, I am confident that sufficient daylight would enter this room, whilst also providing opportunities for natural ventilation. The outside

amenity areas in both House A and House B would also be acceptable, as they would both amount to usable areas, due to their size and orientation, in excess of the requirements set out in the LonP⁸.

20. For the reasons given above, I therefore conclude that the proposed development would provide satisfactory living conditions for the future occupiers of both House A and House B. This would comply with the amenity aims of LonP Policy D3, DMP Policy DM1, SPD2 and the requirements of the Framework.

Other Matters

21. In addition to those matters considered above, a neighbouring occupier on St Paul's Avenue has expressed a wide range of concerns including, but not limited to the following: works in relation to demolition and construction, and the potential for associated ground and noise pollution. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal, which I have dealt with in the assessment above.
22. Whilst I can understand the concerns of the local resident, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above. Additionally, any potential damage to property would be a private matter between the relevant parties and not within my jurisdiction.

Conditions

23. The Council has suggested conditions which I have considered, making amendments and minor corrections where necessary, to ensure clarity and compliance with the tests contained within Paragraph 55 of the Framework and the Planning Practice Guidance (PPG). I have also noted the comments from the appellant on the suggested conditions.
24. In addition to conditions relating to the time limit for implementation and the approved plans for certainty. I have included a condition surrounding external materials as it is reasonable and necessary in the interest of the character and appearance of the area and the general specification of materials provided on the drawings. With regard to DMP Policy DM10, I have imposed a condition in relation to surface water runoff, combining the Council's suggested conditions into one condition.
25. I have included a condition restricting some permitted development rights, as it is reasonable and necessary due to special circumstances surrounding the proposed development, particularly the amount of available external space and the proximity to neighbouring shared boundaries, and to ensure that the living conditions of future residents of the development and existing neighbouring residents would be satisfactory. However, it is not necessary to include Classes D, E and F of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) due to the overall scope for development, and limitations for permitted development, due to the specific site circumstances.

⁸ Policy D6 F 9)

26. It is also reasonable and necessary to ensure that a secure cycle store is on site, to provide residents with a genuine alternative sustainable method of transport. I have also included conditions preventing any further openings in the flank or rear elevations of the proposed development and the use of obscure glazing in certain first floor windows to ensure and preserve the privacy of neighbouring occupiers.
27. I have not included conditions relating to the disposal of sewage, as this will be covered under Building Regulations legislation. A condition for soft landscaping, a Construction Logistics Plan, security fencing during construction and Secured by Design accreditation are not reasonable or necessary in this instance, given the scale of the proposed development and the lack of justification provided by the Council. Additionally, I have not included a condition for a plan to be submitted to show proposed finished floor levels, as in the absence of any evidence to the contrary, the site and surrounding area do not display any significant changes in topography to require details above and beyond what has already been submitted.

Conclusion

28. For the reasons given above, I conclude that the appeal should be allowed.

W Johnson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out, completed and retained in accordance with the following documents and plans: 1639.P01; 1639.P02; 1639.P03; Design and Access Statement.
- 3) Notwithstanding the details shown on the approved plans, construction above slab level of the proposed development shall not proceed until full details/samples of the materials to be used in the following elements of construction of the scheme hereby permitted have been submitted to and approved in writing by the local planning authority:
 - a: facing materials for the building, including down pipes
 - b: windows / doors
 - c: boundary treatment
 - d: hard landscape materials:The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the approved drawings, no building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The details shall include works for the

disposal of surface water and its attenuation/storage, permeable paving and the long-term maintenance and management of the on-site drainage. The approved details shall be maintained and retained for the life of the development.

- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no development which would otherwise fall within Classes A and B in Part 1 of Schedule 2 to that Order shall be carried out in relation to the houses hereby permitted without the prior written permission of the local planning authority.
- 6) Notwithstanding the approved drawings, no building hereby permitted shall be occupied until secure and weather-protected residents bicycle parking spaces shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The on-site cycle parking spaces so provided shall thereafter be retained and made available for the use of future occupiers of the development and shall not be used for any purpose other than parking of bicycles in connection with the approved development.
- 7) No window(s)/door(s) or any other opening, other than those shown on the approved plans, shall be installed in the flank and/or rear wall(s) of the proposed development hereby permitted without prior permission being first obtained in writing from the local planning authority.
- 8) No building hereby permitted shall be occupied, until the en-suite window at first floor in House A and the dressing room and study/storage room windows at first floor in House B have been fitted with obscured glazing and shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. No part of the windows that is less than 1.7 metres above the floor of the room in which it is installed shall not be obscure glazed and be capable of being opened. Once installed the obscure glazing shall be maintained and retained for the life of the development.

End of Schedule