
Appeal Decision

Site visit made on 27 May 2021

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2021

Appeal Ref: APP/N1540/3263823

Land adjacent 108 Greygoose Park, Harlow CM19 4JH

- 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 Mr Mannix (c/o Waterside JV) against the decision of Harlow District Council.
 - The application Ref HW/FUL/20/00316, dated 10 July 2020, was refused by notice dated 18 August 2020.
 - The development proposed is new detached three-bedroom dwelling and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An amended plan (Drawing no. 1603.B1.1 Rev5) and a revised tree report dated 23 November 2020 were submitted with the appeal. The appellant's statement and subsequent correspondence confirms these are in response to the Council's refusal of the application. I gave the parties an opportunity to clarify and although the Council consider the revisions would not have altered their decision to refuse planning permission, they have confirmed that *'other third parties have not been consulted'*¹ and *'this was not the information the decision was based on'*.
3. If an appeal is made the appeal process should not be used to evolve a scheme. It is important that what is considered by an Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought². In accordance with the so called Wheatcroft principles the main, but not the only, criterion on which judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.
4. There is considerable local interest in this proposal and the changes would appear to be significant given the Council's sole reason for refusal. Accepting these revisions would deprive those who were entitled to be consulted of the opportunity to make any representations as part of an appeal, which, given the nature of the changes, they may have wished to make. Although no specific case of prejudice has been highlighted to ensure no-one is disadvantaged

¹ Email from Harlow Council on 13 May 2021.

² Annexe M Planning Appeals Procedural Guide.

through the appeal process I have not therefore taken the revised plan or tree report dated 23 November 2020 into account in my determination of this appeal.

5. The Council's decision notice refers to a development plan that has been superseded by the adoption of the Harlow Local Plan 2020 ('the LP') in December 2020. I am required to determine this appeal on the basis of the development plan and national policy which are in place at the time of my decision. The Council has provided me with a number of policies from the LP and I have therefore determined the appeal on that basis.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of neighbouring occupiers.

Reasons

Character and appearance

7. The planned new town residential development of Greygoose Park is separated from Kingsmoor Road by gardens, incidental open spaces and significant sections of structural landscaping containing mature trees and hedgerows. One such significant section forms the side boundary of the garden of the appeal property, a detached 2 storey dwelling in a close of similar properties. Nearly as tall as the dwellings the dense hedging and mature trees visually separate housing areas by providing a considerable, verdant green buffer that positively contributes to the suburban character and appearance of the area and the appearance of both streetscenes.
8. The June 2020 Tree Report submitted with the application refers to the proposal requiring the removal of 4 trees, referred to as T1, 2, 3 and 5 due to them being poor specimens or inappropriately planted and that these should be replaced. No detailed reasons are given and in such a dense buffer it is common for some sections to simply require maintenance. Their removal is ultimately only required to facilitate the appeal proposal.
9. Although designed to match the appearance of neighbouring properties, the proposal would involve the development of a significant part of the side garden of the property with a tall and deep 2 storey dwelling. The appellant's statement of case confirms the revised report clarifies issues raised by the Council's Arborist with regard to the impacts on the adjoining hedgerow. Further, that it now provides for '*the retention of the majority of the trees*'³, '*further clarity*'⁴ and now includes a replacement landscaping scheme. For the reasons given above I have not taken these revisions into account but this clarification implies to me that the works to the hedge in this appeal are uncertain and that there is likely to be a more significant and unnecessary loss of landscaping as part of this particular proposal.
10. Such green infrastructure is an important part of the original 'New Town' design and layout of the town's residential areas and are integral to its character and appearance. A variety of trees and hedges were planted for this purpose within

³ Paragraph 1.9 of appellant's grounds of appeal.

⁴ Appellant's agent's email dated 14 May 2021 and Final Comments dated 23 April 2021.

such buffers and other spaces and given sufficient space and time to mature. Overall, I am not satisfied that the evidence before me provides sufficient clarity or robustness for me to conclude that the proposal would not harmfully erode the positive and deliberate contribution to the character and appearance of the area that the landscaping currently makes. The harmful visual and character effects from such likely erosion and the resultant intrusion of 2 storey built form into this space would be exacerbated by the lack of any replacement planting proposals or details.

11. I have considered whether the imposition of conditions requiring further details could address this. Despite a recommendation in the tree report no replacement planting scheme is before me and I have no details, for example, that demonstrate whether the close proximity of the built form would allow for suitable replacements. Given the uncertainty over the extent of the works and the significant amenity value of the buffer I do not consider it would be appropriate to impose such conditions.
12. Accordingly and on the evidence before me in this appeal, the proposal would cause harm to the character and appearance of the area. It would therefore conflict with Policies PL1, PL7 and PL8 of the LP insofar as it is not supported by a design rationale based on an understanding of local character and context, would not protect or enhance local distinctiveness, take account of local character and context including patterns of development and landscape character. Further, it would not protect and enhance green infrastructure or ensure trees and hedgerows are protected and enhanced based on the character and value of the trees, with no suitable replacement landscaping scheme proposed.

Living conditions

13. I am unclear as to the significance of this issue given there is little substantive consideration of effects on security and increased noise in the delegated officer report. Further, no noise assessment has been put before me from either party. Whilst it may have been a general amenity consideration, any unacceptable effects on the privacy of neighbouring occupiers, through noise and security following the works to the landscaping are simply not borne out in the Council's assessment of the application. No further submissions have been made with the appeal and I therefore find that this particular proposal would not result in harm in such terms. Accordingly, there would be no conflict with any of the policies of the LP that the Council have submitted with this appeal.

Conclusion

14. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with that plan. Having considered all other matters raised which are necessary to my decision, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR