



Appeal Decision

Site Visit made on 21 June 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2021

Appeal Ref: APP/M5450/W/21/3270017

16 Bellfield Avenue, Harrow HA3 6SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr John McCormick against the Council of the London Borough of Harrow.
 - The application Ref P/3719/20, is dated 26 August 2020.
 - The development proposed is development of scrubland to rear of 16, 18 & 20 Bellfield Avenue to provide 2 bungalows with access adjacent to No 16 from Bellfield Avenue.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal has been accepted as one against the non-determination of the planning application by the Council. Notwithstanding this, the Council has made it clear that it would have been refused and has provided the reasons it would have used for the refusal.
3. This appeal relates to an outline application, with scale, layout and access to be determined at this stage. Landscaping and appearance are to be determined at reserved matters stage. Some of the submitted plans show landscaping details, which are reserved for future consideration, and therefore I have considered the parts of those plans that relate to landscaping details solely on the basis that they have been submitted for illustrative purposes.
4. An amended plan was submitted at the appeal stage¹, which shows additional adjacent property numbers. This drawing does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the drawing being considered in this appeal. Therefore, I have considered the drawing as part of this appeal.
5. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published, which replaced the February 2019 version. The parties were provided with an opportunity to comment on its relevance to this appeal. Although no comments were received, as the Framework is a material consideration in planning decisions, I have had regard to it in the determination of this appeal.

¹ JM1/002A

Main Issues

6. The main issues are:

- whether the appeal site is suitably located for new housing, having regard to development plan policies;
- the effect of the proposal on the character and appearance of the surrounding area; and
- the effect of the proposal on biodiversity, including the Harrow Weald Park and the Hermitage Site of Importance for Nature Conservation (SINC), and protected trees.

Reasons

Suitability of location for new housing

7. The appeal site comprises a 2-storey detached dwelling with a large rear garden. Connected to this garden area is land which stretches behind the rear gardens of 18 and 20 Bellfield Avenue. The site is located in an attractive residential area. Trees protected by a group Tree Preservation Order, and a woodland, lies beyond the rear of the site.
8. Core Policy CS1 of the Harrow Core Strategy (adopted 2012) (Core Strategy), provides that, amongst other things, the Harrow & Wealdstone Intensification Area will be the focus for regeneration, providing for a significant portion of new development, and that growth throughout the rest of the Borough will be directed to town centres and strategic previously developed sites. The appeal site is not located within any of these areas and therefore conflicts with this part of Core Policy CS1.
9. Furthermore, Core Policy CS1 also states that garden development will be resisted. Paragraph 3.1 of the Harrow Garden Land Development Supplementary Planning Document (adopted 2013) (SPD) provides a definition of garden land. The main parties have focussed on criterion e. of paragraph 3.1.
10. Part of the land which is the subject of this appeal is described as 'unused scrub land' on the existing site plan. In this regard, the appellant has indicated that 16 Bellfield Avenue (No 16) appears to take up 2 plots, and that the land to the rear is currently unused and will not be used as garden land, and that the garden for No 16 is almost twice the size of adjacent plots. Be that as it may, I observed that the specific segment of land which is wholly connected along its length to the land described as the 'rear garden' on the existing site plan is merely a continuation of the rear garden land, with some fairly unmanaged vegetation within it. It is located a very short walk away from No 16. This easily-accessible segment of land has maintained a strong functional connection with No 16 and its rear garden.
11. As such, in my view this part of the proposed development falls within the ambit of criterion e. of paragraph 3.1 which relates to 'any land that formed part of a garden but which has been legally and/or physically severed from the donor property(ies)'. The appellant has mentioned that the 'scrub land' has a separate title, but land which has been legally severed from the donor property falls within criterion e. Thus, the proposal entails the development of garden

land for the purposes of the SPD and accordingly the proposal is in conflict with Core Policy CS1.

12. Reference has been made to paragraph 3.10 of the SPD, which refers to an exception for gap sites. Whilst access would be provided from the street and house No 14 Bellfield Avenue is missing, the proposed new dwellings would not fill a gap within a built-up street frontage. Rather, the new dwellings would be positioned to the rear of the street frontage. Hence, that exception is not applicable. Considering this exception, as the grant of planning permission referred to at land adjacent to No 22 Bentley Way, Stanmore, related to a gap site, that example does not provide a meaningful comparison with the appeal proposal. As such, in combination these matters have been given limited weight, and they do not change my findings above.
13. In light of the above, I find the appeal site is not suitably located for new housing, having regard to development plan policies. Therefore, the proposal would conflict with Core Policy CS1 of the Core Strategy which seeks to manage growth in Harrow by appropriately directing the location of new development. It would conflict with paragraph 130 of the Framework, which provides that, amongst other things, planning decisions should ensure that developments will function well and add to the overall quality of the area, and with the guidance in the SPD, which provides that, amongst other matters, a presumption against garden land development should be implemented.
14. Although the Council has referred to Policy D6 of The London Plan (adopted 2021), that policy relates to housing quality and standards and accordingly is not relevant to this main issue.

Character and appearance

15. No 16 is part of a linear row of dwellings. Whilst the appellant has referred to a development behind Nos 2, 4, 6 and 8 Bellfield Avenue, this is very much the exception, as there is commonly little built development of note in the rear gardens of properties in the immediate vicinity. The proposed 2 dwellings would be located very close to both the rear garden of No 16 and the large rear gardens of nearby properties. As such, the new dwellings would appear as an anomaly in terms of their location. Although the new dwellings would be set-back from the street frontage and they would be seen against a backdrop of mature woodland, they would likely be visible from the properties adjacent to No 16.
16. Furthermore, the increased level of activity that the dwellings would create, including comings and goings via the access drive, would further highlight their incongruity in their location. Therefore, although the existing property would retain an adequately-sized garden area, the proposal would unduly conflict with the prevailing pattern of development in the area.
17. I therefore find that the proposal would have an unacceptable and harmful effect on the character and appearance of the surrounding area. It would conflict with Core Policy CS1 of the Core Strategy which provides that, amongst other things, proposals that would harm the character of suburban areas will be resisted, and with Policy DM1 of the Harrow Council Development Management Policies (adopted 2013) (DMP) which provides that, amongst other things, proposals which are detrimental to local character and appearance, will be resisted.

18. The proposal would also conflict with Policy D3 of The London Plan which provides that, amongst other things, development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality, and with paragraph 130 of the Framework, which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.

Biodiversity

19. The Council have stated that the appeal site is within 150 metres of the Harrow Weald Park and the Hermitage Site of Importance for Nature Conservation (SINC). Whilst the appellant has stated that the site is 'some distance' from the SINC, no alternative distance has been provided. The Council have referred to the likelihood for the rear garden and the 'unused scrubland' to have a relatively high value of wildlife interest.
20. The appellant has mentioned that an ecology report could be produced at reserved matters stage. However, currently I have no substantive evidence before me to reach a conclusion that the proposal would not cause harm the SINC. It follows that I cannot be certain that any measures put forward by the appellant at a later date would be effective in avoiding or mitigating adverse effects on the SINC. In the circumstances, I must take a precautionary approach which requires that planning permission cannot be granted in the absence of evidence demonstrating that there would be no adverse effects on the SINC, or that mitigation measures would be effective.
21. Similarly, whilst the proposed new access drive would be positioned to avoid extensive encroachment into the Root Protection Area of a tree protected by a Tree Preservation Order which would be adjacent to that access drive, and the appellant has stated that a tree survey would be produced at reserved matters stage, little evidence has been provided to demonstrate that the proposal would not have a harmful effect on that tree. Again, it follows that I cannot be certain that any future measures would adequately avoid or mitigate any adverse effects on that tree. I must therefore adopt a precautionary approach by withholding planning permission.
22. I therefore find that the proposal would have an unacceptable and harmful effect on biodiversity, including the SINC, and a protected tree. It would conflict with Policy DM20 of the DMP which provides that, amongst other things, proposals that would be detrimental to locally important biodiversity will be resisted, and with Policy DM22 of the DMP which provides that, amongst other things, the Council will require trees identified for retention to be protected during construction and to be retained or replaced where necessary following the completion of the development.

Other Matters

23. The Council's putative reasons for refusal make clear that the Council have no concerns on grounds relating to the living conditions of neighbouring occupiers, nor with respect to the living conditions of the intended future occupiers of the proposal. However, these are neutral matters, which do not weigh in favour of the proposal.
24. The proposal would contribute to both the local housing stock and to the Government's objective of significantly boosting the supply of homes, via the

creation of 2 new dwellings in a residential area. However, due to the quantum involved, this contribution would be limited. The proposal would contribute to the mix of housing in the area, via the provision of 2, 3-bedroom dwellings. Whilst all these matters, taken in combination, have been afforded moderate weight, in my view they are not sufficient to outweigh the considerable planning harm identified on the main issues. Therefore, I find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm identified, nor the conflict with the development plan.

Conclusion

25. For the reasons given above, having considered the development plan as a whole, the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR