
Appeal Decision

Site visit made on 17 August 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/M5450/W/21/3269310

653-659 Uxbridge Road, Hatch End, Pinner, London HA5 3LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Richard Werth of Troy Homes Ltd against the decision of the Council of the London Borough of Harrow.
- The application Ref P/1681/20, dated 13 May 2020, was refused by notice dated 5 November 2020.
- The application sought planning permission for Redevelopment to provide part three and four storey building to accommodate 26 flats; 26 surface parking spaces; Cycle and bin stores; 2 x vehicle crossovers without complying with a condition attached to planning permission Ref P/1234/18, dated 27 June 2019.
- The condition in dispute is No.2 which states that:

The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Planning Statement dated March 2017; EL_001 Rev. P02; EL_002 Rev. P02; EL_003 Rev. P03; EL_004 Rev. P02; PL_000 Rev. P01; PL_001 Rev. P02; PL_002 Rev. P02; PL_003 Rev. P02; PL_004 Rev. P02; PL_005 Rev. P01; PL_007 Rev. P01; PL_008 Rev. P01; PL_009 Rev. P01; PL010 Rev. P01; SK_013 Rev. P01; SK_019 Rev. P01; SE_001 Rev. P01; 653_003 Rev. 01; 655_003 Rev. 00; 657_003 Rev. 00; 659_003 Rev. 00; 653_002 Rev. 01; 655_002 Rev. 00; 657_002 Rev. 00; 659_002 Rev. Rev. 00; SC_001; Design and Access Statement March 2017; Design and Access Statement Addendum dated March 2018; Viability Study dated March; Energy Statement dated May 2017; Arboricultural Impact Assessment & Method Statement dated 23/05/2017; Tree Survey PRI21205trA dated 08/05/2017;; Transport Statement ITR/HL/5011/TS.4 dated March 2018; Noise Assessment R7344-Rev 1 dated 22nd March 2018; Daylight and Sunlight Report dated March 2018; Planning Statement dated march 2018.

- The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, revised versions of both the London Plan (March 2021) (the LP) and the National Planning Policy Framework (July 2021) (the Framework) were published. Both parties have referenced policies from the new LP in their appeal submissions which do not differ from those in the

adopted version of the plan. I am satisfied neither party would be prejudiced in my consideration of this appeal with regards to the LP. Parties were contacted to invite comments as to the relevance of the revisions to the Framework and any comments received have been taken into consideration in the determination of this appeal.

3. The appeal before me seeks to carry out the development permitted under planning permission 1234/18 by varying condition 2. I note that the details of this permission have subsequently been amended though other planning permissions. A non-material amendment¹ was granted to allow amendments to elevations including alterations to balconies, fanlight openings, under-croft gate changed to a roller shutter, removal of ground floor window to front elevation, design of grills to ground floor rear elevation and change of material of balcony to third floor elevation. More recently, an application to vary condition 2² was approved to allow a step out balcony to unit 14 and Juliette balconies to units 8 and 16. I have determined the appeal before me on this basis.
4. The appellant submitted amended plans with their appeal statement. These seek to clarify the number of disabled spaces marked as such based on advice from the Council's highways advisor in their consultation response.
5. In deciding whether to accept these revised plans, I have given consideration to the 'Wheatcroft Principles' (Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]) and whether any prejudice would occur. Third parties have not had an opportunity to comment upon the amended site plan and ground floor plan. However, these are the same with changes only to the number of spaces allocated for disabled users. These do not alter my assessment of the appeal based on the issues raised by the Council.
6. Accordingly, I am satisfied no party would be prejudiced by my consideration of the appeal on the basis of these amended plans and I have therefore determined the appeal on this basis.

Main Issues

7. The main issue is the effect of varying the condition would have on the living conditions of future occupiers of the properties and on the character and appearance of the appeal site and local area.

Reasons

Living conditions

8. The proposal seeks to amend the approved layout of the car park by widening some spaces which would require two spaces to encroach into the area proposed as outdoor communal amenity space.
9. The proposal would decrease the amount of communal open space by 17% over that approved in application P/1234/18. I note this figure is not in dispute and I see no reason to disagree with it. However, while the percentage figure of the decrease may not be substantial in and of itself, the incursion of the two parking spaces into the area of communal space would be significant. Alongside the obvious reduction in green space lost to hardstanding, this would mean the areas either side of the parking spaces would not be as enjoyable and the poor

¹ P/0985/20

² P/0986/20

form of the open space as a result would harm the living conditions of future occupiers of the development.

10. I have been directed to Policy D6 of the LP, which advises a figure of 5 square metres of private outdoor space should be provided per 1–2-person unit. It is argued the proposal would far exceed this figure. However, the space would not be private and as such this standard does not apply to this proposal. Table 3.2 of Policy D6 offers guidance on the aims of outdoor communal space. While the area may meet most of the criteria, I am not satisfied it is designed to support an appropriate balance of informal social activity and play opportunities for various age groups given the resulting form caused by the protrusion of the parking spaces into the communal area. While I note the application to vary condition 2³ allowed Juliette balconies, the issue relates to quality communal outdoor space rather than private areas.
11. I appreciate the need to retain trees and protect root areas may have dictated the positioning of the parking spaces, but this does not persuade me the harm to living conditions is acceptable.
12. To conclude, the proposal would harm the living conditions of future occupiers of the development due to a reduction in the quality and form of the communal green open space. This would be contrary to policies DM1 of the Harrow Council Development Management Policies (the DMP) (July 2013), CS1 of the Harrow Core Strategy (February 2012) (CS) and D5 and D6 of the LP. These seek, among other aims, to ensure a satisfactory quantum and form of amenity space for future occupiers of residential development. The proposal would also be contrary to the Framework, which seeks to promote health and well-being, with a high standard of amenity for existing and future users.

Character and appearance of the site and area

13. The appeal site is bordered by rear gardens of houses and businesses lining Elm Park Road, and by open space around Antoneys Close. As such, the retention of trees and creation of green space within the site is a positive aspect of the design as approved which accords with the prevailing pattern in the immediate area.
14. While I appreciate the site is largely hidden from the public realm, the proposed alterations would mean a larger proportion of hardstanding compared to open green space which would cause harm to the character and appearance of the site when viewed from within. This increased hardstanding would also not reflect those properties backing onto the appeal site as described above, contrary to the prevailing pattern of development nearby.
15. My attention is drawn to other apartment blocks at Viewpoint Court and Maple Court, which I observed on the site visit. I note these are similar to the appeal site with regards to their car parks being bordered by green space. However, I understand Viewpoint Court was formally a commercial premises which was converted into residential use, while Maple Court has areas of open space to all sides. In any event, I must assess the proposal on its own merits against the existing development plan, and the circumstances of these buildings does not persuade me the proposal is acceptable.

³ P/0986/20

16. To conclude, the proposed changes to the approved plans would harm the character and appearance of the site and local area. This would be contrary to policies DM1 of the DMP, CS1 of the CS and D1 of the LP. These seek, among other aims, to ensure development responds to the context provided by neighbouring buildings and the local character and pattern of development. The proposal would also be contrary to the design aims of the Framework, which seeks to ensure development that will function well and add to the overall quality of the area.

Other Matters

17. The Council has expressed concern regarding the impact of the proposal upon the longevity and health of existing trees within the site and a lack of opportunity for enhancement through planting further trees. However, these are not mentioned in the reason for refusal, and I have no substantive information on either matter before me. Moreover, I note the Council is agreeable to conditions to agree a scheme of landscaping and biodiversity management as well as a tree protection plan. As I am recommending that the appeal is dismissed for other reasons, it has not been necessary to reach a finding in these regards.
18. The Council have assessed the proposal against policy G5 of the LP, which aims to promote urban greening within the plan area. However, the policy states that the various boroughs should develop an Urban Greening Factor (UGF) to identify the appropriate amount of urban greening required in new developments. I have no information before me as to whether the Council has adopted a UGF standard, although the policy states that in the interim, developments should aim for at least 0.4. The Council have not presented any evidence that the proposal would not meet these criteria and the area would be amenity grassland which is allotted a score of 0.4.

Conclusion

19. For the reasons given above, I conclude that condition 2 is reasonable and necessary to provide suitable living conditions for future occupiers of the development and to safeguard the character and appearance of the area. I therefore dismiss the appeal.

C McDonagh

INSPECTOR