



Appeal Decision

Site Visit made on 6 September 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2021

Appeal Ref: APP/M5450/W/21/3272888

33 Whitchurch Gardens, Edgware HA8 6PF

- 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 J Kapadia against the decision of the Council of the London Borough of Harrow.
- The application Ref P/4407/20, dated 1 December 2020, was refused by notice dated 11 March 2021.
- The development proposed is erection of a new build to replace existing.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling to replace existing at 33 Whitchurch Gardens, Edgware HA8 6PF in accordance with the terms of the application, Ref P/4407/20, dated 1 December 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development set out in the banner heading above is taken from the planning application form. The Council describe the proposal in different terms, but I have not been provided with any confirmation that a revised description of development was agreed. From the evidence before me it is clear that the proposal amounts to the erection of a new dwelling to replace the existing. I have considered the appeal on that basis and, for clarity, I have amended the description of development in my formal decision by substituting the word 'build' with 'dwelling'.
3. An interested party has asserted that the Council did not serve the correct statutory notice to inform the public about the proposed development. Nevertheless, as the Council notified all interested parties of the appeal, I am satisfied that no individual or group have been denied the opportunity to take part in or comment on the appeal and, as such, their rights have not been prejudiced.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the surrounding area; and,
 - The effect of the development on the living conditions of the occupants of 31 Whitchurch Gardens, with particular regard to outlook.

Reasons

5. Whitchurch Gardens is a residential street characterised by a mix of semi-detached and detached dwellings which vary considerably in their original individual design and scale, providing a diverse and interesting street scene with a variety of differing architectural styles. The appeal property is a three bedroomed, detached,

two storey dwelling and has the appearance of a mock-Tudor house, with dark painted timber framing and white painted infill wall panels.

6. The proposal would see the existing house and garage demolished and replaced with a much larger five bedroomed house with accommodation over four floors, including a large basement and rooms within the roof space. A large rear facing single storey element would project approximately 8 metres from the rear of the property. The result is a substantial modern property with the character and appearance of a large detached dwelling with its own unique design, not an unusual or discordant form of development to be found in the locality.
7. The Council are concerned that the development would be of an inappropriate scale and appear bulky in the street scene, with its proposed front facing central gable feature accentuating its overall height. The proposal would be noticeably taller than the neighbouring property at No.31. Nevertheless, as part of their appeal submission, the appellant has provided a street scene elevation demonstrating that the overall height of the dwelling, at 9.1 metres, would be no greater than the height of the neighbouring property at No.35, and is therefore typical of the scale of other properties in the area. Moreover, front-facing gable features of varying height are prominent within the street scene and as such the proposal offers an appropriate design that maintains the varied character of the surrounding area.
8. The single storey rear facing element would likely be larger than other single storey rear extensions found along the street. However, its overall depth when considered in the context of a large residential plot would not be so great as to be at odds with the prevailing pattern or grain of development found along the street or in the wider area.
9. Consequently, the proposed development would not have a harmful effect on the character and appearance of the surrounding area. It follows, therefore, that I find no conflict with Policies D3 and D4 of The London Plan 2021, Policy CS1.B of the Harrow Core Strategy 2012, Policy DM1 of the Harrow Council Development Management Policies 2013 or the guidance set out in the Residential Design Guide Supplementary Planning Document 2010. Together these policies and guidance require development to achieve a high standard of design and require all development to respond positively to the local context.

Living conditions

10. The Council consider that the proposal is not consistent with the guidance set out in the Residential Design Guide Supplementary Planning Document 2010 (the SPD), yet no specific guidance or requirements have been cited. Nonetheless, the SPD is guidance and therefore not prescriptive.
11. The single storey rear element of the proposal would extend approximately 8 metres beyond the rear elevation of the neighbouring property at No.31. The appellant advises that the edge of the nearest rear-facing habitable room window at No.31 would be approximately 4.5 metres away from the flank wall of the development. Furthermore, they state that the garden area of No.31 measures 33 metres in length by 13 metres in width. The Council does not dispute any of these measurements.
12. Whilst this element of the proposal would extend along the shared boundary for a significant distance, its single storey height, and flat roof, would limit its scale and therefore it would not amount to an overbearing or oppressive feature. Moreover, given the distance of the nearest habitable room window at No.31 and the

generous size of the rear garden, I am not persuaded that the proposal would have an adverse effect on the outlook of these neighbouring occupants.

13. The depth of the two storey element of the proposal would be greater than that of the existing property. This would also be positioned closer to the boundary with No.31. However, it would not project beyond the rear elevation of this neighbouring property and therefore this would not affect the outlook of these neighbouring occupants.
14. Thus, I find that the proposal would not adversely impact the living conditions of the occupants of 31 Whitchurch Gardens, with particular regard to outlook. Consequently, the proposal would comply with Policy D3 of The London Plan 2021 and Policy DM1 of the Harrow Council Development Management Policies 2013. Together these policies seek to deliver appropriate outlook, having regard to any impact on the amenity of neighbouring occupiers.

Other Matters

15. The proposal is to the north of No.31 and therefore, having considered the trajectory of the sun in relation to the appeal site, there would be no loss of direct sunlight or harmful overshadowing. Furthermore, the position and angle of the proposed rooflights are unlikely to cause any loss of privacy to neighbouring occupiers.
16. My attention has been drawn to the fact that the western boundary of the appeal site borders Cannons Park, a designated conservation area and a Grade II listed registered historic park and garden. It is therefore incumbent upon me to pay special attention to the desirability of preserving the setting of these heritage assets. Given the proximity of the appeal site to the designated heritage assets it forms part of the setting in which their historical significance can be experienced and appreciated. The proposal would maintain a residential use of the site, albeit with a larger form of development, with gardens to the front and rear. It would therefore not materially alter the character of the area and thus the setting of the heritage assets would not be harmed by the proposal. Consequently, the proposal would preserve the setting of the designated heritage assets.
17. Interested parties are concerned that the proposal will exacerbate surface water flooding in the area as the site falls within a critical drainage area. Nevertheless, the Council's Drainage Engineer does not object to the proposal and takes the view that conditions can secure an appropriate drainage scheme for the site that would not increase the risk of flooding in the area. Accordingly, I see no reason to take a different view.
18. There is also concern that the excavation required to develop the basement may affect the foundations of neighbouring properties. However, I see no reason why modern methods of construction, governed by the Building Regulations regime, would give rise to any concerns in this regard. Furthermore, in the unlikely event that construction works were to cause damage to neighbouring property, this would be a civil matter between the parties involved.

Conditions

19. The Framework sets out¹ that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the Council's suggested conditions on this basis and made some minor

¹ At paragraph 56

revisions in the interests of precision and clarity. I have also limited the number of pre-commencement clauses to where this is essential for the condition to achieve its purpose. In such circumstances, and in accordance with the regulations², the appellant has been consulted over the wording of the condition and has provided their written agreement³.

20. I have imposed the standard timescale condition (Condition 1) for implementation and a condition specifying the approved plans (Condition 2) for the avoidance of doubt and in the interests of certainty. I have omitted the plans which depict the existing site conditions as these do not form part of the approved development. Conditions are also imposed to secure sample materials and a detailed landscaping scheme (Conditions 3 and 4) in order to safeguard the appearance of the area and ensure a satisfactory development. Condition 5 is imposed to ensure that the landscaping scheme is implemented at the appropriate time of the year and to ensure appropriate maintenance of the planting scheme in its early years of growth.
21. Three conditions requiring the submission and approval of drainage details were suggested by the Council. However, I have consolidated this into a single condition (Condition 6) to avoid repetition and to ensure that a suitable drainage scheme is put forward and subsequently implemented.
22. To ensure that the development is carried out at suitable levels in relation to adjoining land, I have imposed a condition to require the submission and approval of a plan to show the various ground levels of the development (Condition 7). I have amended the trigger for compliance with this condition to allow for development up to the demolition stage as development to damp proof level could jeopardise the scheme.
23. Conditions to secure the submission, approval and implementation of a Demolition and Construction Method Statement (Conditions 8 and 9) are required in order to minimise disruption to neighbouring residents and protect their living conditions during the construction period. However, a condition requiring a boundary fence would be unnecessary repetition and can be secured as part of the Demolition and Construction Method Statement. A condition prohibiting the installation of any windows and doors into the flank elevations (Condition 10) is necessary to avoid any loss of privacy to neighbouring occupiers. Condition 11 is necessary to ensure a suitable appearance in the interest of the character and appearance of the surrounding area.
24. Given the limited scale of the development, for a single dwelling, it is not reasonable nor necessary to require a Secure by Design Certification, particularly as I have not been provided with any policy requirement for this. Similarly, the scale of development does not necessitate a Fire Safety Statement which Policy D12 of The London Plan requires only for major development proposals.

Conclusion

25. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. Accordingly, for the reasons given above, I conclude that the appeal should succeed.

J M Tweddle

INSPECTOR

² The Town & Country Planning (Pre-commencement Conditions) Regulations 2018

³ Email from Mrs Joanne Brough to the Planning Inspectorate on 29 September 2021 at 15:34

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i. Site and Location Plan, Drawing No. RE033-00
 - ii. Proposed Floor Plans, Drawing No. RE033-04 Revision B
 - iii. Proposed Floor Plans, Drawing No. RE033-05 Revision B
 - iv. Proposed Elevations, Drawing No. RE033-06 Revision B
 - v. Proposed Side Elevations, Drawing No. RE033-07 Revision B
 - vi. Proposed Section AA, Drawing No. RE033-08 Revision B
 - vii. Proposed Front Garden, Drawing No. RE033-09 Revision B
- 3) The development hereby permitted shall not commence above damp proof level until samples of the materials to be used in the construction of the external surfaces noted below have been submitted to, and approved in writing by, the local planning authority:
 - (a) the building
 - (b) the ground surfacing
 - (c) the boundary treatment

The development shall be completed in accordance with the approved details and shall thereafter be retained.
- 4) The development hereby permitted shall not proceed above damp proof level until there has been submitted to, and approved in writing by the local planning authority, a scheme of hard and soft landscape works for the forecourt and rear of the site. Soft landscape works shall include: planting plans, and schedules of plants, noting species, plant sizes and proposed numbers / densities, written specification of planning and cultivation works to be undertaken, a landscape implementation programme, hard landscape material details and boundary treatment. The development shall be carried out in accordance with these approved details and shall thereafter be retained.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building, or the completion of the development, whichever is the sooner. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species, unless the local authority agrees any variation in writing.
- 6) The development shall not proceed beyond damp proof level until works for the disposal of foul and surface water have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 7) The development hereby permitted shall not proceed beyond the demolition works until a plan showing 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, has been submitted to, and approved in writing by, the local planning authority. This document needs to explain details of the external levels of the building and external space in relation to the adjoining land and highways, and

any other changes proposed in the levels of the site. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

- 8) Development shall not commence, including any works of demolition, until a Demolition and Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Method Statement shall provide for:
 - a) a detailed timeline for the phases and implementation of the development;
 - b) a demolition method statement;
 - c) the parking of vehicles of site operatives and visitors;
 - d) the loading and unloading of plant and materials;
 - e) the storage of plant and materials used in constructing the development;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and,
 - h) details showing the frontage/the boundary of the site enclosed by a close boarded fence to a minimum height of 2 metres.
- 9) The development shall be carried out in accordance with the approved Demolition and Construction Method Statement, or any amendment or variation to it as may be agreed in writing by the local planning authority throughout the construction period.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any order revoking and re-enacting that order with or without modification, no windows or doors, other than those shown on the approved plans shall be installed in the flank elevations of the development hereby permitted.
- 11) The refuse bins shall be stored at all times as shown on approved drawing No. RE033-04 Revision B, other than on collection days, in the designated refuse storage area.