



Appeal Decision

Site visit made on 25 January 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/R5510/W/21/3285053

Land R/O 800 Uxbridge Road, Hayes UB4 0RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr H Yadav against the decision of London Borough of Hillingdon.
 - The application Ref 75956/APP/2020/3400, dated 20 October 2020, was refused by notice dated 20 September 2021.
 - The development proposed is the replacement of existing rear car park with new car park and erection of a residential building with basement parking to accommodate 19 new dwellings with associated access, parking, bins and cycle provision.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is submitted in outline form with approval being sought in relation to the matters of access, appearance, layout and scale. The matter of landscaping is reserved for later consideration. Therefore, I have assessed the appeal based upon the plans that have been submitted, where they refer to those matters for which approval was sought.
3. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Hayes Village Conservation Area.

Main Issues

4. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the area, the setting of the Hayes Village Conservation Area (CA) and the setting of the locally listed Adam and Eve Public House (PH)
 - (ii) Whether acceptable living conditions would be provided for the future occupants
 - (iii) Whether the proposal makes adequate provision for larger homes

Reasons

Character and appearance

5. The appeal site is a car park located to the rear of buildings that face onto both Uxbridge Road and Warley Road. These existing buildings vary in height, from higher buildings which generally have commercial uses at their ground floor levels to two storey dwellinghouses of a traditional domestic scale. Those buildings which have the greater heights are for the most part those which front onto the main arterial Uxbridge Road, with the lower buildings positioned along the roads that lead from it. The boundary of the CA runs along one of the boundaries of the appeal site, with the locally listed PH also positioned close by and within the CA.
6. The proposed building would be five storeys in height above ground level. At this height it would be notably higher than most other buildings in the locality, in particular the dwellinghouses nearest to the appeal site and the building which is occupied by the Job Centre. Whilst the plans show comparative details of one building of an equivalent height, that property fronts onto Uxbridge Road where buildings of such height are successfully absorbed into the street scene due to the width of the road, the fact it is a primary thoroughfare and due to the commercial nature of the frontage. Furthermore, the existing building in question has an uppermost floor that is considerably recessed, which reduces the overall impact of its height and keeps its scale visually consistent with its neighbours.
7. The appeal proposal would in contrast be set well back from the Uxbridge Road frontage, and closer to buildings of a substantially lower height. Furthermore, the combination of the width of the proposal with its height would mean that it would have a considerable bulk and massing. It would, as a result of its height, width and its positioning, be a visually dominant structure that would appear out of scale with its immediate surroundings. Its overall scale would be particularly visually incongruous when viewed from adjacent residential streets and in views in which both the proposed development and the existing development of lower height would be seen. The proposal would as a result cause significant harm to the character and appearance of the area.
8. The CA is relatively extensive in its geographical coverage and the majority of it is found on the opposite side of Uxbridge Road. However, the Hayes Village Conservation Area Appraisal 2015 (CAA) demonstrates that the CA boundary was consciously extended to incorporate a historic group of buildings, including the PH, which have a relationship with the ancient thoroughfare of Uxbridge Road. These characteristics therefore define the significance of the CA in the locality of the appeal site. There is an important view denoted in the CAA looking towards the PH in which the proposal would be visible through the gap formed by the access to the Job Centre. Due to an absence of built form, the appeal site does not currently compromise this view, nor the character and appearance of the CA in general.
9. The presence of the appeal proposal in this important view and its substantial scale, which would loom behind the PH, would result in harm to the setting of the CA and to the setting of the locally listed building, which itself is identified as being a building of importance in the CA. Given the nature of the proposed development and that the harm would be localised, I consider that less than substantial harm to the CA would be caused. This being the case, it is

necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework).

10. In this regard, public benefits have been outlined which relate primarily to the economic and social benefits associated with the provision of new housing. This includes the fact that there is support for small housing sites in the development plan and The Framework, that the proposal would make more efficient use of land in a locality that is close to services and facilities and that there would be economic benefits including during the construction phase. Whilst the Council did not consider that there would be harm to the living conditions of the occupiers of nearby dwellings or to the highway network, an absence of harm in these respects is a neutral consideration and not a benefit. The presence of the existing tarmac does not have any harmful impact on the CA, and its removal too would not be a benefit.
11. The benefits that would arise from the provision of 19 new dwellings in this location carry moderate weight in favour of the proposal. However, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit in terms of the delivery of new housing, this does not outweigh the harm to the CA that would arise. I am also mindful of the fact that I have found harm to the setting of the PH, and that this finding must also carry weight against the proposed development.
12. For these reasons, I conclude that the proposed development would cause harm to the character and appearance of the area, the setting of the CA and the setting of the PH. Consequently, the proposal would fail to accord with Policies D1, D2, D3 and D8 of the London Plan 2021 (LP), Policies HE1 and BE1 of the Local Plan: Part 1 Strategic Policies 2012 (LPSP) and Policies DMHB 1, DMHB 3, DMHB 4, DMHB 10, DMHB 11 and DMHB 12 of the Local Plan: Part 2 Development Management Policies 2020 (LPDMP), where they collectively seek to protect character and appearance and designated and non-designated heritage assets. There would also be a conflict with The Framework, where it seeks to achieve well-designed places and because the harm to the CA is not outweighed by public benefits.

Living conditions

13. Whilst not referenced directly in the reason for refusal, it is common ground in the submissions made by the parties that the proposal would fail to provide the amount of amenity space required by Policy DMHB 18 of the LPDMP. Although the appellant contends that the requirements of the LP would be met, Policy D6 of the LP is clear that it will defer to higher local standards in borough Development Plan Documents.
14. In addition to the under provision, the amenity space to serve the ground floor dwellings could only be accessed through their bedrooms. Furthermore, there are mature trees of substantial height adjacent to the nearest boundary, which appear to be located within the garden area of the adjacent dwellings. The poor internal layout solution and the presence of the trees further demonstrates that the overall amenity space provision to serve the proposed development would not be adequate.

15. I have been referred to other developments that have taken place and to the presence of public open space in the local area. It is also stated that additional internal space has been provided in excess of the required minimum standards. However, these considerations do not overcome my concerns with respect to the proposed amenity space either in terms of its amount or in terms of the constraints relating to its layout and positioning that I have identified.
16. The presence of the aforementioned trees and their close proximity to the bedrooms of the ground floor dwellings would have an oppressive impact on these rooms and would limit light levels. The proposal would also not be in compliance with the ceiling heights required by the LP which would in these circumstances further contribute to the poor living environment that would be provided in the rooms in question. Therefore, with respect to the ground floor dwellings, acceptable internal living conditions would also not be provided for their future occupants.
17. The proposal would meet the other standards relating to living conditions as set out in the development plan. It has also been demonstrated in the appeal submissions that the parking spaces to the front of the ground floor dwellings would be allocated to the dwellings which they would be next to, thus meaning there would not be an undue disturbance from their use. However, these considerations do not address the harm in the other respects that I have found.
18. For these reasons, I conclude that the proposal would fail to provide acceptable living conditions for the future occupants of the proposed residential units with regard to amenity space and the living environment provided in the proposed ground floor dwellings. It would, therefore, fail to accord with the aims of Policy D6 of the LP and Policies DMHB 11, DMHB 16 and DMHB 18 of the LPDMP, where they seek to provide appropriate living conditions.

Larger homes

19. The proposal would provide for 19 flats, 17 of which would have two bedrooms and 2 of which would have one bedroom. Policy DMH 2 of the LPSP requires the provision of a mix of housing units of different sizes, with the accompanying policy text referring to a need for three bedroom properties.
20. It is stated that the constraints of the appeal site with respect to the need to provide amenity space and parking limit the potential accommodation for family dwellings of a larger size. Furthermore, a Viability Review (VR) was submitted, primarily to evidence the position that affordable housing obligations could not be met. The appellant considers that this also demonstrates that larger units could not be provided, as they would result in fewer dwellings being provided and proportionately realise a lower profit than smaller units.
21. Whilst there is some merit in these arguments, the VR has been assessed by an independent assessor on behalf of the Council. It is advised that the assessment concludes that viability issues arise primarily due to the provision and cost of providing basement car parking. I concur with the view of the Council that this is a matter which would require further consideration and assessment, to ensure that an appropriately evidenced balance would be struck between providing for larger homes and providing an appropriate parking provision.

22. Therefore, on the basis of the information that is before me, I conclude that the proposed development would fail to provide a mix of housing sizes and would fail to accord with Policy H10 of the LP and Policy DMH 2 of the LPSP.

Other Matters

23. That there is support for the principle of higher density development in the development plan does not justify the harm that would arise in this instance. Reference has also been made to permitted development rights which allow upwards extensions to existing buildings, but this too does not make the appeal proposal acceptable in the circumstances I have outlined. Whilst the proposal could result in landscaping being introduced to the site, this would not mitigate against the harm caused.
24. My attention has been drawn to a dismissed appeal for a proposal to the rear of the PH and to the recent redevelopment of a site fronting onto Uxbridge Road. Whilst I do not have full details of those cases, they do not appear to be directly comparable to the appeal proposal but, in any event, I must consider what is before me primarily upon its own merits.
25. The decision notice contains additional reasons for refusal relating to urban greening and to the absence of a mechanism to secure contributions towards air quality mitigation, construction training, child playspace, public open space and the prevention of future occupiers from joining the local parking management scheme. There are also reasons for refusal relating to an absence of information to enable a full consideration of matters relating to sustainable drainage and net carbon zero development.
26. The Council's statement of case accepts that the matter of urban greening could be addressed and that all of the contributions that it has set out were agreed in principle by the appellant. There is a draft planning obligation before me which refers to air quality mitigation, construction training, child playspace, public open space, parking restriction and a net carbon zero contribution, but this has not been completed and therefore I can give it no weight.
27. It would appear possible that the matter of sustainable drainage could be overcome by further discussions between the parties and the other matters by way of a completed planning obligation. However, on the basis of my findings on the main issues, the fact that these matters have not been resolved is not determinative on the outcome of the appeal.

Planning Balance & Conclusion

28. For the reasons that I have set out above, the proposed development would fail to accord with the policies of the development plan that seek to protect character and appearance, designated and non-designated heritage assets and to provide acceptable living conditions for future occupants. The harm to the CA that would be caused would not be outweighed by public benefits.
29. In addition, it has not been satisfactorily demonstrated whether a proposed development on the appeal site could provide a policy compliant mix of house sizes. Matters relating to urban greening, sustainable drainage and a number of identified planning obligations have also not been resolved.
30. There would be benefits related to the provision of 19 new dwellings on the appeal site and this consideration carries moderate weight in support of the

proposal. It does not however outweigh the harm that I have identified and the resultant conflict with the development plan.

31. In conclusion, the proposal would conflict with the development plan and there are no other considerations, including The Framework, that outweigh this conflict. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR