



Appeal Decision

Site visit made on 9 June 2022

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2022

Appeal Ref: APP/N1540/W/21/3284239

182 Spring Hills, Harlow CM20 1TD

- 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 Daniel Jones against the decision of Harlow Council.
 - The application Ref HW/FUL/21/00426, dated 9 August 2021, was refused by notice dated 27 September 2021.
 - The development proposed is change from public to private use of land.
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Decision

1. The appeal is allowed and planning permission is granted for change from public to private use of land at 182 Spring Hills, Harlow CM20 1TD in accordance with the terms of the application, HW/FUL/21/00426, dated 9 August 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Land adjacent to 182 Spring Hills Drawing Number: GIM4310-52.

Main Issues

2. The main issue is the effect of the proposed change of use of the land on the appearance of the area.

Reasons

3. No.182 Spring Hills (No.182) is a two-storey end of terrace house located on a corner plot. It has a single storey element on its southern elevation linked to a boundary wall which encloses the rear garden. Between this and the back edge of the pavement is an area of public open space that is laid to lawn and enclosed by a timber knee rail fence. The proposal is to change the use of part of this area from public open space to private land, essentially extending the plot of No.182 on its southern side.
4. I saw from my site visit that although a fairly densely built residential area, most houses are set back from the road behind front gardens and there are generous public open areas, including on the corners of Spring Hills. Together, these provide some visual relief to the dense built form and make a positive contribution to the character and appearance of the area.

5. The Council identify the site as 'other open space,' namely land outside the curtilage of an existing building that is not a 'green finger' or 'green wedge.' The preservation of all open spaces is considered fundamental to ensuring that the original design of Sir Frederick Gibberd's master plan for Harlow is respected and I recognise that incidental open spaces and 'open fronts' formed an integral part of the original new town development of housing estates. However, the proposal is to extend the width of the plot of No.182 by only a small margin, parallel with the existing boundary wall and southern elevation of the house, leaving a strip of grass at the back edge of the pavement and the characteristic open space on the corner. The 'open front' of No.182 would also remain. The change of use would not therefore compromise the original design principles or the landscape character of Spring Hills.
6. I observed that there is a prominent continuous belt of greensward on the north side of Spring Hill, but this varies in width depending on the building line of houses and flats and already partly comprises private land (for example, to the front of Nos.159 to 164 Spring Hills). The existing timber knee rail fence on the back edge of the pavement that almost fully encloses the appeal site already gives the appearance of a semi-private space, or a space that is not readily accessible to the public. The loss of part of the public open space to the side of No.182 would not therefore erode the greensward or its function to any significant degree and not be to an extent to cause harm to the appearance of Spring Hills.
7. My attention is drawn by the Council to a recent appeal decision at No.22 Bowhill Way, Harlow (APP/N1540/D/21/3275836) (No.22). Whilst I have not been provided with full details of the planning application, I note from the Inspector's decision that the circumstances in that case are different to those before me. Although also on a corner plot, No.22 directly fronted a pedestrian/cycle route and it was proposed to erect a close boarded wooden fence right on the back edge of this. In the appeal before me, only a change of use of the land is proposed and part of the existing area of public open space on the corner and at the back edge of the pavement (both already enclosed by a fence) would be retained. I am not therefore persuaded that the appeal referred to by the Council adds any weight to their argument, and in any event I am mindful each case should be considered on its own merits.
8. Consequently, the proposed change of use would not conflict with Policy PL6 of the Harlow Local Development Plan (December 2020) because the change of use would not compromise the openness or urban design principles of the area, nor would it remove access to an area of open space that has a particular recreation value. Further, there would be no conflict with Principle DG25 of the Harlow Design Guide Supplementary Planning Document (2011) because the proposal would not compromise the overall network of local open spaces, would not have a negative effect on natural surveillance, sense of enclosure or the wider townscape.

Conditions

9. The Council has suggested 4 conditions. I have considered these in light of the Planning Practice Guidance (PPG) and the tests of the National Planning Policy Framework (the Framework). In addition to the standard implementation condition, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.

10. The Council has suggested a condition that would remove the permitted development rights associated with the construction of outbuildings, hard surfaces, gates, fences, walls or other means of enclosure. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The PPG also advises that conditions restricting the future exercise of permitted development rights may not pass the test of reasonableness or necessity. The Council have provided limited explanation of the reason for this suggested condition, save to protect local amenity and the living conditions of neighbouring residents.
11. Given my conclusion above regarding the absence of harm to the appearance of the area, and the location of the extension to the plot of No.182 on the corner (so away from neighbours), I do not find a condition restricting permitted development rights to be necessary and I do not have sufficient justification before me for its imposition. For the same reason, I do not find it necessary to preclude the site being used for parking for the occupiers of No.182.

Conclusion

12. For the reasons given above, I conclude the appeal should be allowed.

R. Jones

INSPECTOR