



Appeal Decision

Site visit made on 11 October 2022

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/N1540/W/22/3296153

17 Mark Hall Moors, Harlow CM20 2NE

- 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 Ivan Burca against the decision of Harlow District Council.
 - The application Ref HW/FUL/22/00037, dated 1 February 2022, was refused by notice dated 9 March 2022.
 - The development proposed is the change of use from public verge to 1.5m wide footpath access via side garden gate to rear private garden.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from public verge to 1.5m wide footpath access via side garden gate to rear private garden at 17 Mark Hall Moors, Harlow CM20 2NE in accordance with the terms of the application, Ref HW/FUL/22/00037, dated 1 February 2022, and approved plans: *MHM_DR_01 Site Location Plan; MHM_DR_010 Existing Site Plan; MHM_DR_030 South-West Elevation (Existing); MHM_DR_100 Site Plan.*

Preliminary Matters

2. During my site visit, I found the footpath and gate had been constructed. The proposal had therefore been implemented at the time of this decision.
3. The appeal site is located within the Mark Hall North Conservation Area. The statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the area which includes the Mark Hall North Conservation Area (the CA).

Reasons

5. The appeal site is a small, narrow section of a grassed area of incidental open space adjacent to the side elevation and walled boundary of the rear garden of 17 Mark Hall Moors. The Harlow Local Development Plan 2020 (HLP) describes such incidental open spaces as 'Other Open Spaces' (OOS).
6. No 17 is a semi-detached dwelling located on a corner plot opposite Mark Hall Park, a large area of urban parkland. The footpath, which is the subject of this appeal, connects No 17's driveway to the rear garden's side gate. As indicated

in the appellant's statement, the footpath enables occupants to safely access refuse bins, cycles and garden tools stored securely in the rear garden. The appeal site's boundary reflects the extent of the footpath.

7. The area surrounding the appeal site provides a fine example of post-war modernist New Town development, as reflected through its designation as a CA. Public parks, unenclosed front gardens, extensive amenity land and wide verges (i.e. OOSs) and the numerous mature trees provide a green, open and spacious character and are important elements of the area's master-planned New Town design and contribute to the significance of the CA. The OOS within which the appeal site is situated therefore makes a positive contribution to the area's open, green character.
8. The OOS slopes upwards from the pedestrian footway toward the side boundary of No 17. During my site visit, I found the appeal site had been dug out with the footpath laid at the same level as No 17's driveway and garden and bounded by timber rail sleepers providing support to the elevated OOS.
9. The Council suggests that the changing gradient of the OOS accentuates the visual impact of the proposal's incursion into the OOS. Conversely, from my site visit I found that the sloping gradient serves to conceal the footpath from view from nearby public spaces, such as from the pedestrian footways at Mark Hall Moors. The footpath is partially visible from other angles, such as from the pedestrian footway at Mowbray Road, but due to its narrow width is not visually prominent.
10. The proposal involves the loss of a narrow section of OOS. In the context of the street-scene, which includes the adjacent public park, other OOS's and mature trees, this loss appears inconsequential and without material harm to the openness of the area nor the urban design principles or landscape character which are critical to the CA's significance.
11. For these reasons, the proposal would not give rise to harm to the character and appearance of the area. Consequently, the proposal would not conflict with HLP Policy PL6 since the landscape character, openness, biodiversity or urban design principles of the area would not be compromised. In addition, the proposal accords with HLP Policy PL1 which requires proposals to maintain local distinctiveness and enhance accessibility.
12. In the absence of harm to openness, the area's urban design principles or landscape character, the proposal would not adversely affect the positive contribution the OOS makes to the significance of the CA. The proposal would not therefore equate to loss or harm of an element which contributes to the significance of the CA in the context of paragraph 207 of the National Planning Policy Framework.

Conditions

13. A condition to carry out the development in accordance with the approved plans was suggested by the Council. Reference to the approved plans is included as part of my decision, and therefore no specific condition is required.

Conclusion

14. For the reasons given above, the development accords with the development plan taken as a whole and therefore I conclude that the appeal should succeed.

E Dade

INSPECTOR