



Appeal Decision

Site visit made on 18 October 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2022

Appeal Ref: APP/M5450/W/22/3300851

Doctors Surgery, 48 Harrow View, Harrow HA1 1RQ

- 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 Dr Mukesh Pandya against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3537/21, dated 20 August 2021, was refused by notice dated 18 May 2022.
 - The development proposed is the erection of a block of 3no. 1-bedroom apartments with associated garden amenity space, bins storage, and cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - whether the site is an appropriate location for the proposed development with regard to the local development strategy;
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring occupiers of 46 Harrow View (No 46) and 2b Balfour Road (No 2b), with particular reference to outlook; and
 - whether future occupiers would be likely to experience acceptable living conditions in terms of outdoor amenity space, privacy, daylight and outlook.

Reasons

Local development strategy

3. Policy CS1 of the Harrow Council Core Strategy (2012) (the Core Strategy) refers to the spatial strategy which sets out that the Harrow and Wealdstone Intensification Area, town centres and strategic previously developed sites in suburban areas will be the focus for new development. While development on all other land is not precluded, Policy CS1 specifically states that garden development will be resisted.
4. Supplementary Planning Document: Garden Land Development (2013) (GLD SPD) defines garden land as any land within the curtilage of a building the principal use of which is residential, including hardstanding and outbuildings,

with certain exceptions. While the GLD SPD lists examples of what is and isn't garden land, none of these are directly relevant to the appeal site. In such instances, the GLP SPD specifies that a degree of judgement will be required by decision makers.

5. Although the ground floor of 48 Harrow View (No 48) is currently used as a doctor's surgery with, as stated in the Officer Report, a residential flat is located on the first floor. Notwithstanding the bulk of the adjacent Telephone Exchange, No 48 and its immediate surroundings have a predominantly residential character. Whilst representative of a snapshot in time, during my visit I observed the appeal site was being used for activities more commonly associated with a residential use, comprising a paved area with washing line above. Therefore, the appeal site meets the definition of garden land, in my view.
6. In the GLD SPD, garden land development is defined as any development on garden land that results in the formation of one or more new dwellings (houses or flats), again with some exceptions. As the proposed development comprises the erection of a block of flats, it meets the definition of garden land development.
7. The Framework identifies policies that resist inappropriate development of gardens, such as where it would harm local character, should be considered in plan-making. Notwithstanding what the appellant considers to be a pro-development Government or a 'top down' approach to planning, I find that Policy CS1 of the Core Strategy is consistent with the Framework in this regard.
8. My attention has been drawn to Policy H2 of the London Plan (2021) which encourages boroughs to pro-actively support well-designed new homes on small sites by setting minimum targets as "a component of, and not in addition to, the overall housing targets". Given that Policy CS1 of the Local Plan does not preclude development on small sites which do not meet the definition of garden land, I find no conflict between these policies.
9. For the above reasons, the appeal site would not be in an appropriate location for the proposed development, having regard to the local development strategy. As such, notwithstanding the support afforded by Policy H2, I conclude that the proposed development would be contrary to Policy CS1 of the Core Strategy which seeks to resist garden land development. It would also conflict with the guidance set out in the GLD SPD which supports the implementation of these policies and Chapter 5 of the Framework concerning the delivery of a sufficient supply of homes.

Character and appearance

10. Differing plot proportions and a variety of uses create a mixed character in the surrounding area, particularly along Harrow View. The prevailing pattern of residential development surrounding the appeal site comprises buildings fronting the highway, often with rear gardens. Where structures are located to the rear of properties, these comprise garages and outbuildings and not blocks of flats.
11. Whilst the character of an area can evolve and change over time, as highlighted by Policy H2 of the London Plan, this does not mean that all new development should be permitted irrespective of its response to the local

context. I appreciate that a contextual analysis has informed the appearance of the appeal scheme by seeking to reflect the contemporary design of the Telephone Exchange. However, as the block of flats would be sited at the rear of No 48, they would be an incongruous form of development within the prevailing pattern and character of the surrounding area. Additionally, the appeal scheme would be a cramped and discordant feature, given the proximity of the proposed development to the boundaries with No 46 and No 2b, combined with its backland location.

12. Although I acknowledge that No 48 would provide some screening to the proposed development from Harrow View, I was able to view parts of the appeal site either side of the doctor's surgery, and so it would not be completely hidden.
13. I conclude that, despite the bespoke design and contemporary appearance, the proposed development would cause unacceptable harm to the character and appearance of the area. In this respect, it would be contrary to Policy D3 of The London Plan, Policy CS1 of the Core Strategy and Policy DM1 of the Harrow Development Management Policies Local Plan (2013) (the Local Plan). Amongst other provisions, these policies seek to enhance local character whilst resisting development that harms the character and appearance of the area.
14. In addition, it would not accord with the design principles set out in the Supplementary Planning Document: Residential Design Guide (2010) (RDG SPD) and Chapter 12 of the Framework which, amongst other things, seek to ensure development is well designed and sympathetic to local character.

Living conditions – neighbouring occupiers

15. The stepped design of the proposed development results in an overall height which would not exceed the ridge of No 48 and be lower than the adjacent Telephone Exchange. Despite this, the blank brick side elevation of the proposed development, positioned directly on the boundary with No 2b, would enclose the compact garden space of the neighbouring property to a significant degree and would dominate views from adjoining rear gardens. Even if there is no harm in respect of privacy, sunlight and daylight, the side elevation would be an imposing feature that would create a harmful overbearing effect.
16. I therefore conclude that the proposed development would cause unacceptable harm to the living conditions of occupiers of No 46 and No 2b, with particular reference to outlook. As such, it would be contrary to Policy D3 of the London Plan and Policy DM1 of the Local Plan. These policies require new development to deliver appropriate outlook and resist development that would be detrimental to the amenity of neighbouring occupiers.
17. In addition, it would not accord with the design principles set out in the RDG SPD which states that 'developments which have an overbearing visual impact, when viewed from within a neighbouring building of its amenity space....will not be acceptable.'

Living conditions – future occupiers

18. Where there are no higher borough standards, Policy D6 of the London Plan requires the provision of a minimum of 5sqm of private outdoor space per one or two person dwelling. While the proposed development would include a communal garden area, based on the submitted plans and the absence of a

specific garden area measurement, I am not satisfied that the proposed space meets this requirement. The fact that the appeal site is located within walking distance of Harrow Recreation Ground does not negate the need to meet the minimum standards set out in Policy D6.

19. As the patio doors from the ground floor flat would open directly onto the communal garden area with no defensible space between, future occupiers of this flat would be likely to experience inadequate levels of privacy. I appreciate that a condition could be imposed regarding the detailed design of the communal area. However, I am not convinced there is sufficient space to provide adequate privacy for occupiers of the ground floor flat whilst meeting the requirements of Policy D6 in respect of the quantum of private outdoor space and levels of daylight to the ground floor flat.
20. I acknowledge that other examples of development result in an inefficient use of land and that new development should not restrict community interaction. However, the built form examples considered acceptable by the appellant are not directly comparable to the appeal scheme: in the case of back of pavement development and where private spaces open onto public space, a clear distinction between public and private space is commonly evident. In contrast, the appeal scheme comprises semi-private outdoor space directly adjacent to indoor private space where the occupier would expect to experience a high standard of privacy. In my view, the proposed arrangement would not meet this expectation.
21. Separately, whilst the proposed high level ground floor bedroom window would not be as tall as other proposed windows, I see no reason why the overall window area would not allow an adequate level of daylight into the bedroom. Due to the height of the window, the outlook would be directed skywards. However, as the front elevation of the proposed development is set back from the rear of No 48, the outlook would not be restricted by built form. Similarly, the overall area of the narrower but tall windows on the second floor would allow an adequate level of daylight to the living room. Although positioned at different heights in the elevation, they would also provide an acceptable level of outlook.
22. Therefore, whilst I conclude that the proposed development would provide adequate levels of daylight and outlook to the proposed flats, it would not provide sufficient levels of private outdoor space and privacy. As such, it would unacceptably harm the living conditions of future occupiers, contrary to Policy D6 of the London Plan and Policy DM1 of the Local Plan. Amongst other aspects, these policies seek to ensure all development includes a satisfactory quantum and form of amenity space and achieves a high standard of privacy.
23. In addition, it would not accord with the design principles set out in the RDG SPD which requires new development to provide a high standard of amenity and privacy for future occupiers. Similarly, I find conflict with Chapter 12 of the Framework which seeks to ensure development is well designed with a high standard of amenity for future users.

Other Matters

24. The appellant refers to the presumption in favour of sustainable development set out in the Framework. However, there is no substantive evidence before me that indicates that the Council is unable to demonstrate a five year supply of

housing or that relevant development plan policies are out-of-date for other reasons. Consequently, there is no reason to conclude that paragraph 11d of the Framework is engaged and that the presumption in favour of sustainable development should be applied in this decision.

25. Although the appellant refers to the appeal site as brownfield land, as it comprises a residential garden in the built up area, it is excluded from this definition as set out in Annex 2 of the Framework.
26. The concerns expressed regarding the Council's conduct during the determination of the planning application fall outside the remit of this decision. Additionally, a lack of objections from statutory consultees is not a reason, in itself, to allow development that is unacceptable.
27. Even if the appeal site is 'excess' to the appellant's requirements and could be readily divided from the doctor's surgery, this does not alter my concerns regarding the development.

Planning Balance and Conclusion

28. As set out above, I conclude that the proposed development would be in an inappropriate location, would harm the character and appearance of the area, and the living conditions of both neighbouring and future occupiers. It would be contrary to the development plan in these respects. Whilst a small site in a relatively accessible location and able to make a contribution to the housing supply, the social and economic benefits of the appeal scheme would be modest. Therefore, having regard to the development plan as a whole, and all other relevant material considerations, the appeal is dismissed.

Juliet Rogers

INSPECTOR