



Appeal Decision

Site visit made on 29 November 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th January 2023

Appeal Ref: APP/M5450/W/22/3299782

Former Oakleigh Nursing Home, 10 Oakleigh Road, Hatch End HA5 4HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice with the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Shield Design Limited against London Borough of Harrow.
 - The application Ref P/0030/22 is dated 4 January 2022.
 - The development proposed is demolition of former care home (class C2) and redevelopment of the site to provide 8 x 2 bed residential units (class C3) along with associated landscaping, ancillary works, closure of existing access points and formation of new vehicular access point from Oakleigh Road.
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Decision

1. The appeal is dismissed and planning permission for demolition of former care home (class C2) and redevelopment of the site to provide 8 x 2 bed residential units (class C3) along with associated landscaping, ancillary works, closure of existing access points and formation of new vehicular access point from Oakleigh Road is refused.

Preliminary Matters

2. The appeal is made against the failure of the Council to give notice of its decision within the prescribed period. However, the Council has set out the reasons for which it would have refused planning permission had it determined the application. These reasons have framed my main issues, along with representations received.
3. The appellant has provided plans that comprise amendments to the scheme that was originally submitted to the Council. These revised plans contain several design changes, including to the width of the development, roof and front elevation and the position of the proposed building within the site. Although the general form of development remains similar to that originally proposed, there are material differences. In its appeal statement, the appellant asks that both sets of plans are considered in this appeal.
4. I am aware that following the submission of the appeal, that a subsequent planning application¹ was submitted on the basis of the amended plans, and that this has since been approved. As the amended plans now have planning permission, it is not necessary for me to assess them other than as a fallback position. Therefore, I have considered this appeal on the basis of the plans as originally submitted.

¹ P/2123/22

Main Issues

5. The main issues are;

- whether the proposed development would be appropriately located having regard to the spatial strategy of the area;
- the effect of the development upon the character and appearance of the area, and;
- the effect of the proposed development upon the living conditions of occupiers of neighbouring properties with regard to outlook, light and privacy.

Reasons

Whether an appropriate location

6. The appeal site relates to a substantial detached property set within a generous garden. Although currently unoccupied, I understand that the building was, until 2018, in use as a nursing home. I was able to see on my site visit that internally the building retains much of the character of this most recent use.
7. The appeal scheme would comprise development within an existing garden, following the demolition of the existing building. Harrow Core Strategy (HCS) Policy CS1.A seeks to direct growth into the Harrow and Wealdstone Intensification Area, along with town centres and strategic previously developed site. Policy CS1.B states that proposals that would harm the character of suburban areas and garden development will be resisted.
8. The Harrow Local Plan Garden Land Development Supplementary Planning Document (GLSPD) provides further context to HCS Policy CS1.B. It states that the presumption against garden land development exists in order to prevent the harmful dispersal of residential development away from previously developed and allocated sites as required by HCS Policy CS1.A.
9. However, the GLSPD also recognises the need to distinguish between proposals which seek to demolish and redevelop existing dwellings, involving some increase in building footprint, and those which involve substantial incursion into garden land, and therefore makes allowance for the redevelopment of existing buildings for residential accommodation including appropriate enlargement.
10. In establishing what may constitute 'appropriate enlargement', the GLSPD indicates that this will usually comprise the level of any extension that could be added to the existing building through the exercising of permitted development rights, or the size of extensions that could be implemented and would remain in accordance with the Harrow Local Plan Residential Design Guide Supplementary Planning Document (RDGSPD).
11. As highlighted by the Council, the previous use of the existing building as a nursing home means that it would not benefit from permitted development rights in relation to extensions to dwellinghouses. With regards to extensions that could be implemented and would be in accordance with the RDGSPD, the Council suggests that further extensions amounting to a footprint of 170 square metres (sqm) could be achieved, and that the proposed development would represent an increase in footprint in comparison to the existing building from 291sqm to 490sqm. These figures are not disputed by the appellant.

12. This would amount to a significant increase in footprint, and accordingly would represent a substantial incursion into garden land, despite the generous size of the existing garden. Consequently, the proposed development would constitute garden land development for the purposes of the GLSPD.
13. With regard to whether the development would be appropriately located having regard to the spatial strategy of the area, it would represent garden land development, and would therefore comprise the harmful dispersal of residential development to the detriment of the spatial strategy. It would therefore be contrary to HCS Policies CS1.A and CS1.B, as well as the GLSPD which together seek to ensure that new development is directed towards regeneration areas and previously developed sites, in the first instance and state that new residential development should not comprise garden land development.

Character and Appearance

14. Oakleigh Road is a wide, tree-lined residential street, containing mainly detached properties set within generous gardens and set back from the road. Properties in the street are of a range of ages and styles, but are generally well proportioned, and offer visual interest. The character of the street is open and is enhanced by the range of mature street and garden trees that are evident.
15. The existing dwelling, when viewed from Oakleigh Road retains much of its original character. However, it has been significantly extended to the rear in the form of a large flat-roof two-storey extensions and dormer window.
16. The proposed development would incorporate a crown roof design, with a front elevation incorporating wings that would be set back from the front elevation. Nevertheless, it would be of a significant scale, bulk and volume, and appear as significantly larger structure than both 8 Oakleigh Road (No 8) and 12 Oakleigh Road (No 12), adjacent to which it would be situated.
17. The front elevation that would be presented directly onto Oakleigh Road would incorporate a degree of subservience in the wings through a setback front elevation and reduced ridge and eaves heights, however the extent of these reductions would be minor. This would limit the effectiveness of these measures, and result in a front elevation with little visual relief.
18. There are other examples of large properties within Oakleigh Road, including in the immediate vicinity of the appeal site, however even where the width of the properties may be comparable with the proposed development, none appear to exhibit the massing and volume, nor the large crown roof design of the appeal proposal. Furthermore, whilst the appellant identifies that the appeal site comprises a double plot, and the proposed development would not excessively fill the plot in terms of width, and that landscaping to the front of the proposed development would aid in soften its appearance, these factors would not wholly mitigate the overall scale and massing of the building.
19. The proposed development would not exceed the overall height of the existing building on the site; however, it would be of a significantly larger volume and massing, particularly as a result of a two-storey wing being located where there is currently an existing single storey double garage. Overall, the proposal would appear as an excessively large and harmfully dominating feature within the streetscene.

20. I have found that the proposed development would harm the character and appearance of the area. Accordingly, it would conflict with London Plan (LP) Policy D3, HCS Policy CS1.B and Harrow Development Management Policies (HCDMP) Policy DM1 which together, and amongst other criteria require new development to prevent harm to the character of suburban areas, respond to local distinctiveness and context with regard to scale, appearance and proportions, and be of a high quality of design.

Living Conditions

21. The property at No 8 contains a number of windows within the side elevation at both ground and first floor level and face towards the appeal site. Some of these windows serve areas within the property which comprise liveable space, and where occupiers would reasonably expect a significant level of light, and outlook. Although the Council have indicated that they would not have refused planning permission on the basis of the effect of the development upon the living conditions of occupiers of No 8 in terms of loss of outlook and light, the occupiers of this property have provided evidence in relation to this issue, and accordingly, I have included it within my consideration.
22. The original dwelling at the appeal site is set away from the shared boundary with No 8, although its later two-storey flat roof rear and side extension is located in closer proximity. As a result of this arrangement, the existing extension currently has an adverse effect upon the levels of light and outlook available to occupiers of No 8 in relation to these side elevation windows. However, the fact that the existing extension is set significantly further into the rear garden than No 8, and the space afforded by the original dwelling on the appeal site mitigates any adverse effects to a significant extent by retaining a degree of open aspect.
23. The proposed development would result in a substantial increase in the level of built development located close to the shared boundary and side elevation windows of No 8. The side elevation of the scheme would broadly follow the line of the existing flat roof extension, and accordingly would lead to the loss of open aspect that is currently provided by the main existing dwelling on the appeal site being set away from this boundary. However, this would be offset, to an extent, by the removal of the existing two-storey extension.
24. The appellant has provided a daylight/sunlight assessment which concludes that the proposed development would lead to a moderate adverse effect to a single window in the side elevation of No 8 with regard to Vertical Sky Component, however the retained daylight penetration to this room would remain largely unchanged. The assessment also identifies that one of the rooms served by windows in the side elevation of No 8 would also fall below Building Research Establishment criteria with regards to direct sunlight available in winter months.
25. The assessment also highlights that the proposed development would have the potential to improve daylight and sunlight levels for other windows in the property, and that the adverse effects of the proposed development would be exacerbated by the proximity of side elevation windows at No 8 to the shared boundary.
26. However, as the submitted assessment utilises assumptions with regard to the use of the rooms that the side elevation windows of No 8 serve, and also with

regards to the size and layout of these rooms, the weight that I am able to attach to its findings is reduced. Having visited No 8 on my site visit, and experienced the size and nature of the rooms served by these windows, which includes a family room, I consider that the proposal would appear as overbearing and lead to a loss to the levels of outlook and light available to these windows. Accordingly, the development would harm the living conditions of the occupiers of this property.

27. The proposed development would incorporate balconies at first floor level overlooking the rear garden at the appeal site. The plans indicate that these balconies would incorporate glazed privacy screens, including high level privacy screens on the flanks. Given the relative position of neighbouring properties and the proposed development, I consider that the proposed flank privacy screens would reduce the possibility and perception of overlooking to an acceptable degree, and the level of screening provided could be adequately controlled by means of a planning condition. Accordingly, the proposed balconies would not lead to harm to the living conditions of occupiers of neighbouring properties.
28. The proposed development would lead to harm to the living conditions of occupiers of No 8 in terms of outlook and light. It would therefore conflict with HCDMP Policy DM1, LP Policy D3 and the RDGSPD which together, and amongst other criteria state that new development that would be detrimental to the amenity of neighbouring occupiers will be resisted, that new development should deliver appropriate outlook.

Other Matters

29. The appellant has indicated that a fallback position exists, with planning permission for an amended scheme of development having been granted following the submission of this appeal. I acknowledge that such a fallback position exists, and that there is a greater than theoretical possibility that it would be implemented should the appeal be dismissed. Although the design approaches taken for both the approved scheme and that currently before me exhibit some similarities and offer a similar level of residential units, they are, nevertheless, materially different.
30. Having regard to whether the proposed development would be appropriately located, although smaller than the appeal scheme, the difference in size between the two schemes is minor. The same number of residential units is proposed in both schemes.
31. Therefore, although I have concluded that the proposed development would be contrary to the spatial strategy and would comprise garden land development leading to the dispersal of residential development, the fallback position would amount to a very similar level of harm. Therefore, I consider that it is a material consideration sufficient to outweigh the conflict with HCS Policies CS1.A and CS1.B, and the GLSPD that I have identified in this regard.
32. In comparison to the appeal scheme, the fallback scheme incorporates increased articulation to the front elevation, with wings set back substantially further back, as well as a reduced area of crown roof, and increased separation from No 8. The fallback scheme also includes a revised layout to the front external area. I consider that with regard of the effect of the proposed development upon the character and appearance of the area, and living

conditions of occupiers of neighbouring properties, all of these amendments represent improvements to the scheme which is before me. Accordingly, as the fallback position would represent a material improvement to the appeal scheme, I afford it only very modest weight in favour of allowing the appeal, and it would not outweigh the harm that I have identified.

33. I acknowledge that the proposed development would result in the efficient reuse of previous developed land, in a location with good access to local services and facilities and will increase the supply of housing within the area. It would also provide a more modern standard of accommodation and be of greater energy efficiency. These are benefits of the proposed development to which I afford moderate weight.
34. I acknowledge that the proposed development would lead to the loss a community facility, however it has been demonstrated that there is no current identified need for the care home, and I was able to see that the current condition of the existing building would not provide a high quality of facility without the need for significant levels of renovation. Furthermore, the Council has not raised concern on this basis. Although I find that this loss is acceptable, this is only a neutral factor and does not weigh in favour of the proposal.
35. Whilst the appeal site is currently unoccupied, in a declining state of repair, and the redevelopment of the site would be beneficial in terms of returning an active frontage to the street, this could also be achieved by an alternative form of development. Accordingly, I do not attach significant weight to this as a benefit of the proposal.
36. A number of representations indicating support for the proposed development have been provided. These highlight the current condition of the existing property and that it would lead to a reduction in on-street parking.
37. At my site visit, there did not appear to be excessive demand for on-road parking on Oakleigh Road, and although the proposal would provide sufficient parking to meet its own demand, there is no evidence before me that demonstrates that it would address an existing problem. Accordingly, I do not attach significant weight to this as a benefit of the proposal.
38. I also acknowledge that the appellant has sought to work in co-operation with the Council, including seeking to amend the scheme. However, I must consider the proposal on its merits and accordingly, do not afford any weight to this in reaching my decision.

Conclusion

39. I have found that the proposed development would conflict with HCS Policies CS1.A, CS1.B, LP Policy D3 and DMLP Policy DM1. I afford this conflict with the development plan significant weight.
40. The fallback position forms a material consideration which, with specific regard to whether the site is an appropriate location for new development, would outweigh out the conflict with Policy HCS Policies CS1.A and CS1.B.
41. However, the proposed development would remain in conflict with this particular policy for other reasons, and no other material considerations exist that would outweigh the conflict with the development plan as a whole.

42. Therefore, I conclude that the appeal should be dismissed, and planning permission refused.

C Harding

INSPECTOR