
Appeal Decision

Site visit made on 25 October 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/M5450/W/22/3292310

Pinner Green Dental, 661 Uxbridge Road, Pinner HA5 3LW

- 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 Ravi Ganatra against the decision of London Borough of Harrow.
 - The application Ref P/4510/20, dated 10 December 2020, was refused by notice dated 12 August 2021.
 - The development proposed is ground and first floor extension to a dental surgery.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. The appellant has provided revised plans showing an alternative scheme including a reduced first floor and removal of a parapet wall.
4. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. The guidance is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. The proposed revisions directly address the first and second reasons for refusal.
5. Having regard therefore to the Wheatcroft Principles, the nature of the revisions proposed, and in the interests of fairness, I have therefore determined the appeal on the basis of the plans and information that were before the Council when it made its decision and on which all parties were consulted.

Main Issues

6. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area;

- The effect of the proposed development upon the living conditions of existing nearby occupiers with regard to light and outlook;
- The impact upon a protected tree; and
- The effect of the proposal upon the safe and efficient operation of the highway network.

Reasons

Character and appearance

7. The appeal site is formed of a single storey building accommodating a dental surgery located within a suburban location. The area displays considerable variety in terms of the scale and form of properties and architecture. Neighbouring the property on one side is a modern three and four storey apartment development and on the other is a two-storey dwelling that wraps around the road junction.
8. The proposed development would extend the property with a cantilevered first floor. Despite its bold contemporary appearance and it being subservient in comparison to the properties either side the development would be highly visible and over-dominant within the street scene on account of its substantial forward projection. This would be compounded by the building occupying almost the entire frontage with limited space around it. Whilst views of the building would be screened to some degree by the existing tree it would be noticeable from a number of private and public vantage points appearing as an unduly awkward, prominent and dominant feature detracting from the character and appearance of the local area.
9. I note the Council's concern in relation to security due to the undercroft created by the cantilevered first floor. However, there is no substantive evidence before me to suggest that anti-social or criminal behaviour would take place given this area would likely be in almost constant use during the day. I am satisfied natural surveillance would occur from road users and neighbouring occupiers during the evening in addition to conditions for security measures reducing the potential for crime.
10. I conclude that the proposed development would adversely affect the character and appearance of the area contrary to Policy CS.1 of the Harrow Core Strategy (2012) (CS), Policy DM1 of the Harrow Development Management Policies Local Plan (2013) (DMPLP) and Policies D1, D3 and D5 of the London Plan (2021) (LP) which, amongst other things, require developments to respond positively to the local context in terms of design, siting, density and spacing, reinforce the positive attributes of local distinctiveness; a high standard of design and layout having regard to massing, bulk, scale and height in relation to the location and surroundings and enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape.

Living conditions of existing occupiers

11. The proposed development would extend the existing building upwards and project the building forwards. The building forms part of the boundary with 46 Elm Park Road enclosing its rear garden. The height, projection and the position of the proposed development in very close proximity to this property

would be visually intrusive and would severely diminish the living conditions of existing occupiers in terms of loss of light and outlook. Despite the use of architectural detailing, articulation and a sloping roof it would have a significant overbearing effect on the occupiers of this property and their amenity space.

12. The appellant has commented that the bay window to the rear of No 46 is already affected by the presence of the appeal building and the side of the dwelling is impacted upon by the existing tree. The appellant considers the proposed development would not significantly reduce light or result in a sense of enclosure. Notwithstanding the existing relationship between the buildings and the presence of the tree, I find that the overall height and position of the proposed development in such close proximity to No 46 would result in an unacceptable loss of light for occupiers and would create a sense of enclosure.
13. In respect of the neighbouring apartment building, I acknowledge that the closest window is secondary, however, the proposed development would breach the 45-degree line taken from the main ground floor and first floor habitable room windows.
14. I acknowledge that the 45-degree rule is guidance, as opposed to planning policy, nonetheless it sets out guidance in relation to developments and obstruction of light to principal windows of existing properties. I see no reason not to take this guidance into consideration in coming to my decision.
15. Despite the curved design the proposed extension would have a significant adverse impact on the living conditions of the occupiers of ground and first floor apartments by virtue of loss of light and outlook due to its position along the boundary and its projection. It would be an overbearing feature creating a sense of enclosure, not just to the nearest window but to both openings in the front of the apartments serving habitable spaces.
16. Therefore, the development would result in significant harm to the living conditions of existing occupiers by virtue of loss of light and outlook. This would be contrary to CS Policy CS.1, DMPLP Policy DM1 and LP Policy D3 which, amongst other things, require developments to achieve a high standard of privacy and amenity including the adequacy of light and outlook within buildings and deliver appropriate outlook, privacy and amenity.

Impact upon a protected tree

17. Positioned in the garden of No 46 is a protected Redwood tree. Due to its position, size, form and height it is highly visible and positively contributes to the visual amenity of the area.
18. The potential effect on the Redwood tree is a significant consideration given the site's immediate setting, the extent of the proposed hard surfacing and the proximity of the proposed development to the tree and its major roots. I have paid regard to the appellant's Arboricultural Report, however, I share the Council's concerns regarding its contents. Based on the evidence before me I am not satisfied that these matters have been properly investigated to demonstrate that there would be no harm to the protected Redwood during construction or post development. In addition, I am not satisfied that such matters could be adequately addressed through the imposition of conditions.
19. Therefore, the proposed development would be contrary to DMPLP Policy DM22 and LP Policy G7 which, amongst other things, require proposals for works to

trees subject of tree preservation orders not to risk compromising the amenity value or survival of the tree and should ensure, wherever possible, existing trees of value are retained.

Safe and efficient operation of the highway network

20. The proposed parking would remain to the front of the building re-formed primarily for the benefit of staff. The width of the footway crossing, the position of the existing pavement bollard, the sweeping form of the ground floor and the position of the structures supporting the first floor would make driving onto the forecourt and manoeuvring more difficult. I am not satisfied that the parking would be accessible or usable which is likely to result in indiscriminate and inconsiderate parking taking place on the pavement or road. Furthermore, no information has been provided in relation to management of the parking area or swept path diagrams to demonstrate the functionality of the parking area.
21. Whilst the development would be located within an accessible location this would not overcome the harm that I have identified in relation to this matter.
22. I conclude that the proposed development would, therefore, have a detrimental impact on the safe and efficient operation of the local highway network. As such, the proposed development would be contrary to DMPLP Policy DM42 and LP Policy T6 which, amongst other things, require the design and layout of parking areas to be safe, secure and fit for purpose.

Other Matters

23. The National Planning Policy Framework promotes the efficient use of land and encourages innovative design. However, it also recognises that developments should be sensitive to its surroundings and should provide a high standard of amenity for existing and future users.
24. I acknowledge that the area is not subject to any townscape designations. I also note the social benefit that the dental practice brings to the local community and that the proposed development would allow the practice to employ additional staff and improve its facilities including increasing the number of surgeries. However, taking into consideration the points above I find that the harm I have identified outweighs the social and economic benefits of the development.

Conclusion

25. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR