



Appeal Decision

Site visit made on 6 June 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2023

Appeal Ref: APP/M5450/W/23/3314391

86 Spencer Road, Harrow HA3 7AR

- 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 Mukesh Pandya against the decision of the London Borough of Harrow.
 - The application Ref P/3241/22, dated 12 September 2022, was refused by notice dated 7 November 2022.
 - The development proposed is described as a "proposed new 4-bedroom detached dwelling with associated cycle store, refuse store, and garden amenity space".
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the existing occupiers of the host and neighbouring properties, nos. 84, 88 and 90, with particular regard to privacy, light and outlook; and,
 - the Council's spatial strategy for growth.

Reasons

Character and appearance

3. Properties in this area have a distinct rhythm, with largely traditional two storey terraced and semi-detached properties fronting the highway, in narrow plots, with modest front and relatively spacious long rear gardens. The rear gardens serving corner plots form an open break in a largely otherwise built-up frontage. It is the strong built-up frontages, traditional design and open corner plots that contribute to the character and appearance of the area. 86 Spencer Road contributes to the character of the area, by virtue of its design and open corner plot layout.
4. The proposed property would be sited with its frontage facing the highway. Due to the shallow depth of the plot, the proposed property would be located within close proximity to the front, rear and side boundaries of the site, with its associated garden space located to the side. The property would have a wider frontage than other properties within the area, a very shallow front garden and

- no rear garden. The proposed layout would therefore be at odds with the prevailing character and appearance of the area.
5. The design of the proposed property includes a centrally located recess at first and second floor, which interrupts the roof form. It also includes openings of differing sizes, some with a vertical emphasis and others with a horizontal emphasis. This is at odds with surrounding properties, which do not have any recessed features and largely uniform openings with a vertical emphasis.
 6. Having regard to the proximity of the proposed development to the highway and its two storey height, the proposed fencing and shrubs, together with the existing street tree, would only partially screen the development. The fencing, shrubs and tree would not sufficiently mitigate against the harm I have identified.
 7. For the above reasons, the proposed development would result in harm to the character and appearance of the area. As such, it would be contrary to Policy CS1.B of the Harrow Core Strategy 2012 (CS), Policy DM1 of the Harrow Council Development Management Policies 2013 (DMP), the guidance within the Supplementary Planning Document: Residential Design Guide 2010 (RDG) and the National Planning Policy Framework (the Framework). Collectively, these policies, guidance document and the Framework seek, amongst other things, to ensure development proposals respond positively to the local context, achieve a high standard of design and resist those that are detrimental to local character and appearance, respond to distinctive local character and seek to ensure that development achieves a high standard of design and is sympathetic to local character.

Living conditions

8. 84, 86, 88 and 90 Spencer Road are two storey properties. As no. 86 is a corner plot, the side elevation of no. 84 is located within close proximity to the side boundary of the appeal site. The rear elevations, which include habitable room windows at ground and first floor, of nos. 86, 88 and 90 face towards the opposite appeal side boundary. The proposed property is located closer to the side elevation of no. 84, away from the rear elevations of nos. 86, 88 and 90. Although providing accommodation in the roof space, the proposed property is two storeys in height.
9. With regards to loss of privacy, the Council have not explicitly highlighted which parts of the development are of concern. However, I note that there are two first floor windows serving bedroom nos. 2 and 3 in the side elevation of the proposed property. Both windows face towards the rear elevations of nos. 86 and 88. Having regard to the proximity and orientation of the proposed property, there would be direct and oblique views into the rear windows and rear gardens serving no. 86 and 88, resulting in a loss of privacy for the existing occupiers of these properties.
10. The depth of the rear gardens serving nos. 88 and 90 are a substantial. Having regards to the orientation, height and layout of the proposed property in relation to nos. 88 and 90, any overshadowing would only be for a relatively small portion of the day, primarily during the morning. Furthermore, due to the significant garden depths, only a relatively small section of these gardens would be affected by any overshadowing. There would not be an excessive

overshadowing of the gardens serving nos. 88 and 90 as a result of the proposed development.

11. Similarly, having regards to the separation between nos. 86, 88 and 90 and the proposed property, and the orientation and height of the proposed property, there would not be a material loss of outlook for the occupiers of nos. 86, 88 and 90 as a result of the proposed development. As such, the proposed development would not appear overbearing or dominating when viewed from these properties and their associated gardens.
12. No. 84 has an attached single storey garage on its side elevation. Having regards to this and its plot shape, it has a limited side garden. Its main outdoor space is therefore located to its rear. There is a flat roof structure between the appeal site and side boundary of no. 84. Having regards to the layout of no. 84, the height of the proposed property and the intervening structure, the development would not result in a material loss of outlook for the occupiers of no. 84. As such, the proposed property would not result in an overbearing or dominating form of development.
13. For the reasons outlined above, I conclude that the development would result in a harmful impact upon the living conditions of existing occupiers of 86 and 88 Spencer Road, with particular regard to privacy. However, it would not affect the living conditions of occupiers of no. 84, 86, 88 or 90 Spencer in terms of light or outlook. Nevertheless, the effect on the privacy of occupiers of nos. 86 and 88 means that there would be conflict with Policy DM1 of the DMP, Policy D3.D(7) of the London Plan 2021, the guidance within the RDG and the Framework. Collectively, these policies, guidance document and the Framework seek, amongst other things, to resist development proposals that fail to achieve satisfactory privacy and amenity of neighbouring occupiers, ensure development delivers appropriate outlook, privacy and amenity and provides a high standard of amenity for existing users.

Spatial strategy for growth

14. Policy CS1.B of the Harrow Core Strategy 2012 (CS) seeks, amongst other things, to ensure that proposals that would harm the character of suburban areas and garden development will be resisted.
15. The Harrow Supplementary Planning Document: Garden Land Development 2013 (GLD) has been prepared in support of Policy CS1.B of the CS, with an overarching aim to clarify how the Council intends the local presumption against garden development to be applied, which essentially seeks to prevent incremental residential growth on greenfield garden land.
16. Both Policy CS1.B of the CS and the GLD are consistent with paragraph 71 of the National Planning Policy Framework (the Framework) which states, amongst other things, that plans should consider the case for setting out policies to resist inappropriate development of residential gardens.
17. There is disagreement between the parties as to the use of the land. I understand that no. 86 has been sub-divided and is used as a doctor's surgery and residential property. I understand that the site was historically used as a car park to serve the doctors surgery, and the car park was implemented in 1986. I note the comments from a third party which allege the site was not used as a car park, however I have limited evidence before me which

demonstrates this. The site is currently laid to hardstanding and there were no features within it that indicate a residential use. Although the site was fenced off from the highway and was not in use as a car park at the time of my visit, the surfacing of the site indicates its use as a car park.

18. I understand that paragraph 3.1 of the GLD includes the definition of garden land as 'land that formed part of a garden but which has legally and/or physically severed from the donor property(ies)'. During my site visit, I noted that the site is still connected to no. 86 and there is direct access from no. 86 into this area. There is however no evidence before me that demonstrates the site has been legally or physically severed from the host property.
19. Having regards to the above and on the balance of probabilities, the appeal site does not comprise a residential garden.
20. My attention has been drawn to a number of appeal decisions. However, limited information has been submitted regarding the detail and background of each case. In any case, I am required to determine this appeal on its own merits.
21. For the above reasons, the proposed development would not harm the Council's spatial strategy for growth and therefore complies with Policies CS1.A and CS1 of the CS, the guidance contained within the GLD and the Framework. Collectively, these policies, guidance document and the Framework seek, amongst other things, to resist garden development.

Other Matters

22. The proposed development would provide a single dwelling, in an existing settlement on a small, windfall site, which would contribute towards the shortfall in the national housing supply. The development would make efficient use of the site and would not create a precedence due to the unique circumstances of the site. The overall bulk of the development would be acceptable. Nevertheless, the scale of development is such that these benefits carry limited weight in favour of the development and do not outweigh the harm I have identified above.

Conclusion

23. For the above reasons I conclude that, while the proposal would not harm the Council's spatial strategy for growth, the harm I have identified to the character and appearance of the area and living conditions of existing occupiers is determinative. Therefore, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR