



Appeal Decision

Site visit made on 28 June 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2023

Appeal Ref: APP/M5450/W/22/3294634

231-233 High Road, Harrow HA3 5EE

- 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 Eric Gadson of W E Black Limited against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0877/21, dated 26 February 2021, was refused by notice dated 26 November 2021.
 - The development proposed is described on the application form as 'redevelopment to provide three to four storey building to create flats; parking; associated landscaping; refuse and cycle storage; closure of two existing vehicle accesses and creation of new vehicle access'.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment to provide a three to four storey building to create flats; parking; associated landscaping; refuse and cycle storage; removal of shared vehicle access; vehicle access details; 14 flats comprising 1 x 1 bed and 13 x 2 bed at 231-233 High Road, Harrow HA3 5EE in accordance with the terms of the application Ref P/0877/21, dated 26 February 2021, subject to the conditions appended to this decision.

Applications for costs

2. An application for costs was made by W E Black Limited against the Council of the London Borough of Harrow. This application is the subject of a separate decision.

Preliminary Matters

3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development comprises the site's redevelopment to provide a three to four storey building to create flats; parking; associated landscaping; refuse and cycle storage; removal of shared vehicle access; vehicle access details; 14 flats comprising 1 x 1 bed and 13 x 2 bed. The Council dealt with the proposal on this basis and so shall I.
4. A Unilateral Undertaking has been submitted with the appeal, dated 5 April 2023. I have taken this into account in determining the appeal.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- whether the proposed development would achieve sustainability objectives;
- whether fire safety standards would be met; and
- whether the proposed development would secure appropriate levels of affordable housing.

Reasons

Character and appearance

6. The appeal site consists of two discrete plots, each containing a detached building fronting High Road, with large and well-landscaped gardens to the rear. Properties within the surrounding area are varied in their scale, appearance and period, although generally exhibit similarly large, landscaped garden plots, contributing to an overall verdant character in this part of High Road.
7. As was the case under the previous appeal¹, the proposed development involves the merging of the two existing plots, the demolition of the existing buildings and the construction of a single block of flats. The proposed building would be positioned towards the front of the site. A hardstanding is proposed to the side and part of the rear of the building, to provide vehicular access and car parking. A landscaped communal garden would be provided to the rear of the combined plot.
8. Whilst the proposed development would include a reasonably large area of hardstanding to part of the site, the extent of that hardstanding has been considerably reduced since the previous appeal scheme and would now be more in line with established development in the surrounding area. Moreover, a significant proportion of the rear garden would be retained, in a position consistent with neighbouring plots.
9. I accept that there would be some change in relationship between the site and those adjoining, however, the relatively small loss of landscaping at the rear of the site would not have a harmful effect on the character and appearance of the area.
10. Overall, I conclude that the proposed development would have an acceptable effect on the character and appearance of the area, in accordance with Policy D3 of the London Plan (LP, 2021), Policies DM1, DM22 and DM42 of the Harrow Development Management Policies (DMP, 2013) or the Residential Design Guide Supplementary Planning Document (SPD, 2010). When taken as a whole, these seek high quality design in development and landscaping which is appropriate to the character of the area.

¹ APP/M5450/W18/3208629

Energy

11. LP Policy SI2 requires that major development proposals include a detailed energy strategy to demonstrate how zero-carbon targets will be met. LP Policy SI3 states that major development proposals within Heat Network Priority Areas should have a communal low-temperature heating system.
12. An energy statement, prepared by Abbey Consultants, sets out that there are no district heating networks to which a connection is technically feasible. This is by reason of distance. Instead of a communal heating system, an on-site energy supply is proposed including individual air source heat pumps (ASHPs). The ASHPs would supply hot water and heating to all residential units.
13. A more recent communal energy system feasibility study, prepared by Love Design Studio, has been submitted in support of the appeal. This report includes a further assessment of the appropriateness of connecting to a district heat network in the future.
14. From the evidence before me, it is evident that the distance to the nearest potential energy centre is approximately 1km away, with no reasonable prospect of that energy centre becoming operational in the foreseeable future. The assessment goes on to investigate opportunities for a communal system at the appeal site which may later connect to a future district heat network. It is concluded that the original proposal to include individual ASHPs, in addition to photovoltaic solar panels, is the most suitable solution in this particular instance.
15. Overall, I conclude that whilst the proposed scheme would accord with the relevant provisions of LP Policy SI2, the lack of connection with a district heat network would conflict with the relevant provisions of LP Policy SI3, which seeks to ensure that major developments within Heat Network Priority Areas have a communal low-temperature heating system.
16. Nevertheless, there are various factors that would significantly moderate the harm in this respect. I have considered the location of the site relative to other potential future sites, its suburban nature and the overall scale of the development comprising up to 14 residential units. I am satisfied that the applicant has fully considered the options available in respect of energy as part of this particular scheme and I accord the harm arising in respect of energy only limited weight against the proposal. This is a matter I return to subsequently.

Fire Safety strategy

17. LP Policy D12 requires proposals for major development to submit a Fire Statement, which is an independent fires strategy produced by a third party, suitably qualified assessor.
18. The appellant sets out that when the application scheme was first submitted, the London Plan had not been adopted. Nevertheless, a Fire Statement has been prepared by BB7 and submitted in support of the appeal. Its author is a senior fire engineer and reviewer a chartered fire engineer with the Institution of Fire Engineers. The Statement sets out details to demonstrate how the proposed development would meet the requirements of London Plan Policy D12, including in respect of the method of construction, means of escape and safety information to future occupants.

19. Overall, based on the evidence before me, I conclude that the proposed development would satisfactorily meet fire safety standards in accordance with the relevant provisions of LP Policy D12. This policy, in summary, seeks to ensure the safety of all building users, achieving the highest standards of fire safety.

Affordable housing provision

20. Policy LP3 of the Harrow Core Strategy (CS, 2012) addresses the provision of affordable housing and seeks a borough-wide provision of 40% affordable housing. The policy states that the Council will seek the maximum reasonable amount of affordable housing provision on sites with a capacity to provide ten or more homes, mindful of site circumstances, scheme requirements and development viability. Policy DM24 of the Harrow Development Management Policies (DMP, 2013) requires that proposals secure an appropriate mix of housing on site having regard to the target mix for affordable housing.
21. LP Policy H4 sets out a strategic target of 50% of all new homes delivered across London being affordable and provided on-site, with off-site provision acceptable only in exceptional circumstances. LP Policy H5 seeks a minimum of 35% affordable housing on residential sites. Where less than 35% affordable housing is proposed, the policy requires that the development follows the 'Viability Tested Route'. This means that detailed supporting viability evidence must be submitted as part of a planning application which can assess the maximum level of affordable housing that a scheme can deliver.
22. The appellant submitted a viability appraisal with the planning application which concluded that the scheme generated a deficit and could not support any affordable housing. This was reviewed by the Council's own viability assessors, BNP Paribas, who agreed with the findings of that appraisal.
23. A unilateral undertaking has been submitted in support of the appeal, setting out obligations in respect of a late-stage viability review. The Council have had the opportunity to make comment on this material, but have not.
24. The late-stage viability review, if it found the scheme's viability to have improved, would likely result in an in-lieu payment as opposed to an on-site provision. However, it would provide certainty of the scheme's ability to provide affordable housing provision, based on its viability at that time. Accordingly, I am satisfied that the appellant has provided sufficient evidence, with no evidence to the contrary, to illustrate the scheme's lack of ability to provide on-site affordable housing for this relatively small scheme, whilst providing a mechanism to have this reviewed at a later stage.
25. Overall, I conclude that the proposed development be acceptable in respect of affordable housing based on the viability of the scheme, in accordance with the relevant provisions of CS Policy LP3, DMP Policy DM24 and LP Policies H4 and H5. These policies, in summary, seek to ensure appropriate levels of affordable housing are provided. In a similar vein, the proposal would accord with the objectives of the Affordable Housing and Viability Supplementary Planning Guidance (2017) and the National Planning Policy Framework (Framework) insofar as the provision of affordable housing is concerned.

Other Matters

26. I note the comments received from neighbouring occupiers and others, including matters relating to noise, privacy, loss of light and outlook.
27. Activity during construction would be short term and, in any case, controlled by condition. Whilst I accept that there would be a certain level of noise generated by vehicles accessing and exiting the site upon occupation, this would likely be low-level given the nature and scale of the proposed development and would not be uncommon in this location given the existence of established residential parking areas and the High Road itself. Any recreational activity linked to the use of the communal amenity space would be consistent with the adjoining residential area.
28. There is no dispute between the Council and appellant in respect of living conditions. Based on the evidence before me and my observation on site, I have no reason to disagree with those findings. In respect of outlook, the proposed building would be larger and more visible than the existing dwellings when viewed adjoining Durrant Court and 235 High Road. Whilst this would result in a slightly increased sense of enclosure, the proposed development would not unacceptably change or harm the outlook from those properties. Accordingly, overdominance and visual intrusion would not result from the proposed development.
29. Similarly, when considering the overall scale, design and position of the proposed development relevant to its neighbours, there would be no unacceptable effect on daylight or sunlight to the occupiers of those neighbouring properties, with no evidence to the contrary.
30. In respect of overlooking, upper floor windows are proposed to the side elevations of the development. This has the potential to result in the loss of privacy to the occupiers of neighbouring properties. However, these windows would either serve bathrooms or form secondary windows to habitable rooms. Consequently, I am satisfied that a condition could adequately deal with this matter through the requirement to install obscured glazing.
31. There is no dispute between the Council and appellant in respect of highway safety or waste provision and there is nothing before me to lead me to an alternative conclusion on those matters.
32. Notwithstanding the above, these matters weigh neither for nor against the appeal and do not alter my conclusion on the main issues.

Planning Balance

33. I have concluded that the proposal would conflict with the relevant provisions of LP Policy SI3. For the reasons above, I accord this harm limited weight. I now turn to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The Framework establishes that it is the purpose of planning to contribute to the achievement of sustainable development, i.e. pursuing economic, social and environmental gains jointly and simultaneously. No one element of the Framework automatically outweighs any other, and the Framework elsewhere sets out that planning should significantly boost the supply of housing.

34. The proposed development would contribute towards housing provision in the borough. This would be provided in a location which the Council considers to be appropriately located, in an established residential area and reasonably accessible. I have no reason to disagree with those findings. This benefit could reasonably be afforded significant weight in favour of allowing the appeal, mindful of the Government's objective of significantly boosting the supply of homes.
35. There would also be economic and social benefits in supporting employment during construction, and as future occupants would bring additional trade to the local area. By reason of the scale and nature of the development, this benefit carries moderate weight.
36. Accordingly, and on balance, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. As such, the Framework indicates that planning permission should be granted in this particular case.

Planning Obligations

37. A signed and dated Unilateral Undertaking (UU) has been submitted by the appellant. This would secure the provision of a late-stage viability review to ensure the maximum level of affordable housing that a scheme can deliver is assessed. The UU would also secure the payment of carbon offset contributions as the scheme is not carbon neutral, the calculation of which has not been disputed by the Council.
38. I have considered the planning obligations in light of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework. They must be necessary to make the development acceptable in planning terms, must directly relate to the development and be fairly and reasonably related in scale and kind to the development.
39. Based on the evidence before me, I am satisfied that the planning obligations would meet the requirements of the Framework and the CIL Regulations.

Conditions

40. The Council did not provide a set of conditions in the event that the appeal was allowed. The appellant subsequently proposed a list of suggested conditions and the Council have had the opportunity to review these. No comment has been received. In imposing conditions, I have had regard to that list, as well as to the tests within the Framework, Planning Practice Guidance and relevant statute. I have amended the wording of certain conditions proposed without altering their fundamental aim.
41. In addition to the standard time limit condition, I have imposed a condition relating to approved drawings. This is for certainty.
42. A condition relating to construction management has been imposed in the interests of public safety and amenity. Conditions relating to materials, landscaping and lighting are imposed in the interests of the character and appearance of the area.
43. I have imposed conditions to secure obscure glazing on the upper floors and balcony screens. These conditions are necessary to ensure that the proposal

does not have a harmful effect on the living conditions of neighbouring occupiers. Electric charging points are necessary to encourage sustainable methods of transport.

44. Further conditions are necessary to ensure the adequate provision for cycle and bin storage. A condition relating to Secure by Design principles is required in the interests of public safety.
45. A condition relating to sustainable water management measures is imposed in the interests of flood prevention and water management.
46. Conditions relating to landscaping, drainage and construction management are pre-commencement conditions as they are necessary to ensure that any potential mitigation is properly designed in prior to the commencement of development.

Conclusion

47. For the above reasons, and having taken all other relevant matters into account, the other material considerations in favour of the proposal justify taking a decision which is not in accordance with certain provisions of the development plan. Having had regard to the development plan taken as a whole and to the approach in the Framework, I therefore conclude that the appeal should be allowed subject to the conditions below.

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 17 / 3438 / 10B, 17 / 3438 / 11A, 17 / 3438 / 12, 17 / 3438 / 13, 17 / 3438 / 14, 17 / 3438 / 15.
- 3) Prior to the commencement of the development hereby permitted, a demolition and construction logistics plan shall be submitted to and approved in writing by the local planning authority. The statement shall provide details of:
 - i) routing, access arrangements, parking and turning areas for construction and delivery vehicles;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved details shall be adhered to throughout the construction period for the development.
- 4) Prior to the commencement of the development hereby permitted, details of a sustainable water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the development and thereafter maintained.
- 5) Prior to the commencement of the development hereby permitted, details of a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The scheme shall also include a planting plan, schedules of plants including species, size, numbers and densities, hard landscape materials, details of all boundary treatments, site levels, maintenance and management arrangements and green/brown roofs. The relevant works shall be carried out in accordance with the approved details.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die,

- are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No development beyond damp proof course level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
 - 8) Prior to the first occupation of the development hereby permitted, details of external lighting shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 9) Prior to the first occupation of the development hereby permitted, details of electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 10) Prior to the first occupation of the development hereby permitted, full details of the design of the cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The cycle parking facilities shall be provided prior to the first occupation of the development hereby permitted and thereafter retained.
 - 11) Prior to the first occupation of the development hereby permitted, details of how the development would adhere to the principles of Secure by Design shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 12) Prior to the first occupation of the development hereby permitted, a space shall be laid out within the site for the storage of domestic refuse and recycling and that space shall thereafter be kept available for the storage of domestic refuse and recycling.
 - 13) Prior to the first occupation of the development hereby permitted, windows on the upper floors of the north and south elevations shall be fitted with obscured glazing to a height of at least 1.7 metres from the internal floor level. Details of the type, height and fixed nature of the obscured glazing, shall be submitted to and approved in writing by the local planning authority before the windows are installed and shall be retained as approved thereafter.
 - 14) No residential use of the roof terraces or balconies hereby permitted shall take place until details, including heights, of the obscure glazed screening to be used have been submitted to and approved in writing by the local planning authority, and that screening has been implemented. Once implemented in accordance with the approved details, the obscure glazed screening shall thereafter be maintained as such.