



Appeal Decision

Site visit made on 11 July 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2023

Appeal Ref: APP/M5450/W/23/3318210

136 Carlyon Avenue, Harrow HA2 8SW

- 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 Vinayagar Rajasingam against the decision of London Borough of Harrow.
 - The application Ref P/1942/22, dated 25 May 2022, was refused by notice dated 15 December 2022.
 - The development proposed is the erection of a new attached 3 Bedroom Dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the appeal are:
 - Whether the site is a suitable location for the proposed development, having particular regard to the Council's spatial strategy;
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to outlook and provision of external amenity space; and
 - The effect of the proposed development on the living conditions of the occupiers of No. 136 Carlyon Avenue, with particular regard to outlook.

Reasons

3. The appeal site comprises a two-storey, semi-detached dwelling located on the corner of Carlyon Avenue, close to the junction with Tregenna Avenue. The property has a single storey garage to the rear, which is accessed from Carlyon Avenue. The surrounding area is predominantly residential in nature, with an established development pattern of similarly designed semi-detached dwellings. The property is located close to a busy road, which contains a range of commercial uses. The appeal site is prominently sited.
4. The proposed development would involve the erection of a part single storey, part two-storey side extension to the side of an existing dwelling to provide a two-bedroom dwelling.

Whether a Suitable Location for Housing

5. Policy CS1A of the Harrow Core Strategy 2012 (CS) sets out the growth strategy for the Borough, which seeks to focus development to the Harrow and Wealdstone Intensification Area, town centres and strategic, previously developed sites. The appeal site is not within any of these identified areas. The appeal site forms part of the garden to an existing residential property.
6. Policy CS1B of the CS states that garden development will be resisted, although it does not preclude all development within garden areas. This policy is consistent with the National Planning Policy Framework (the Framework) which sets out in Paragraph 71 that local plans should consider the case for setting out policies which resist inappropriate development of residential gardens.
7. Further guidance in respect of when limited development within garden areas may be acceptable is set out in the Harrow Supplementary Planning Document: Garden Land Development 2013 (GLSPD). In general terms, there is a presumption against the development of garden land, which includes any land within the curtilage of a residential dwelling and would result in the creation of one or more new dwellings. The GLSPD does provide some exceptions which includes, 'gap sites' within a built-up street frontage. However, it excludes side gardens in spacious residential areas.
8. In this particular case, the appeal site is located in an area characterised by spacious residential plots, with corner plots in particular, benefiting from large gardens. The site is prominently sited on a corner plot, with its garden to the side highly visible from Carlyon Avenue and the surrounding area. As such, the garden is not viewed as a gap within a built-up street frontage, but instead is a deliberate form of design to create a more open sense of character to development on a corner plot. The development of a new dwelling in this location, would be harmful to this character and create an unduly cramped form of development that is harmful to the host property and its setting within the surrounding area.
9. The appellant has put forward a case that the property could be extended to the side, in a similar manner, to provide additional accommodation for the existing dwelling and that the property could be subsequently sub-divided into two dwellings. Whilst the GLSPD acknowledges that it would be perverse not to consider the potential for a property to be extended when considering proposals for new housing on garden land, the GLSPD would only allow for consideration of an enlargement in footprint that is equivalent either to the footprint of any extensions (excluding outbuildings) permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, or the footprint of the extension would be consistent with the guidance contained within Harrow's Residential Design Guide Supplementary Planning Document (RDG). The Council are of the view that the size of extension proposed would not meet the requirements of the RDG.
10. Having regard to the width of the proposed extension, which would be greater than half the width of the existing property, and the amount of additional floorspace to be created. Therefore, in the absence of any substantive evidence to the contrary, I am not persuaded that as an extension to an existing dwelling, that it would comply with the guidance contained within the GLSPD.

11. My attention has been drawn to a number of appeal decisions in the Borough, including 29 Heath Road, 39 Bancroft Gardens and 82 Rowlands Avenue. These appeals relate to proposals for new dwellings located to the side of an existing dwelling. However, I have only been provided with very limited details of these appeals. As such, it is not possible for me to draw any direct comparisons to the appeal site. In any case, I have considered the appeal on its own merits.
12. Consequently, I therefore conclude that the appeal site is not a suitable location for new residential development having regard to the provisions of the development plan. It would not comply with Policies CS1A and CS1B of the CS, the guidance contained within the GLSPD, and the Framework, which together seek to resist the development of garden land and direct development to locations identified in the Council's Spatial Strategy.

Character and Appearance

13. The host property and the surrounding area exhibits a pattern of development comprising mostly semi-detached properties, built at a similar time and of a broadly similar design. The existing properties benefit from well-defined spaces in between buildings, which contributes to the character of the area and this is particularly notable on corner plots, such as the appeal site. The existing property has already been extended, including by way of a hip to gable extension, with a large dormer to the rear which fills most of the rear roof slope and is highly visible from Carlyon Avenue.
14. The proposed extension would have two-storey and single storey elements, providing a further dormer window within the rear roof slope of the extended part. The proposed rear dormer would join the hipped roof of the extension to the rear, by cutting across the top of its ridgeline, resulting in an awkward roof form. The bulk of the existing dormer, together with a provision of an additional dormer in this prominent location would result in a discordant form of development that would harm the character and appearance of the host property.
15. With the exception of the rear dormer and a window in the single storey extension, the main bulk of the rear elevation of the proposed extension would be devoid of any window openings. This would exacerbate the bulky appearance of the extension to the detriment of the character and appearance of the host property and surrounding area.
16. The single storey side extension, which would contain a hallway and downstairs shower room, has been designed to run along the side boundary, creating a triangular shape. The single storey element would be set back from the existing high boundary treatment by approximately 1 metre, allowing for a side access to the dwelling and rear garden area. Whilst this would be sited behind a high boundary fence, it would contribute to the overall scale and bulk of the extension, which would be harmful to the host property.
17. The erection of a substantial side extension would result in a cramped and incongruous appearance in the street scene which would fail to reflect the surrounding built character. Therefore, I find that the proposed extension which would be highly prominent would be detrimental to the character and appearance of both the host property and surrounding area

18. No.2 Tregenna Avenue which adjoins the appeal site, but is less prominently located in terms of its orientation towards the highway, has been extended to the side. The appellant has put forward the case that this extension is of a similar footprint. However, this extension I observed comprised a single storey element, not a two storey extension and therefore I find that this is not directly comparable to the appeal scheme.
19. My attention has also been drawn to examples of two-storey extensions at No.54 Balmoral Avenue and No.28, 31 and 33 Arundel Drive which I observed during my site visit. Whilst these properties appear to have been extended to the side, and No.54 Balmoral Road and No. 28 Arundel Drive are located on corner plots, I have not been provided with any details of planning approvals for these properties. Accordingly, I am not able to establish whether there are any direct comparisons to the appeal scheme.
20. For the above reasons, I conclude that the proposed development would be harmful to the character and appearance of the area. There would be conflict with Policy D3 of the London Plan, Policy CS1B of the CS and Policy DM1 of the Development Management Policies Local Plan - Development Plan Document 2013 (DMP). These policies, amongst other things, seek to ensure development is of a high standard design and layout, having particular regard to local character and pattern of development. The development should respect the host building, having regard to the massing, bulk, scale and height of the development in relation to its location and surroundings.

Living Conditions (Future Occupiers)

21. Policy DM1 of the DMP states that proposals which would fail to achieve satisfactory privacy and amenity for future occupiers of the development, will be resisted.
22. The proposed development would be a two-storey, attached dwelling which would largely replicate the orientation of the neighbouring property. The proposed dwelling would provide open-plan living and dining space to the ground floor, which would overlook a small private garden area. The appellant states that the outlook from the ground floor level of the property is similar to that of neighbouring properties. However, due to the layout of the primary living spaces, together with the limited number of window openings and their proximity to boundary treatments and existing buildings, the development would fail to provide an adequate level of outlook for future occupiers.
23. The Council has raised no concerns in relation to the upper floors and I have not been presented with any evidence, which would cause me to reach an alternative conclusion.
24. The proposed development indicates that the rear garden would measure a total of approximately 13.5m². This would technically exceed the minimum standard of 7m² for a 4-person dwelling, which is set out in Policy D6 of the London Plan. However, the Council considers that the external amenity space would be 'unsuitable'. Policy DM1 states that development will need to provide a satisfactory quantum and form of amenity space for future occupiers of residential development.
25. Paragraph 4.60 of the RDG states that for developments involving traditional dwelling houses, the size of the private garden should be commensurate to the

size of the dwelling and the likely needs of future occupiers. The proposed dwelling would have three bedrooms and be capable of accommodating 4 people. The garden area would also be located adjacent to a parking space and it is not clear who will be allocated this space. Furthermore, the garden area would be heavily enclosed by virtue of its proximity to the two-storey extension, and existing high boundary treatment. This would result in a cramped garden area that fails to reflect the size and nature of gardens found in the surrounding area.

26. The Council's reason for refusal refers to an absence of information to demonstrate that the proposed development would provide sufficient floor to ceiling heights, as required by Policy D6 of the London Plan. The appellant disputes this and states that although the plans do not include annotated dimensions, they are capable of being scaled to assess the measurements. Therefore, the appellant confirms that the ceiling height would be 2.7m, which exceeds the minimum requirement of 2.5m. Accordingly, if I am minded to allow the appeal, in the interests of certainty, I consider that this could be dealt with by imposition of an appropriately worded planning condition, requiring the submission of additional information to demonstrate that the minimum ceiling heights would be provided.
27. I have had regard to the provision of internal accommodation, which would exceed the minimum requirement set out in Policy D6 of the London Plan for a 3 storey, 3 bedroom, 4 person house. However, this is a neutral factor which neither weighs for or against the proposed development.
28. Consequently, I therefore conclude that the proposed development would fail to provide adequate living conditions for future occupiers, with particular regard to outlook and provision of external amenity space. It would conflict with Policies D3 and D6 of the London Plan, Policy CS1B of the CS, Policy DM1 of the DMP and the guidance contained within the RDG. Together these policies seek, amongst other things, to achieve a high standard of privacy and amenity for future occupiers of development including ensuring the adequacy of the internal layout of buildings in relation to the needs of future occupiers and provide a satisfactory quantum and form of amenity space for future occupiers of residential development.

Living Conditions (Existing Occupiers)

29. The '45 Degree Code', which is found in the RDG, is intended to maintain a reasonable relationship between existing buildings and extensions, avoid an overbearing visual impact in terms of bulk and proximity to boundaries both from inside adjacent properties and from neighbouring gardens, and reduce potential loss of light and overshadowing to neighbouring dwellings and gardens.
30. As the proposed development would create a new, independent dwelling, it is appropriate to consider the effect this would have on the occupiers of No.136. The Council has identified in their Officer Report that the extension would break a 45-degree line drawn from the corner of the existing building due to its rear extension abutting the existing dwelling.
31. Due to the depth of the two-storey extension, it would be visible from the rear bedroom of the existing property and would have an impact on the amenity of that room in terms of creating a sense of enclosure which would reduce the

level of outlook from the window. Due to the siting of the extension, to the south of this window, there would be a reduction in sunlight and daylight. Whilst I acknowledge that the affected window would be a bedroom window, this is a 'protected window' in the RDG.

32. Consequently, I therefore find that proposed development would cause harm to the living conditions of the existing occupiers of No.136, by virtue of loss of outlook. Therefore, I conclude that the proposed development would conflict with Policy D3 of the London Plan, Policy CS1B of the CS, Policies DM1 of DMP. These policies, seek, amongst other things to ensure proposals achieve a high standard of amenity, including having regard to the relationship between buildings, and the visual impact of development when viewed from within buildings, applying the Council's 45 degree code, where relevant.

Other Matters

33. I have had regard to the absence of objections from neighbouring properties. However, this does not alter my findings in relation to the harm which I have identified.
34. The appellant refers to the presumption in favour of sustainable development found within the Framework. Whilst there appears to be no dispute as to whether the Council is meeting its housing targets, it is acknowledged that the proposed development would deliver some benefits, including the provision of an additional self-contained residential unit to add to the Borough's housing stock. However, given the harm previously identified, such benefits would be of limited weight in the overall balance.

Conclusion

35. For the reasons given, the proposed development would not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight to indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR