



Appeal Decision

Site visit made on 17 October 2023

by G Rollings BA(Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2023

Appeal Ref: APP/M5450/W/23/3315394

2 Fallowfield, Harrow, Stanmore, HA7 3DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Gudka against London Borough of Harrow.
 - The application Ref P/4009/22 is dated 21 November 2022.
 - The development proposed is demolition of existing house and erection of a new building housing 1 replacement and 5 new dwellings across ground, first and roof level with associated bins, cycle store, new and extended drop kerbs and parking bays.
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Decision

1. The appeal is dismissed and planning permission for the demolition of existing house and erection of a new building housing 1 replacement and 5 new dwellings across ground, first and roof level with associated bins, cycle store, new and extended drop kerbs and parking bays, is refused.

Preliminary Matters

2. The *National Planning Policy Framework* (2023) (the Framework) has been updated, and this supersedes the 2021 version quoted in the application.

Background and Main Issues

3. The Council failed to issue its decision within the timescale set out by the Act. In its evidence, the Council advised that had it made a decision, the application would have been refused for various reasons, on which the appellant has had the opportunity to comment. The main issues of this appeal are derived from these, and are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposed development would provide appropriate living conditions for future occupiers, with particular regard to internal space provision and privacy;
 - The effect of the proposed development on the living conditions of surrounding occupiers, with particular regard to outlook, privacy, and noise and disturbance;
 - The effect of the proposed development on highway safety; and
 - The effect of the proposal on local drainage, and the risk of flooding.

Reasons

Character and appearance

4. Fallowfield is built on a slope, and looking at the site from the road, the appeal site slopes from right (adjacent to 1 Fallowfield) downwards to left (adjacent to 3 Fallowfield). To the rear are the grounds of The Rookery and its stables, which are grade-II listed buildings on Green Belt land. The site directly adjoins the Little Common Conservation Area (LCCA), which encompasses the land to the rear and 1 Fallowfield as well as the carriageway outside that dwelling. Additionally, there is a tree protected by a Tree Preservation Order (TPO) in the front garden of the appeal property.
5. The proposal involves the removal of the existing single-storey dwelling and its replacement with a three-storey building with a larger footprint than existing, accommodating four three-bedroom and two two-bedroom flats. Its form would include curves and fenestration suggesting an 'art deco' style of design. Four car parking spaces would be arranged in the area to the front of the house, with an area retained as garden space.
6. Fallowfield is a road lined with mostly single houses, some of which appear to have been recently built or reconstructed, as there is variation in their style, although the basic form of detached, single or double-storey homes is common throughout the street. The proximity of homes to the street provides it with a built-up appearance, but this is softened by the numerous mature trees visible around the appeal site and in other areas of Fallowfield, and the gaps between buildings through which is some visibility to generally large rear gardens. These are protected by a group TPO. Many of the homes use the slope of the land to 'cut in' to their sites, meaning that despite their large footprints, they do not generally overpower or appear intrusive within the street scene. Car parking is mostly informal within front gardens or along one side of the narrow carriageway and does not detract from the otherwise sylvan appearance.
7. The noticeable exception to this prevailing pattern of development is Broomfield House, a series of three-storey buildings accommodating flats sited at the entrance to Fallowfield, at the junction of Stanmore Hill. However, their stature is shielded from most of Fallowfield due to the curve of the street and its verdant edges, together with the large garden area at the rear of the flats, which separates them from neighbouring Fallowfield properties. The higher housing density of this site, compared with the low density of development in Fallowfield, is in keeping with the busy character and neighbouring buildings fronting Stanmore Hill.
8. The proposed building would cover a significant proportion of the site, with much of the unbuilt area bordering the street given over to parking. Unlike neighbouring properties, the proximity of the building to the edges of most of the site would provide minimal opportunity for garden space. This size, together with the height and prominent siting of the proposed building and arrangement of car parking, means that it would be particularly visible within the street scene, particularly from lower areas, and appear incongruous and obtrusive as a result. The introduction of a higher density of accommodation within this generally low-density street would also be at odds with the overall pattern of development in Fallowfield.

9. The Council has raised a concern that the proximity of the proposed development to the rear boundary would present a risk to the health of the silver maple and oak trees adjacent to the site. The appellant's Arboricultural Impact Assessment, Method Statement and Tree Protection Plan¹ notes that protected trees on the site would be protected during construction in accordance with the relevant British Standard and considers these trees to be in good health currently. They are not subject to a TPO but the Council considers them to be of good visual amenity. I concur with this assessment, based on their size and vigour, together with their contribution in bordering views across the adjoining land at the rear of the appeal site.
10. The incursion of the trees' crowns, particularly that of the oak tree, into the site and in close proximity of the appeal building, could result in pressure by future occupiers to reduce or remove them. Such occurrences are not uncommon when windows, doors and garden space of new accommodation is built within the spread of mature trees. This would be detrimental to the character and appearance of the area.
11. The appeal site is within the setting of The Rookery. The significance of this building and the other statutorily protected buildings within the site lies in their architectural features and appearance. The mature vegetation along the common boundary would enable only glimpses of the proposed building, in common with neighbouring buildings on Fallowfield, and would preserve the particular significance of the listed buildings.
12. In addition to incongruity with its surroundings outside of the LCCA, the proposal would fail to preserve or enhance the character or appearance of the LCCA itself. In accordance with paragraph 202 of the framework, the proposal would lead to less than substantial harm to the designated heritage asset. No public benefits have been put forward by the appellant, although I consider that the provision of additional housing could be considered as such. Nonetheless, in the absence of any additional housing demand information, I cannot conclude that this benefit would outweigh the harm that I have identified.
13. I therefore conclude that the proposed development would harm the character and appearance of the area. It would conflict with the development plan for the area, which includes the Council's *Core Strategy* (2012) Policy CS 1, Development Management Policies (2013) (DMP) Policies DM 1, DM 7 and DM 22, and *The London Plan* (2021) Policies D1, D3, HC1 and G7. Together, these policies seek to protect historic features and ensure that new development is designed to the highest standards, amongst other considerations.

Living conditions for future occupiers

14. The requirement for outdoor garden space is set out in The London Plan Policy D6 and DMP Policy DM 27. The Council's assessment of the proposed provision indicates that minimum quantitative requirements are exceeded. However, it has raised a concern that the usability of the rear gardens of the ground floor flats would be compromised by overshadowing and oversailing of the aforementioned mature trees to the rear of the site. I agree that this would be a particular issue for the occupiers of flat 2. Additionally, the layout of the garden space for the ground floor flats is such that some areas would be

¹ Prepared by Trevor Heaps Arboricultural Consultancy Ltd, dated 16 November 2022.

inaccessible or impractical for use, due to the proximity of the proposed building to the site boundary. This would not represent optimal living conditions for future occupiers.

15. The Council's assessment of the proposed internal areas of the appeal development indicates that less than 75% of the gross internal area of each dwelling would achieve the minimum floor-to-ceiling height of 2.5 metres. This is a requirement of Policy D6 of The London Plan and is an indicator of not only good design but the provision of acceptable living conditions for occupiers of new homes. I have not been provided with any evidence from the appellant to the contrary and as such, I consider that the failure to meet this standard would subject future occupiers to less than acceptable conditions.
16. The Council also considers that a lack of space between front-facing windows of ground floor flats, and the shared or common areas of the site, would result in a lack of privacy for occupiers. While the proposed plans indicate that planting could create some defensible space to preserve privacy, views into rooms would be possible from parking areas, and there would be areas around the common building entrance where direct views into bedrooms would be possible. This would harm the living conditions of the occupiers of both ground floor flats.
17. Although the proposed development would meet or exceed the required standards or guidelines in other regards, this would not mitigate the harm that would be caused by the failure to meet those that I have set out above. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers. It would conflict with DMP Policies DM 1 and DM 27, and London Plan Policies D3 and D6, which together require development to achieve a high quality of design that is fit for purpose and meets the needs of its occupiers, amongst other considerations.

Living conditions for surrounding occupiers

18. The proximity of the proposed building to the site boundaries shared with 1 and 3 Fallowfield, together with its elevated position in relation to the latter, would result in effects on the living conditions of occupiers of those properties. In particular, the height and position of the building would lead to an overbearing impact on the occupiers of No. 3 in views from areas to the front and rear of that property, leading to a sense of enclosure and restriction of outlook.
19. Additionally, this height difference would mean that users of the garden of the proposed flat 1, and the balconies of upper-level flats 3 and 5, would have clear views into the garden of No. 3. This would result in an unacceptable loss of privacy for the occupiers of that property. On the other side of the new building, the balconies of upper-floor flats 4 and 6 would enable views through vegetation into the grounds of No. 1, particularly during colder months when trees are not in leaf.
20. The Council has also brought to my attention its concern that the intensification of use of the site, through a sixfold increase in the number of homes on the site, would result in disturbance related to additional "comings and goings". While I have no doubt that there would be additional site movements that would be noticeable in the otherwise quiet existing street environment, I have no evidence before me to suggest that these would be of a quantity or volume that would significantly degrade the quality of life of existing occupiers.

Accordingly, I do not consider this to be a sufficient reason that would add to those leading to the dismissal of this appeal.

21. I therefore conclude that the proposed development would have a harmful impact on the living conditions of surrounding occupiers with regard to outlook and privacy, and would conflict with DMP Policy DM 1 and London Plan Policy D3. Together, these require development to deliver appropriate outlook, privacy and amenity, and help prevent or mitigate the impacts of noise, amongst other considerations. I do not find that there would any harmful impact on the living conditions of surrounding occupiers as a result of any increase in noise and disturbance, nor do I consider there to be any conflict with the development plan on this matter.

Highway safety

22. The appellant's *Transport Technical Note*² considers car ownership data at the local ward and borough level and extrapolates a projected car ownership level based the trends at the time the data was collected (2011 census). This is calculated at 0.58 vehicles for one- to three-room flats, and 0.88 vehicles for four-room flats. Using this formula, the six proposed apartments would therefore be expected to generate a demand for 4.68 cars, or "4 to 5" parking spaces. If I were to accept these calculations, I would expect a minimum number of bays to be provided to match demand, which would require a minimum of five vehicle parking bays. Four have been provided.
23. The public transport accessibility level (PTAL) for the appeal site is very poor. Given that PTAL can vary across not only boroughs but within individual wards, it is likely that car ownership would also vary based on various factors including the PTAL. Accordingly, I have insufficient evidence to justify the use of the average car ownership figures, and consider that the poor access to public transport in this location would result in demand for car ownership by future occupiers exceeding the appellant's expectations.
24. The Council's parking requirements are drawn from the London Plan, which sets a maximum level of provision, at 1.5 bays per dwelling (resulting in a maximum potential provision of nine bays for this proposal). This figure has been drawn from an evidence base that was subject to an examination in public and as such I consider that it is a more appropriate benchmark for parking provision in these circumstances.
25. Any vehicles that could not be accommodated on the site would need to park on the highway. The carriageway of Fallowfield is narrow, with parking restrictions on one side of the road and, at the mid-morning weekday time of my visit, fully parked on the other. In the absence of any data to the contrary it is reasonable to consider that full occupation of on-street parking availability, as I observed, is normal. Highway conditions are already difficult due to the curves and slopes of Fallowfield restricting driver visibility and limiting potential passing places. Additional demand for on-street parking could lead to excess parking demand, which could potentially lead to unsafe on-street parking and congestion. This would harm highway safety.
26. The potential for additional car parking demand is exacerbated by the proposed cycle parking arrangement. Although the amount of spaces to be provided is

² Prepared by Kronen, dated May 2019.

appropriate, the proposed twin-rack parking arrangement would require physical lifting of bicycles to the top rack, which would exclude some users.

27. A further concern is the proposed width of one of the planned vehicular crossovers, at 5.69 metres. This width would limit any opportunity for pedestrian refuge and present a hazard to users of the pavement, which would also be harmful to highway safety.
28. I therefore conclude that the proposed development would be harmful to highway safety, and conflict with DMP Policies DM 1 and DM 42, and London Plan Policies T4, T5 and T6. Together, these policies support proposals that make appropriate provision for parking and promote highway safety, amongst other considerations.

Drainage and flood risk

29. Amongst its other considerations, DMP DM 10 requires development to make provision for the control and reduction of surface water runoff, with proposals that would fail to make adequate provision for the control and reduction of surface water runoff to be refused. I agree with the Council that, given the increase in built area and use of the site, along with its sloping nature, that a drainage strategy is necessary, and that this should address potential risk, treatment and/or mitigation of potential surface water flooding. Other than the appellant's consideration of permeable surfaces throughout the development, I have minimal information to satisfy me that this issue has been properly considered. Although such considerations are sometimes addressed through the use of planning conditions, in this instance the lack of information does not provide me with the confidence that such a route would be appropriate.
30. A piped watercourse runs through the site. Flooding from the watercourse to adjacent properties occurred some years ago during works on the appeal site. The Council has also advised that formal protections are in place for any buildings to be erected close to the watercourse, which includes bespoke permission and compliance with bylaws. No information has been provided regarding the safeguarding of the watercourse. Were I to allow this appeal, I could not do so without assurance that the appellant had planned for the appropriate protection of the watercourse and avoidance of potential flooding.
31. I therefore conclude that, in the absence of information, the proposed development would have a harmful impact on local drainage and potentially increase the risk of flooding. It would conflict with Core Strategy CS 1, DMP Policies DM 9, DM 10 and DM 11, and London Plan Policies SI 12 and SI 13. Together, these policies seek the effective management of flood risk, drainage and watercourses, amongst other considerations.

Other Matters

32. In addition to the development plan, I have had regard to the Council's supplementary planning and other documents submitted as evidence. These include conservation area management, residential design and garden land development guidance. I have also had regard to the provisions of the Framework.

Conclusion

33. There are no material considerations to indicate that I should decide otherwise in accordance with the development plan for the purposes of this appeal. For the reasons given above, the appeal is dismissed.

G Rollings

INSPECTOR

