



Appeal Decision

Site visit made on 9 November 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/M5450/W/23/3317600

76 Birchmead Avenue, Harrow, Pinner, HA5 2BH

- 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 Mark Reeves against the Council of the London Borough of Harrow.
 - The application Ref P/3964/22, dated 16 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is the conversion of single storey outbuilding to a residential unit (revised scheme).
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. Notwithstanding the slightly amended description of the development proposed given in the appeal form, I am required to consider the appeal on the basis of the one provided on the original application form, as indicated in the banner heading.
3. Two planning permissions have been granted for the development of an outbuilding at rear for use as double garage / gym / leisure / storage. The first planning permission (APP/M5450/D/20/3252196 and P/0448/20) was granted at appeal on 21 October 2020. The second (P/0110/21) was approved on 23 March 2021.

Main Issues

4. The main issues are:
 - the effect of the proposed development upon the character and appearance of the surrounding area;
 - whether the proposed development would provide acceptable living conditions for future occupiers; and
 - whether the proposed development would be inappropriate development, with regard to the use of garden land.

Reasons

Character and Appearance

5. The appeal site is a rectangular area of land located at the corner of a cul-de-sac. This area was previously used as a garden space for the existing dwelling at no.76. The dwellings in the area along Birchmead Avenue are predominantly detached, two storeys high and set within generous plots along this modern

residential suburban area. Dwellings generally feature large front gardens and parking areas, which provides the street with a somewhat spacious, suburban character. The gardens also feature a number of substantial trees, which provide visual relief to the surrounding built form.

6. During my site visit, I observed that an outbuilding at the appeal site has been substantially completed. However, the plans indicate that among other changes, the proposed development would alter the elevations of the structure and create a dividing fence between the appeal site and existing dwelling.
7. The proposed development has an angled roof similar to surrounding dwellings, however, due to its design as a single storey bungalow, the overall height of the dwelling would be much lower. As such, in contrast to those dwellings, the proposed development would be uncharacteristically shorter in height than other residential dwellings in the area. This variation in the visual profile of the buildings would result in the proposed development becoming a discordant presence. While there are other bungalows within the wider area, they are a significant distance from the appeal site and form part of a cohesive separate housing area.
8. I note that the location of the appeal site on the corner of the cul-de-sac would alleviate some of the visual effect of the proposed development, alongside the incorporation of a shallow pitched roof and limited height. However, as the appeal site is located on a slanted incline, it would result in the appeal site being sloped downwards away from the road, thereby ensuring increased visibility from public views. There is no hedging and tree planting proposed which would be able to effectively lessen the overall visibility of the proposed development. Instead, the appeal site would be bounded by close boarded fences and an electric sliding entrance gate. Although views of the proposed building may be constrained, the gate and fencing itself would be highly visible, and would introduce a new form of segregation which would be uncharacteristic with the open, spacious design of the existing area.
9. Although the building line would be similar to other dwellings along this side of the cul-de-sac, due to the corner location of the proposed development, it would not front the public highway, unlike the other properties in the area. Additionally, the front garden of the proposed development would be self-contained behind the sliding gate and would also be smaller than those found at nearby dwellings. In combination, these would highlight the contrasting effect the proposed development would have with the prevailing pattern of built form and established pattern of development along the road.
10. The extant permissions enable the construction and use of the outbuilding as an ancillary structure for the existing dwelling. The proposed conversion of the structure and subdivision of the land would result in a change of character and nature of the outbuilding, as it would no longer be presented as a secondary outbuilding, but would instead become an independent dwelling. Although there would be a relatively minor alteration of the overall built form at the appeal site, the proposed development would result in an intensification of the residential use of the appeal site, due to the site being used as a wholly separate dwelling. The proposed development would introduce additional domestic paraphernalia, such as parking, waste storage facilities and additional fencing to subdivide the existing dwelling from the proposed development. These features would not be present if the proposed development does not

occur. As such, it would detract from the character and appearance of the street scene and the surrounding area, by introducing further residential development into a confined space. Accordingly, when considering the visual effect of the use of the appeal site as an ancillary structure rather than a separate dwelling, the extant permissions are not sufficiently comparable to the proposed development as to justify it.

11. In conclusion, the appeal scheme would harm the character and appearance of the surrounding area. It would not respond positively to local distinctiveness and existing character, contrary to Policies D3.D(1) and D3.D(11) of The London Plan (2021). It would harm the character of the suburban area, contrary to Core Policy CS1.B of the Harrow Core Strategy (2012). As such, as it would not have sufficient regard to the existing visual setting, surroundings and neighbouring buildings, it would not achieve a high standard of design, contrary to Policy DM1 A., DM1 B. (a), (c) and (d), DM22 and DM23 of the of the Harrow Development Management Policies Local Plan (2013). It would not be sympathetic to local character or add to the overall quality of the area, contrary to the National Planning Policy Framework (the Framework).
12. The Council's reason for refusal alleges a conflict with the Harrow Supplementary Planning Document: Residential Design Guide (2010). However, my attention has not been drawn to any wording in this document that relates to this main issue. Accordingly, it is not clear whether there is anything specific which is relevant to the proposed development. In any event, given my findings above and the available evidence, I am satisfied that the proposed development would harm the quality of design in the locality. I therefore find conflict with the aims of this document.

Living Conditions

13. The proposed development has a side elevation which faces the flank elevation and boundary of 78 Birchmead Avenue. However, this elevation has no windows which would face the proposed development, which could significantly affect the privacy for future occupiers. The front elevation of the proposed development faces the flank elevation and boundary of the existing dwelling at 76 Birchmead Avenue. Although this flank elevation contains a window, it is located on the ground floor and would therefore be obscured by the close boarded fence which has been proposed to enclose the appeal site. As such, the height of the fences which border the site and low likelihood of overlooking from other adjacent dwellings, reduce the risk of any significant loss of privacy for future occupiers of the proposed development.
14. In terms of established character, the properties in the area benefit from large gardens, which add to the general spaciousness of the amenity space available in the area. By dividing the garden between the existing dwelling and the proposed development, the new gardens would be significantly smaller than the existing garden. Although smaller than adjacent properties, the retained garden area could still be adequately used as garden space, due to the functional rectangular shape and overall size. Accordingly, there would still be sufficient amenity space for future occupiers to utilise the area for domestic activities, alongside accompanying paraphernalia.
15. In terms of outlook, viewpoints from the proposed development would be restricted by the use of fencing, the flank aspects of adjacent properties and mature vegetation. Nonetheless, while the garden would be tightly enclosed,

the overall size and spaciousness of the garden space, and incorporation of a planting scheme for soft landscaping would ensure acceptable levels of outlook. The location of the appeal site as backland development and the lack of street presence would not materially affect the outlook for any future occupiers, given the availability of the electric sliding entrance gate and connection to the street through the shared accessway.

16. In conclusion, the proposed development would provide acceptable living conditions for future occupiers. It would deliver appropriate outlook, privacy and amenity in compliance with Policy D3.D(7) of The London Plan (2021). It would provide appropriate space around the building to secure privacy/amenity and make appropriate provision for landscaping, in compliance with Policies DM1 and DM23 of the Harrow Development Management Policies Local Plan (2013). It would provide a high standard of amenity for future users, in compliance with Section 12 of the Framework.
17. The Council's reason for refusal alleges a conflict with Core Policy CS1 of the Harrow Core Strategy (2012) and the adopted Supplementary Planning Document: Residential Design Guide (2010). However, my attention has not been drawn to any wording in those documents that relate to this main issue. Accordingly, it is not clear whether there is anything specific which is relevant to the proposed development. In any event, given my findings above and the available evidence, I am satisfied that the proposed development would provide acceptable living conditions for future occupiers. I therefore find conflict with the aims of these documents.

Whether inappropriate development

18. The appeal site is within the curtilage of a building, the principal use of which is residential as it was previously used as garden space for the existing dwelling. This space continues to have a functional link to the existing dwelling, in the form of a secondary outbuilding as of the date of my site visit. The appellant has not submitted any evidence which would contradict this assessment.
19. Accordingly, the proposed development would be located in garden land, as described in the Garden Land Development Supplementary Planning Document (SPD). Garden land development is described as any development on garden land that results in the formation of one or more new dwellings (houses or flats), but excludes householder development, such as ancillary domestic outbuildings.
20. The SPD is supplementary planning guidance that has been formally adopted by the Council and whose emphasis on achieving well-designed places is consistent with the Framework. As a result, I attach significant weight to it. The proposed development would therefore constitute garden land development, as there is no evidence before me that it would fall into one of the exceptions set out in the SPD. Therefore, for the purposes of the SPD, the proposed development would fail to protect garden land, thus representing inappropriate development. This would conflict with Core Policy CS1.B which states that garden development will be resisted.
21. In reaching this view, I have considered Paragraph 69 of the Framework which states that small sites can make an important contribution to meeting the housing requirements of an area. Decisions should support the development of

windfall sites and great weight should be given to the benefits of using suitable sites within existing settlements for homes.

22. However, the Council contends that they already have a sufficient deliverable supply of appropriate land which is sufficient to meet housing targets, and there is no evidence before me to suggest otherwise. Given the harm I have found to the character of the local area, it would not be a suitable site and accordingly, it would not be appropriate to place great weight in favour of the proposed development. Instead, it would constitute the inappropriate development of garden land.
23. The appellant has referred to other appeal decisions where there has been conflict with the Framework¹. However, I am not aware of the particular circumstances of those developments and only one of those appeal decisions² appears to relate to garden land development. In that decision, the Inspector found that residential development would be acceptable on the basis that no planning harm was found, which is not the case here, therefore it has limited weight. In any event, I must consider the appeal scheme on its own merits, and in the context of the current policy regime which requires the protection of garden land.
24. In conclusion, the proposed development would be inappropriate development, with regard to the use of garden land. It would constitute inappropriate garden development, contrary to Policy CS1.B of the Harrow Core Strategy (2012) and the SPD, to which I have due regard. As such, the proposal is contrary to Section 5 of the Framework.
25. The Council's reason for refusal also alleges a conflict with Policy CS1.A of the Harrow Core Strategy (2012), however, this policy primarily relates to managing regeneration in accordance with the Harrow & Wealdstone Intensification Area. My attention has not been drawn to any wording in this policy that relates to this main issue. Accordingly, it is not clear whether there is anything specific which is relevant to the proposed development and as such, it has little direct bearing on this issue.

Other Matters

26. I have considered representations regarding environmental impact and flood risk, concerns for parking, noise pollution, affordability of housing and the footprint of the building. However, these are matters which do not affect my findings on the main issue.

Conclusion

27. I have found that the appeal scheme would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the conflict. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

¹ Appendices X1 to X5

² APP/M5450/A/14/2225222

S Lo

INSPECTOR