

Appeal Decision

Site visit made on 7 February 2024

by J N Seymour BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02.05.2024

Appeal Ref: APP/M5450/W/23/3323530
201-205 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 Andrew Powell (George Mason Trust) against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/4324/22, dated 20 December 2022, was refused by notice dated 6 April 2023.
 - The development is described as: Demolition of the existing mixed-use buildings and the erection of a new building to provide 1 commercial unit and 7 residential apartments.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the application was determined, a revised National Planning Policy Framework ('the Framework') was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, apart from paragraph numbers, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Main Issues

3. The main issues of the appeal are:
 - the design of the proposed development and its effect on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring residents, with particular reference to outlook and privacy;
 - whether the proposed development would provide acceptable living conditions for future occupants, with regard to noise, odours and the provision of private amenity space;
 - provision of cycle parking.

Reasons

Design

4. The appeal site comprises a two-storey mixed-use building made up of two retail units on the ground floor and flats above. The site is located on a corner

plot at the intersection between High Road and Whitefriars Drive, both of which are predominantly residential streets comprised of two-storey dwellings, although there is another cluster of commercial units on High Road immediately to the north of the appeal site. The appeal proposal would involve the demolition of the existing building and the construction of a building with a maximum of three storeys, comprising seven residential flats and one ground floor commercial unit.

5. The Council's opposition to the appeal proposal in terms of its design relates to it purportedly being overdeveloped due to its massing, form and composition. The proposed building would have a similar overall massing to the existing building, with the flat-roofed three-storey element being a similar height to the existing two-storey hipped-roof building when viewed from High Road, although it would be reconstructed in a more contemporary style.
6. The proposed flat-roof part of the building would be similar in scale and massing to the flat-roofed commercial building on the opposite side of the intersection between High Road and Whitefriars Drive, therefore I have no objection in principle to the proposal in terms of its size, roof form and general composition in this location. The section of the roof closest to the neighbouring three-storey property at 199 High Road which accommodates the kitchen/dining/living room of proposed unit 7 has been designed to match the gradient of the existing front roof slope and that of its neighbour. This would also reduce the massing of the roof form and help create a logical architectural hierarchy for the redevelopment of this corner plot.
7. The additional massing is concentrated mostly to the rear as a three-storey rear wing would be constructed in place of the existing single storey extensions. The additional massing to the rear is mitigated by the fact it is tiered so that second floor has a smaller floor area than the first floor, which in turn is reduced in floor area compared to the ground floor. Furthermore, the rear wing, which would mostly be visible from the Whitefriars Drive elevation, is set back from the site boundary which would reduce its overall massing and bulk when viewed in the street scene and it would utilise the space to the rear of the existing building which is dilapidated and under-used.
8. The proposed building has been designed in a contemporary architectural style with a palette of modern facing materials, including zinc cladding, vertical and horizontal brickwork, aluminium glazing and a green roof. This contrasts with the existing building which was constructed with a hipped roof with plain tiles which matches the roof form of many of the surrounding residential properties.
9. However, with no single architectural style dominating the locality, the redevelopment of the site in a contemporary style is not objectionable in principle. The Council raised concerns with the use of balconies in the design stating they are not characteristic of the area, but they have been utilised in other flatted developments nearby and they are a common method of providing amenity space in flatted developments. Consequently, the proposal does not create an incongruous or obtrusive form of development in terms of its architecture in this context, nor does it fail to respect the character or appearance of the area.
10. Drawing these points together, the proposal complies with Policy DM1 of the Harrow Development Management Policies Local Plan (2013) ('DMP'), Core Policy CS1.B of the Harrow Core Strategy (2012), Policy D3 of the London Plan

(2021), the high-quality design aspirations of the Framework and the Supplementary Planning Document: Residential Design Guide (2010) ('SPD'). This is because these, among other things, state that developments should achieve a high standard of design; and enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions.

Living Conditions of Neighbouring Residents

11. The Council's objections to the appeal proposal centre on the fact it involves the construction of an up to three-storey building which would result in loss of outlook, a sense of enclosure for the residents at number 199 High Road, a loss of privacy and the creation of noise impacts for residents at 199 High Road and 2a Whitefriars Drive.
12. 199 High Road was a single dwelling that has since been subdivided into two flats, one occupying the ground floor and a second flat occupying the first floor and the converted loft space. The proposed rear wing would accommodate residential units numbered 3, 4, 6 and 8. Units 1, 2 (the commercial unit), 5, 7 and part of unit 8 would be located within the principal section of the building.
13. The development would have a negative impact on residents at 2a Whitefriars Drive which benefit from upper floor side windows on the first and second floor serving habitable rooms. These windows would face directly towards the proposed development, which would create a poor outlook, an unneighbourly sense of enclosure and ultimately a loss of privacy, particularly at first floor level where the window for 2a Whitefriars Drive would look out directly onto the blank outer wall of unit 6 at close proximity.
14. The balcony serving unit 7 would create a vantage point from which the rear garden of 199 High Road and outdoor amenity spaces of units 1, 3 and 4 would be overlooked. This would likely be used frequently as unit 7 would not benefit from any other amenity space. The 1.7m high obscure-glazed balustrade would not mitigate against overlooking as any residents taller than 1.7m would be able to see over the balustrade.
15. This would be exacerbated by a total of five partially obscure-glazed windows on the upper floors facing south-west towards 199 High Road, three on the first floor for unit 6 and two on the second floor for unit 8. The windows would only be partially obscure-glazed up to a height of 1.7 metres and because they would be openable windows serving habitable rooms this adds to the overlooking issues and loss of privacy for the neighbours at 199 High Road.
16. For the reasons set out above, the appeal proposal would cause overbearing, loss of outlook, and privacy loss, thus having a detrimental impact on the living conditions of neighbouring residents at 199 High Road and 2a Whitefriars Drive. Policy DM1 of the DMP, Policy D3.D(7) of the London Plan and the Council's SPD state, among other things, that proposals must achieve high standards of privacy and amenity for neighbouring residents of new developments. I have found the appeal proposal has failed to achieve these high standards and it therefore conflicts with these policies.

Living Conditions of Future Occupants

17. The single bedrooms for proposed units 6 and 8 are only served by obscure-glazed windows which would give the future occupiers a poor outlook by being unable to see clearly out of their own windows. The obscure-glazing is proposed to prevent overlooking, but this is a contrived arrangement. Even though the other bedrooms in units 6 and 8 would benefit from clear-glazed windows, when these units are considered as a whole, a good standard of amenity would not be provided for all of their future occupants.
18. The balcony for unit 5 would be adjacent to the double bedroom of unit 6. As this forms the primary amenity space, it is likely to give rise to noise and disturbance issues, in addition to unacceptable privacy loss considering the proximity of the bedroom windows to the balcony. This poor relationship between the primary amenity space of unit 7 and the single bedroom of unit 8 is repeated on the second floor. Furthermore, the balcony for unit 7 would create a vantage point from which the amenity spaces of units 3 and 4 would be overlooked.
19. The Council has raised concerns regarding the lack of defensible space and privacy for units 1 and 3 on the ground floor. Although the kitchen windows of unit 1 would front directly onto High Road, the building is set back from the road and the pavement in front of the building is much wider than most of the High Road due to its current use as a commercial unit. The kitchen window of unit 1 would be in a similar position to the ground floor bay window at 199 High Road with both set back from the primary area of footfall of this part of the street, thus providing sufficient separation and privacy from pedestrians.
20. The bedroom windows of unit 3 will be set back from the boundary by 1.115m, excluding the width of the proposed green hedge. This arrangement in addition to the fact the building would be set back from the pavement of Whitefriars Drive would provide sufficient defensible space from the public realm for the occupiers of unit 3.
21. Concerns have been raised regarding the 'stacking' of the development with kitchen/living areas being positioned directly below bedrooms of flats above and the bedrooms of unit 5 adjoining the proposed Class E commercial unit. This is common for mixed-use developments and Class E uses are defined as those which are typically compatible with residential areas, which also reflects the status quo of living accommodation currently being situated above retail units on the ground floor. Whilst there is a technical conflict with the SPD in terms of the stacking arrangement as identified in the Council's delegated report, in this case it would not be unduly harmful to future occupiers who would have full knowledge of the building's configuration before choosing to live there.
22. The refuse storage area would be located next to unit 4 on the ground floor and the Council states this would create issues relating to odour and disturbance for occupiers of this unit. Providing refuse is kept in the storage area and collected regularly, it is entirely possible that the proposed storage area would be sufficient to prevent harm to the living conditions of occupants of unit 4 and the other dwellings in the development. The fact the refuse store would be fully self-contained would also help with the prevention of odours and noise. The distance occupiers of the flats would have to travel to dispose of

refuse is no greater than many other multi-storey residential buildings and I have found no issue with the positioning of the refuse store in this regard.

23. Ultimately, the configuration of the flats, their balconies and amenity spaces in the appeal proposal would create unacceptable living conditions for future occupants in terms of overbearing, privacy loss and poor outlook. The appeal proposal therefore conflicts with Policies DM1 and DM42 of the DMP, Policies D3.D(7) and D6 of the London Plan and the Council's SPD.

Cycle Parking

24. The Council states the proposed internal cycle parking facility is unacceptable because it would create an access conflict, noise and disturbance for the ground floor occupiers due to the corridor not being wide enough. Whilst there would be noises created when someone is removing or storing their bicycle, this would only be a transient noise generated over very short periods, rather than a permanent disturbance that would be unacceptably harmful to the living conditions of future occupiers. Neither Policy DM42 of the DMP nor T5 of the London Plan provide guidance on minimum corridor widths required for internal cycle storage and there is no evidence before me that the width of the proposed corridor would prevent people from successfully utilising the cycle storage facility.
25. Concerns were also raised regarding visitor cycle spaces and the fact notice was not served on the Highway Authority before proposing the cycle stand on the pavement outside of the appeal site. This would not preclude this as an option for visitor cycle storage and the Highways Officer did not object to the appeal proposal on these grounds, or any other highways issues for that matter. Therefore, no conflict with Policy DM42 of the DMP nor T5 of the London Plan would occur as the development would not fail to contribute to sustainable transport objectives.

Conclusion

26. Whilst the proposal would be an acceptable energy-efficient design and would also contribute to the supply of housing in a sustainable location, I have found unacceptable harm that fails to outweigh these benefits. The proposal would cause overbearing, poor outlook, and privacy loss, for both the future occupants of the development and neighbouring residents at 199 High Road and 2a Whitefriars Drive. Consequently, the proposal would conflict with Policies DM1 and DM42 of the DMP, Policies D3.D(7) and D6 of the London Plan and the Council's SPD.
27. Therefore, for the reasons set out in this letter, the appeal is dismissed.

J N Seymour

INSPECTOR