

Appeal Decision

Site visit made on 2 July 2024

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Appeal Ref: APP/M5450/W/23/3335772

Grove End Cottage, Tyburn Lane, Harrow HA1 3AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Paresh Khakharia against the Council of the London Borough of Harrow.
 - The application Ref is PL/0347/23.
 - The development proposed is described as, 'full planning permission for demolition of existing dwelling and erection of new building housing 1 replacement dwelling and 6 new dwellings with associated bins and cycle store'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. While I note the address stated in the appeal form, I have used the address stated in the application form in the interests of certainty.
3. As the proposal is in a conservation area and relates to listed buildings and their settings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:
 - whether the proposal would accord with the Council's development strategy for garden land;
 - whether the proposed development, including refuse enclosure, would preserve or enhance the character or appearance of the Roxborough Park and Grove Conservation Area and the effect of the proposed development on the setting of nearby listed buildings;
 - whether the proposal would provide a suitable living environment for future occupiers with regard to outlook, light, privacy, noise, private amenity space and accessibility; and
 - the effect of the proposal on the living conditions of neighbouring occupiers with regard to outlook, light and privacy.

Reasons

Garden land

5. Policy CS1A of the Harrow Core Strategy February 2012 (CS) directs new development towards The Harrow and Wealdstone Intensification Area, town centres and strategic previously developed sites. CS Policy CS1B states that garden development will be resisted.
6. The supporting text to the policy says that in view of their local importance and the propensity for such sites to lead to unmanaged incremental growth, the spatial strategy directs the Brough's development needs to be met on previously developed sites and therefore the Council will resist development on garden land. The text also notes that private gardens are excluded from the Government's definition of previously developed land.
7. The Supplementary Planning Document Garden Land Development Adopted April 2013 (SPD) clarifies that garden land means any land within the curtilage of a building the principal use of which is residential. The SPD allows exceptions to the restriction on development in garden land including where the redevelopment of an existing dwelling or group of dwellings to provide multiple dwellings or flats on the same building footprint, plus any appropriate enlargement(s). Appropriate enlargements are defined as the footprint of any permitted extensions (excluding outbuildings) that could be exercised for the dwelling(s).
8. I note the Appellant's view that the proposal meets the definition of appropriate development and is therefore in accordance with SPD. However, no further detail is before me to demonstrate how the proposal would be equivalent to the footprint of permitted extensions, or any increases in footprint already exercised as permitted development. In any event, as permitted development rights for the existing dwelling were removed under condition 8 of the planning permission for the construction of the cottage¹, this exception does not apply.
9. Although part of the proposal would be on the footprint of the existing building, since the proposed block of flats would occupy a garden of a house including hardstanding, it would constitute development on garden land which is resisted in this Policy.
10. Consequently, the proposal would not accord with the Council's development strategy for garden land as it would conflict with CS Policy CS1 and the SPD which resists development on garden land.

Character and appearance

11. The site, which lies on the south side of Tyburn Lane, lies adjacent to a number of historic large, detached dwellings that lie between Tyburn Lane, Grove Hill and Peterborough Road. As these buildings are generally within large plots and sited a moderate distance from the road, the area to the south of Tyburn Lane has a spacious verdant character, distinct from the area to the north.
12. The buildings on the opposite side of Tyburn Lane are three and four storeys tall and are in a triangular layout between Grove Hill Road and Peterborough Road to the north of Tyburn Lane. They are of a range of styles, uses and ages

¹ EAST/1295/02/FUL

that result in a varied dense character on this side of the road. To the west lies The Grove Open Space, a public park that appears open and green.

13. The existing building is a detached bungalow with accommodation in the roof space and has a far closer relationship with this side of Tyburn Lane than the buildings on the opposite side. Despite being sited near the road, given its relatively low height, the existing building is in keeping with the pleasant, verdant character of this area.
14. The site lies within the Roxborough Park and The Grove Conservation Area (CA). As set out in the Roxborough Park and The Grove Conservation Area Study, there is historic interest and high quality architecture throughout the CA, but particularly along Grove Hill and Peterborough Road. A number of properties in this area are listed and are of a range of historic styles united by their common scale, siting and high quality materials. Therefore, the significance of the CA, insofar as it relates to this appeal, lies in the development of high quality residential dwellings with similar scales and siting that are set in attractive green surroundings.
15. Near the site on Grove Hill are The Haven, The Gables and White Tops which are Grade II listed buildings. On Peterborough Road near the site lie Heathfield, Farthings, and Chalgrove which are also Grade II listed buildings. These buildings were designed by Arnold Mitchell predominantly in the Arts and Crafts style in the late 19th century. Grove End is a detached dwelling that lies immediately to the west of the site and is locally listed. Their significance and special interest lie in the evidence of high-status historic vernacular dwellings with original detailing. The verdant character of the gardens and spacing between the dwellings provide a pleasant setting for these listed buildings and positively contribute to their significance.
16. The William Douglas Caroe War Memorial and the park and garden at Grovefields are both locally listed. However, as the memorial is separated from the site and listed dwellings by Grove Hill and given that Grove End lies between the memorial and the site, the site does not lie within their setting.
17. Given the distance between the existing buildings and surrounding buildings, and that they are contained between Grove Hill and Peterborough Road, the site lies within the setting of the surrounding listed buildings. As the existing building is of a traditional character and modest height, it provides a neutral contribution to the setting of the listed buildings.
18. The proposed block of flats would be three storeys high with steep pitched roofs and accommodation in the roof space that would result in a four storey appearance, much taller than the existing building. Moreover, while part of the proposed building would be sited on a similar building line as the existing dwelling, the other part would be sited significantly closer to the road. Accordingly, the proposed building would appear considerably taller than the dwellings to either side. In addition, as the building would occupy most of the width of the plot with a greater height than existing, it would restrict views of the trees to the rear of the site when seen from Tyburn Lane. The proposal would therefore appear imposing and would visually dominate this side of the road, unacceptably damaging the pleasant spacious character and appearance of the CA, thereby harming its significance.

19. The proposed refuse enclosure would be sited at the front of the site, almost at the back of the pavement. The details of the enclosure materials could be secured via a suitably worded condition. However, the siting at the back of the pavement would result in a cluttered appearance that would be prominent from the street. Although I note the examples of refuse bins in the surrounding area, these do not mitigate or justify the siting of the refuse enclosure so close to the pavement and without any soft landscaping to screen them. This aspect of the proposal would also harm the character and appearance of the CA, thereby failing to preserve its significance.
20. When compared to the location and scale of the surrounding listed and locally listed buildings, the refuse enclosure would be comparatively smaller in scale and would not generally be experienced in the same views. Therefore, the proposed refuse enclosure would not harm the setting of these heritage assets.
21. Therefore, notwithstanding the three and four storey building to the south of Tyburn Lane which lie outside the CA, and the proposed traditional style windows and materials, the proposal including refuse enclosure would have a harmful effect on the pleasant verdant character of the area. The proposed increase in permeable footpaths and lawn would not mitigate this harm. The scheme would, therefore, fail to preserve the character or appearance of the CA. As such, it would also harm the character and appearance of the Area of Special Character.
22. The proposal, except refuse enclosure, would also harm the setting of the surrounding listed buildings, thereby detracting from their significance.
23. Consequently, the proposed development as a whole would fail to preserve or enhance the character or appearance of the Roxborough Park and Grove Conservation Area and would harm the setting of nearby listed buildings.

Heritage balance

24. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the limited scale of development, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
25. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings. The proposal would contribute 6 dwellings to the local housing supply within walking distance of services and amenities. There would be economic and social benefits through the contribution of future occupiers to the local community and there would be economic benefits during the construction phase.
26. Given the limited number of dwellings proposed, these benefits would not outweigh the harm to designated heritage assets identified above. This would fail to satisfy the requirements of the Act, the Framework and would conflict with London Plan Policies D3 and HC1, CS Core Policies CS1 and CS3 and DMP Policies DM1, DM6, DM7, DM22, and DM23 which together seek development that enhance local context and character, a high standard of design, preserves the significance of heritage assets including conservation areas and areas of

special character as well as hard and soft landscaping appropriate to the character of the area.

Outlook, light, privacy and private amenity space

27. Proposed Flats 1 and 2 would have one window serving the living space. The flats would be lower than street level and the windows would be roughly at external ground level. From the proposed sections and elevations, the view from the window may extend towards the street. However, it is likely that boundary treatment such as hedges or fence would restrict outlook from this window. Moreover, given that the windows would be close to the back of the pavement, if boundary treatment was not put in place, pedestrians using the pavement could gain close range views into Flat 1, adversely impacting on privacy.
28. Given the close proximity of the windows to the site boundary and that hedges are proposed at ground level in front of the windows, it is unlikely that sufficient daylight and sunlight would enter the main living spaces of these flats. Technical evidence such as a daylight and sunlight assessment has not been submitted to demonstrate otherwise.
29. Therefore, proposed Flats 1 and 2 would not provide a suitable living environment for future occupiers with regard to outlook, light and privacy.
30. In terms of private amenity space, Flats 1, 3, 4, 5, 6, and 7 would not benefit from external private amenity space. Bedrooms 3, 5 and 7 would have 2 bedrooms and could be occupied by small families, whereas Flats 1, 4 and 6 would be likely to be occupied by one or two people.
31. I note the communal private amenity space to the rear of the property. However, the route to access it would be convoluted and via a narrow path. I also note The Grove Open Space located near the site. While this space would be within a short walking distance, it would not fully mitigate the lack of any private amenity space for the flats, particularly for the flats above ground floor that would be occupied by small families. Accordingly, the proposed provision of private amenity space would not be suitable for future occupiers.
32. The proposal would not provide step-free access. Moreover, the primary access would be via a significant number of steps. While I note the evidence regarding a lift, since even the future occupiers of the ground floor would not be able access their dwellings without navigating a steep set of steps, the proposal would not provide a suitable living environment for future occupiers with respect to accessibility. The building would therefore not comply with Building Regulations Requirement M4(2).
33. I note the Appellant's view that an external door to the lounge of Flat 4 could be provided from the side access. However, this is not shown in the drawings and I have necessarily assessed the scheme before me.
34. The bedrooms to Flat 2 benefit from doors to lightwells and some private amenity space. As the bedrooms are not likely to be used throughout the day, the outlook and light would to these particular rooms would be acceptable.
35. The occupiers of Flats 3 and 4 on the ground level may gain views into the private amenity space for Flat 2. However, views would be at an acute angle such that the privacy of the occupiers of Flat 2 would not be unduly harmed.

36. The rear windows for Flats 3, 4, 5, 6, and 7 serve bedrooms, with the exception of one window in Flat 7 which serves a dual aspect lounge/kitchen area. The rear windows of Flats 3 and 5 would be in close proximity to the boundary, close to which appear to be a number of mature trees. While the trees may restrict light to the windows, as the rear windows serve bedrooms which would not be used throughout the day, the outlook and light would be sufficient to provide a suitable living environment for future occupiers.
37. I note the evidence regarding noise and stacking. However, I see no reason why a suitably worded condition would not mitigate the risk of any harm with respect to noise.
38. Consequently, the proposed development would not provide a suitable living environment for future occupiers with regard to outlook, light, privacy, private amenity space and accessibility. Therefore, the proposal would conflict with London Plan Policies D3 and D6, CS Core Policy CS1 and DMP Policies DM1 and DM27 which together seek a high standard of outlook, privacy and amenity and development that provide appropriate amenity space.
39. It would also conflict with London Plan Policies D5 and D7, CS Core Policy CS1, and DMP Policy DM2 which together seek the highest standards of accessible and inclusive design.

Living conditions

40. The proposed building would be sited directly adjacent to the properties at Grove End and Chalgrove. Given the increase in height and mass, the proposed building will be visible from these surrounding properties. However, the neighbouring occupiers would continue to benefit from outlook in other directions such that their living conditions would not be unacceptably harmed by the scheme.
41. Given the close proximity of the proposed building to the boundaries of the site, it is likely that the building would cast a shadow across the rear gardens of these properties. Given the size of these gardens and their orientation in relation to the proposed building, it is unlikely that the proposed building would overshadow the majority of the garden throughout the year. The proposal would therefore not be unduly harmful in this respect.
42. As the rear elevation would be in close proximity to the boundaries of the site, the proposal could result in unacceptable overlooking into the neighbouring gardens of Grove End and Chalgrove, The Haven and Farthing from the upper floor rear facing habitable room fenestration. However, as the rear elevation windows are proposed to be obscure glazed up to 1.7m in height, the harm in this respect would be mitigated and could be controlled by a suitably worded condition.
43. Consequently, the proposed development would not harm the living conditions of neighbouring occupiers with regard to outlook, light and privacy. Therefore, the proposal would not conflict with London Plan Policy D3, CS Core Policy CS1 and DMP Policy DM1 which together seek development that delivers appropriate outlook, privacy and amenity, and respond positively to local context in terms of density and spacing.

Other Matters

44. The proposal would contribute six dwellings to the local housing supply. I note that small and medium sites can make an important contribution to meeting the housing requirement and that decisions should promote and support the development of under-utilised land and buildings. I also acknowledge the evidence regarding brownfield land, town centre vitality and homes being built at low densities as well as the evidence regarding the age of the evidence base of the development plan, the Council's brownfield register and London Plan Policies H1 and H2 relating to increasing housing supply and small sites.
45. The site lies within walking distance of services and facilities such that future occupiers would not be dependent on the private vehicle for day to day needs.
46. I acknowledge the Update to the Local Development Scheme and Statement of Community Involvement. However, from the evidence before me the development plan policies are consistent with the Framework such that I have not attributed them reduced weight.
47. The Council has a deliverable supply of appropriate land sufficient to meet housing targets and the proposal would make a limited contribution to the local housing supply. Therefore, given the unacceptable harm to the character and appearance of the CA and setting of listed and locally-listed buildings as well as the harm to the living environment of future occupiers, the benefits would not outweigh harm.
48. I note the consultation version of the Framework and Written Ministerial Statement (WMS) issued in July 2024. The consultation version of the Framework is not adopted policy and is subject to change. In addition, I recognise that the WMS sets out proposals to support more brownfield development. Given the harm identified above, these matters have not altered my overall decision, and parties have not been prejudiced in this respect.
49. I acknowledge the comments of the Inspectors for the cases noted by the Appellant including at Boxtree Road and Uxbridge Road. However, while I note the similarities with this appeal, as those proposals were in different locations, some distance from the appeal site, they are not directly comparable with this appeal, particularly in terms of character and appearance. These appeals have therefore not altered my overall decision.

Conclusion

50. For the reasons given above the proposal would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

R Sabu

INSPECTOR