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## Appeal Decision

Site visit made on 25 October 2024

**by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

**Decision date: 11 November 2024**

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**Appeal Ref: APP/R5510/W/24/3345820**

**110 Torcross Road, Ruislip Hillingdon HA4 0TG**

- 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 Andy Collins against the decision of the London Borough of Hillingdon.
  - The application reference is 22474/APP/2024/897.
  - The development proposed is described as the 'Proposed conversion of garage into 2 storey 1 bedroom single family dwelling.'
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. During the course of the appeal, the Appellant in their final comments submitted an amended plan<sup>1</sup> for the refused scheme and has sought that I consider this plan as part of the appeal. The Appellant has stated that the difference between the amended and refused plan is the removal of the vehicular crossover which would address Reason For Refusal No. 4 (Trees) and 5 (Vehicular Crossover). Upon reviewing the amended plans there is also a change to the roof form from hipped to pitched and gabled roof, as well as the removal of the front porch and two storey projecting bow window from the front facade. In general the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council. There is no evidence that the amended plans formed part of the scheme that the Council made its decision on, or that the amended plan has been subject to any form of consultation with the community where there are comments from interested parties regarding the proposed scheme. Taking into account these considerable departures from the refused scheme, in accordance with the 'Wheatcroft Principles'<sup>2</sup> it would not be appropriate to consider these amended plans within my decision as the acceptance of such would deprive those who should have been consulted on the changed development of the opportunity of such consultation. As such, I will base

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<sup>1</sup> 'Proposed conversion of garage into 2 storey 1 bedroom family dwelling, Drg No 110TR/P200 Rev A, Dated May 2023

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

my decision solely upon the plans that were assessed by the Council during the original planning determination<sup>3</sup>.

3. I note that on the refused plan<sup>4</sup> that the 'Proposed Site Plan' shows the roof of the proposed dwelling as being pitched and gabled which does not match the elevation plans or the 1<sup>st</sup> floor plan (which shows the outline of the hipped roof). Despite this, it is clear to me that the proposal is for a hipped roof and I have made my decision on this basis.
4. The Council's Decision Notice contains five reasons for refusal. As Reason No.s 2 and 3 both deal with living conditions, I have dealt with these together under the matter of living conditions.

### **Main issues**

5. Taking the above into account, the main issues are:
  - The effect of the proposed development upon the character and appearance of the locality;
  - The effect of the proposed development upon the living conditions of the existing and future occupiers, with particular regard to the provision of private garden space, standard of accommodation, privacy, and outlook;
  - The effect of the proposed development upon the street tree to the front of the proposed dwelling; and
  - Whether the vehicular crossover is appropriate to cater for the proposed development, taking into account policies relating to vehicle crossovers.

### **Reasons**

#### *Character and appearance*

6. The appeal property is located to the rear garden of No.110 Torcross Road, where a garage has been erected which is accessed from Exmouth Road which runs along the side boundary of No.110 and would be the new access and frontage to the proposed dwelling. To the rear boundary of No.110 Torcross Road is a narrow vehicular access and alleyway to the rear of properties. Given the street tree that has been erected on the grass verge to the front of the garage, vehicular access to the garage is taken from the alleyway.
7. The surrounding development consists of terraced and semi-detached dwellings which appear to be part of a speculative housing development that dates from the mid-twentieth century. Typical of this type of development there is a very regimented layout and style of dwellings with similar design characteristics and the use of materials. Dwellings are predominantly two storeys tall and constructed of brick with pebbledash render with hipped clay roof forms with forward projecting gabled roof and coaxial chimney stacks. To the rear of dwellings are good sized undeveloped

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<sup>3</sup> It is also noted that the Appellant in their SoC notes that there is an amended plan showing a bay window and hipped roof form and seeks that this is approved as part of this appeal. According to the Council's Officer Report, this plan was submitted as an amended plan during the planning application and forms the refused plan as indicated on the Council's Decision Notice. As such there is no requirement to approve this amended plan.

<sup>4</sup> 'Proposed conversion of garage into 2 storey 1 bedroom family dwelling,' Drg No 110TR/P200, Dated May 2023

rear gardens with vegetation that can be seen through gaps in between dwellings and over rear gardens which add positive elements of vegetation along with large grass verges with street trees at the beginning of Exmouth Road where verges are repeated through the estate such as along nearby Shaldon Drive and Queens Walk. The undeveloped nature of the rear of dwellings together with visual gaps within setbacks between and around dwellings emphasise a spacious quality of the locality. Boundary treatment consists of low dwarf front boundary walls which adjoin the footpath. Whilst some boundary walls have been removed for vehicular parking, there is some presence and delineation of garden area. These positive attributes to the character of the street scene helps to inform qualities of local distinctiveness, and the character and appearance of the area.

8. In undertaking the development of a new dwelling, the Hillingdon Local Plan Development Management Policies (LPDM) Policies DMHB11 and DMHB12 are design led policies relating to new development, streets and the public realm and seeks that development achieve a number of design principles such as being integrated with the surrounding area, appreciate scale, height, massing, building lines and gaps between structures, amongst others. LPDM Policy DMH 6 is specifically related to garden and back land development where there is a presumption against the loss of gardens and the need to maintain local character, amenity space and biodiversity. Policy D3 of the London Plan is also referred to which seeks a design-led approach in new development.
9. Unlike the surrounding context, the proposed dwelling would introduce built form to the rear of the plot which has little relationship to the character and appearance of the street scene. Whilst the proposed front building facade would be in line with the side wall of No.110 Torcross, the front façade would sit behind the front façades of dwellings along Exmouth Road, the dwelling would take up a large proportion of the rear garden of No.110 Torcross Road with both the existing No.s 110 and 110A Torcross Road and the proposed development having significantly undersized private gardens when compared with those surrounding. Unlike dwellings along Exmouth Road, the proposed dwelling would not maintain similar a line of the front facade from the road edge or have a large front garden with delineated boundary wall. The proposed front of the dwelling would have a very small area to the front as much of the front of the property forms the grass verge along Exmouth Road. The proposed dwelling would not integrate well or be in-keeping with the general layout and pattern of development in the area.
10. The proposal would also not adhere to the spacious quality of the area and would be experienced as a cramped development that intrudes into the open and undeveloped aspect to the rear of properties that is experienced along side streets such as Exmouth Road. When combined with the lack of appropriately sized front garden and the minimal setback from the front and side boundaries, and the small garden spaces proposed for the existing and proposed dwellings, the appeal scheme would also be at odds with the development surrounding, and have a cramped and incongruous presence that would be detrimental to the positive qualities of this locality.
11. The Appellant has submitted a number of appeal decisions which seek to demonstrate the acceptance of the proposed scheme in order to illustrate a

transparency in decision making that these types of proposals are approved. Appendix 1<sup>5</sup> contains a scheme which consisted of the demolition of a garage located to the rear of a dwelling along Seaton Gardens. In this case the only matter before the Inspector related to the living conditions, which is materially different to this scheme which considers character and appearance, trees amongst others. This site also has different design and layout characteristics which contribute to local distinctiveness than to the current appeal site. As such it is not analogous to the considerations of this appeal. Appendix 2 contains refused and approved appeal decisions<sup>6</sup> for the same site which is within the same collection of rear gardens fronting Hatherleigh Road as Appendix 3 which contains an approved and refused appeal decisions<sup>7</sup>. Whilst nearby, both these appeal sites have different design and placement characteristics which inform their local distinctiveness when compared to the appeal site where rear gardens and the lack of rear development is a positive characteristic where the Inspector notes that the street scene in these example appeal cases had been altered considerably. This is not the case in this appeal. Given that there are also refused appeals for the same site, it indicates that each of the schemes were considered on their merits and that particular circumstances justified the approved appeals as they did the dismissed appeals. Taking the above into account, the appeals submitted are not analogous to the circumstances of the appeal and have limited weight in this determination.

12. Given my above reasoning and in conclusion of this matter, the proposed scheme would cause significant harm towards the character and appearance of the area with the overall layout and positioning of the dwelling when compared to the surrounding, including the resultant impacts to sizes of rear and front garden of the proposed and surrounding dwellings being uncharacteristic of the area. The scheme would therefore be contrary to LPDM Policies DMHB11, DMHB12, and DMH 6 as described previously.

### *Living Conditions*

13. LPDM Policy DMHB18 seeks that private amenity space be designed so that it is of good quality, private and useable, where a one bedroom dwelling should have a minimum area of 40sqm. The proposal provides a rectangular amenity space to the rear with sufficient dimensions of 6 metres x 7 metres, a total of 42Sqm. I note that the refuse store is placed within the space, however this could be relocated within the site to allow the free space of 40Sqm. The amenity space in terms of its shape and size is useable for the future occupants and subject to relocation of the bin store would be compliant with LPDM Policies DMHB16 and DMHB18. When considering the privacy of the garden space, given the loss of depth of rear gardens to facilitate the proposal, the private amenity space of the proposed garden would have an increased perception of being overlooked, particularly from first floor level of No.110A Torcross Road, but also from No.s 110 and 112 Torcross Road. Whilst I appreciate that 110A's first floor is set back behind the first floor of No.110 this does not mitigate the perception of overlooking to a much greater extent.

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<sup>5</sup> Appeal Decision No. APP/R5510/W/21/3282910, 45 Seaton Gardens, Dated 14 February 2022

<sup>6</sup> Appeal Decision No.s APP/R5510/W/20/3254564 & APP/R5510/W/20/3255436, 21 & 21A Hatherleigh Road, Dated 5 October 2020

<sup>7</sup> Appeal Decision No.APP/R5510/W/15/3016551 & APP/R5510/W/15/3016551, 39 & 39A Hatherleigh Road, Dated 21 August 2015

14. I can appreciate comments from the Appellant's SoC where in their opinion overlooking of rear gardens is a standard feature and unavoidable and that this is what one expects when living in a city. Whilst this may be the case to some extent, the policies of the development plan seek to make determinations and judgements regarding the quality of private garden space and perception of overlooking from new developments and the useability of space are key considerations. There are also considerations around the types of garden lengths and widths which can impact a residents perception of whether they feel the space to be private. Users of the proposed rear garden would not have an overall strong sense of privacy which is predominantly due to the decreased depth of rear gardens which provide closer views and increased perception of overlooking over the proposed rear garden space from No.s 110, 110A and 112 Torcross Road. As such the proposal would not maintain a sufficient amount of privacy as a result of increased perception of overlooking caused to the rear garden of the proposed scheme, which would be contrary to LPDM Policies DMHB 11 and DHMB 18.
15. The reason for refusal also notes that the gardens of 110 and 110A would be affected by loss of privacy from overlooking. Whilst there is a first floor window that overlooks the rear gardens, this window is for a stairwell landing and hence is a non-habitable room, but could be made obscure in order to avoid any potential perception of overlooking. As such, I do not consider there to be any concerns regarding overlooking from the proposed property towards 110 and 110A Torcross Road, which would be compliant with LDPM Policy DMHB 11.
16. Turning to outlook, the proposed dwelling would be positioned so that its flank wall would be directly to the rear of 110 Torcross Road where there would be a two storey wall running the width of the rear garden. The dwelling would be set back from the side boundary which would allow for some mitigation, however the outlook from the rear garden would be to either side of the garden and not towards the rear. Given the reduced depth of the rear garden, there would be a noticeable change to the sense of outlook, however given the setback and the unrestricted outlook to either side, this would not be to an unacceptable level that would cause material detriment to the living conditions of the existing occupiers at 110 and 110A Torcross Road.
17. Taking the above into account and in conclusion of this matter I have agreed with the Appellant that the proposed scheme would not cause adverse detriment to living conditions from overlooking and sense of enclosure towards 110 and 110A Torcross Road and would have a sufficient size of rear garden space. However, the proposed scheme would cause detriment to living conditions from a lack of privacy caused by overlooking of the proposed rear garden. Taken as a whole, the scheme would still cause adverse detriment to living conditions and be contrary to LPDM Policies DMHB 11, DMHB 12 and DMHB 14 and DHMB 18.

#### *Impact toward tree*

18. There is a tree planted on the grass verge outside the property that the Council considers could be affected by the proposed development. The requirement to protect trees, public realm and biodiversity is illustrated by the Hillingdon Local Plan Strategic Policies (LPSP) Policy BE1, and LPDM Policies DMHB11, DMHB12, and DHMB 14. The London Plan Policies D3, D4, and G7 also seek the consideration of and protection of positive features such as trees towards character and the public realm.

19. The application was refused due to there being not enough information to enable a judgement to be made with regards to the impact upon the tree. The Appellant's SoC does not provide any additional information with regards to the tree, other than to highlight other applications that have been approved for the vehicular crossover. I am unclear whether these other applications also contained information or Arboricultural reports with regards to the tree. Despite this, based on the information before me, it is not possible to ascertain the impact upon the street tree located to the grass verge to the front of the site. As such on this basis, the proposal fails to accord with LPSP Policy BE1, and LPDM Policies DMHB11, DMHB12, and DHMB 14 and the London Plan Policies D3, D4, and G7.

#### *Vehicular Crossover*

20. It is proposed to undertake operational development to install a vehicular crossover over the grass verge in front of the property. The red line shown on the proposed plan which seeks consent for the development that includes the access does not include the grass verge in front of the property within the red line which from the appeal documents appears to be part of the adopted Highway. I note that the Application Form submitted by the Appellant has Certificate A signed, which would mean that the Appellant is the owner of the site encapsulated by the red line. Given that the crossover is outside the red line it would appear that the incorrect Certificate has been signed as the Appellant would need to serve notice upon the owner of the grass verge and the signing of a different certificate in the Application Form.
21. I understand from the Appellant's SoC that they have obtained planning permission for the construction over the grass verge, however I do not have any details submitted as part of this appeal which would include either the red line boundary being drawn over the grass verge with a different certificate signed and notification, or some form of legal agreement which allows the use of this grass verge to allow the construction of and to facilitate access. Additionally, if the Appellant is correct that they are able to construct an access in a different location across the grass verge as suggested, the granting of this application would not alleviate this action from occurring, resulting in the potential of further grass verge being removed, to the detriment of the character and appearance of the locality. If this was the case, any approval of a vehicular crossover over the grass verge should seek an agreement that any previously consented crossovers would not be constructed.
22. It would appear that planning consent is sought for operational development outside of the red line boundary, on land which is not controlled by the appellant and to which no notice has been served. Additionally, there is not enough information to give certainty as to the extent of loss of vehicular crossover. For these reasons and in conclusion of this matter, this matter is dismissed on procedural grounds. The proposal would therefore be contrary to LPDM Policy DMT2 and DMT6 which seek that appropriate provision and design of car parking and access which is appropriate for the development.
23. I note LPDM Policy DMT is utilised in the Decision Notice, however this is a policy around meeting the transport needs of the development. Given the location of the development, I do not consider this policy to be relevant to the determination of this particular matter.

## **Other Matters**

24. I note comments from interested parties with regards to loss of property value, noise and road closures from construction, increase in traffic, highway safety, appellant burning waste and creating toxic fumes, and loss of sunlight to 110 Torcross. Property values or the actions of the appellant in creating toxic fumes is not a planning matter and has not been considered within this determination. Noise and construction can be controlled via a condition if planning permission would be approved. Given the lack of compliance with the Development Plan with regards to the above matters, it has not been necessary to look into matters such as highway safety or loss of light.
25. I note that the Framework encourages the development of small sites and making effective use of urban land in accessible locations. I also note the benefits which derive from the generation of short term employment opportunities in the construction of the scheme, the contribution of a dwelling to the Council's housing supply and the resultant local expenditure from future occupiers to local services. Whilst these benefits favour the scheme it does not outweigh the harm I have identified.

## **Conclusions**

26. For the reasons given above, the appeal is dismissed.

*J Somers*

INSPECTOR