

Appeal Decision

Site visit made on 30 September 2024

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/M5450/W/24/3344844

Land to rear of 183 Everton Drive, Stanmore HA7 1EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Daejan Properties Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref is P/3425/22.
 - The development proposed is construction of 2no. residential dwellings (Use Class C3), together with car parking, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2no. residential dwellings (Use Class C3), together with car parking, landscaping and associated works at Land to rear of 183 Everton Drive, Stanmore HA7 1EB in accordance with the terms of the application, Ref P/3425/22, subject to the conditions in the attached schedule.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised in December 2024. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment.
3. It is clear from the officer report that the Council's second refusal reason relates to the outlook from the habitable living rooms and bedrooms of Unit 2 in proximity to the boundary fencing. I have dealt with the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the proposal would provide acceptable living conditions for intended future occupants with regard to outlook and noise, and
 - whether suitable measures to manage flood risk, sustainable travel and refuse provision can be provided.

Reasons

5. The appeal site is a vacant plot, within an urban location with, predominantly, built-up surroundings that include residential and commercial buildings. Properties on Lowther Road are two-storey with stepped rear elevations and

from the evidence before me consist of flats. The windows to the first floor are predominantly clear-glazed and directly overlook the appeal site.

Living conditions

6. The proposed development would extend approximately the full length of the boundary with Lowther Road with the overall footprint irregular in shape. The living/kitchen/dining rooms (LKD) of both units would be dual aspect and the bedrooms of Unit 2 would be single aspect.
7. Outlook from the smaller secondary windows of each LKD and Bedroom 01 of Unit 2 would be towards the shared boundary with 181 and 183 Everton Drive (Nos 181 and 183), with a path separating the windows from the proposed tree planting. Whilst the path would be narrow these windows would have a largely unobstructed outlook onto an area of planting, which separates it from the boundary beyond. In contrast, the largest windows within each units LKD would be set off the boundary further and look out onto the proposed private external amenity areas. When taken together with the orientation of the proposed development to its boundary, the outlook from habitable rooms would not be harmful to the wellbeing or health of its prospective occupants.
8. The proposed development would be a new build, connecting two units in a semi-detached arrangement. Despite the LKD of unit 1 sharing a wall with both bedrooms of unit 2, the Supplementary Planning Document: Residential Design Guide (2010) (SPD) is clear that its requirement to avoid horizontal arrangement of rooms relates to flats within a block where possible. Subject the imposition of a condition controlling sound insulation, I am satisfied that noise transfer between units would be mitigated to ensure a good quality of living conditions is secured for future occupiers.
9. For the reasons above, I conclude that the outlook from habitable rooms and noise transfer between units would not be harmful to future intended occupiers and acceptable living conditions would be provided. As such there would be no conflict with policies D3 D (7) and D6 of the London Plan (2021), or policy DM1 of the Development Management Plan 2013 (DMP). These collectively seek to ensure that development achieves a high standard of privacy and amenity. There would also be no conflict with the SPD which seeks to ensure, amongst other matters, that amenity spaces are private gardens. Furthermore, there would no conflict with the Framework insofar as it seeks to ensure development creates places with a high standard of amenity for future users.

Flood Risk

10. Policy CS1 U of the Harrow Core Strategy (2012) (Core Strategy) seeks to ensure that development achieves an overall reduction in flood risk and increases resilience to flood events.
11. The Framework clarifies that the sequential approach and tests should take account of all sources of flood risk when allocating or permitting development. This approach is now reflected within the Planning Practice Guidance (PPG).
12. Paragraph 174 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas

with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

13. The proposed dwellings would comprise a single storey and two storey dwelling, which equates to a 'more vulnerable' use. The PPG¹ states such development in Flood Zone 3a requires an Exception Test and in Flood Zone 3b should not be permitted.
14. While the Officer Report explains that the site is within Flood Zones 3a and 3b for surface water flooding (SWF) and a Critical Drainage Area, there is no substantive evidence before me to demonstrate the presence of the site within Flood Zone 3b. Hence, I have proceeded to determine the appeal on the basis that it is not.
15. Notwithstanding some uncertainty with regard to the robustness of the mapping data used, the appellant accepts that the site is susceptible to SWF, which the submitted Flood Risk Assessment² (FRA) seek to address. I have also been referred to the West London Strategic Flood Risk Assessment (SFRA).
16. The FRA identifies the appeal site as previously developed and classifies it as a windfall site. Therefore, despite the appellant's comments regarding the applicability of the sequential test, the analysis undertaken of data in Harrow and neighbouring Brent to identify suitable site for allocation to achieve the required housing targets, indicates none were forthcoming. The requirement for a sequential test has therefore been passed under the provisions set out in the SFRA. Whilst the Council suggests the FRA is inadequate, it does not specifically interrogate the analysis and I have no reason to conclude it is deficient in any way.
17. This therefore brings me to the Exception Test and paragraph 178 of the Framework requires that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. This is consistent with Policy DM9 of the DMP which seeks to ensure that development will be resistant and resilient to all relevant sources of flooding including surface water, and satisfy criteria a-e.
18. The proposed development would provide good-quality housing within an established residential area and visually improve the appearance of the site through the introduction of landscaping and a green roof. The proposed development would therefore satisfy criterion a. of the Framework.
19. The ground floor levels would be raised 300mm above the minimum external ground level to prevent ingress of overland SWF flows. As the 'maximum' flood level is below the lowest minimum ground level, this approach would build resilience to SWF. This matter could be addressed by a suitably worded condition.
20. The FRA is clear that there would be no obstruction of flood flows. It identifies the incorporation of permeable paving and landscaping to increase the

¹ Table 2: Flood Risk Vulnerability Classification

² Flood Risk Assessment, Revision C03, dated 6 June 2023.

permeability within the site. Whilst the underlying geology is impermeable and therefore the benefit of permeable surfaces is limited, the Technical Note dated 05/06/2023 states that the stormwater drainage design for the site reduces the runoff rate to 2l/s, thus leading to a 93% reduction in runoff rate for the 100 year +40% climate change event. Sustainable Drainage Strategy drawing 20229-SWD-DP-01-P01 clearly identifies the location of the sustainable drainage system (SuDS) features, which could be secured by a planning condition. Hence, SuDS features would ensure SW runoff would not increase the risk of flooding elsewhere.

21. The FRA also contends that a maximum flood depth would be less than 100mm. Even if periods of flooding would be expected to last for short periods and residents would be dry within their homes, it does not necessarily ensure that a dry means of escape would be provided. However, the Council only sought clarification of safe access/egress for emergency services vehicles. Based on the evidence before me regarding the extent of flooding that could occur, agreement to a safe route for emergency services is something that could be reasonably addressed by a planning condition.
22. For the above reasons, there is nothing to suggest the development would not be capable of satisfactorily addressing the issue of flood risk and not increase flooding within the site or elsewhere. The proposal accords with policies SI12 and SI13 of The London Plan, policy CS1 criterion U of Core Strategy, policies DM9 and DM10 of the DMP and the Framework, in so far as they collectively seek to achieve an overall reduction in flood risk and increased resilience to flood events.

Sustainable travel and refuse

23. Policy DM42 of the DMP is supportive of proposals where the number of cycle parking spaces meets or exceeds the minimum London Plan standards. Moreover, for this development, Policy T5 of the London Plan states that 2 cycle spaces should be provided for each dwelling. Policy DM45 of the DMP also requires all proposals to make on-site provision for general waste, the separation of recyclable materials and the collection of organic material for composting.
24. The appellant's Proposed Ground Floor Plan identifies the location of 2 cycle stores and provision of 2 refuse bins within the private amenity area of each dwelling.
25. Whilst each cycle store identifies one cycle, I have no convincing evidence before me to state that it could not accommodate an additional cycle to address the policy requirement. As each dwelling would have independent cycle storage, the use of each storage space for two cycles would therefore not encumber any other party.
26. With regard to refuse bins, the appellant contends that a third bin is an optional service for Harrow's residents and that an additional 240-litre bin could be accommodated within the site should it be required. The Council has also not provided any definitive evidence to suggest that an additional bin could not be accommodated within the site.

27. For the above reasons, there is no substantive evidence before me to suggest the development would not be capable to providing adequate provision for cycle and refuse provision. As such the proposal complies with policies D3 and T5 of the London Plan, Policy CS.1B of the Core Strategy, and Policies DM1, DM42 and DM45 of the DMP and the SPD. These collectively seek to ensure the functionality of the development including, but not limited to, the parking and servicing and the capacity for waste, recycling and composting. The development would also comply with the Framework which seeks to ensure developments are, amongst other matters, enable and support healthy lifestyles through the provision of secure cycle parking.

Other Matters

28. I note the Council's concerns in its officer report regarding the potential for the proposed development to be overlooked or there to be some level of perceived overlooking, particularly from properties along Lowther Road. However, the Council has not raised this in its decision notice. Even if the first floor windows to Lowther Road are clearly glazed, the appeal site is an urban situation and a degree of overlooking would be acceptable. As such I give this matter little weight.

Conditions

29. In addition to the standard time limit (1) a condition specifying the plans (2) is necessary in the interests of certainty. To protect the character and appearance of the area I have imposed conditions relating to materials, hard and soft landscaping and boundary treatments (4, 5, and 6).
30. A condition requiring the SuDS features to be built and maintained in accordance with the approved plan (9), and the submission of details with regards to the green roof (11), and safe access/egress for emergency vehicles during flood events (10) have been included, these are necessary to reduce the risk of flooding at the site.
31. To safeguard the living conditions of future intended occupants a condition is necessary to secure mitigation details to address noise transfer between properties (12).
32. To ensure that the development provides satisfactory secure cycle parking and refuse and recycling storage (7) a condition is necessary which require implementation of approved details and their subsequent retention within the site. A condition is also necessary in the interests of highway safety requiring the implementation and retention of car parking spaces (8).
33. To safeguard the living conditions of nearby residents with respect to air quality, and noise and disturbance, a pre-commencement condition is necessary to secure a Construction Method Plan (3).

Conclusion

34. I conclude that the proposal would not harm the living conditions of future occupiers with regard to noise and disturbance, it would provide satisfactorily address the issue of flood risk by not increase flooding within the site or elsewhere, and would make adequate provision for cycle and refuse provision. The scheme would therefore comply with the development plan taken as a

whole and there are no material considerations to indicate a decision other than in accordance with the development plan.

35. For these reasons, I conclude that the appeal should succeed.

L Clark

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan (2020-043_1000)
 - Proposed Site Plan (2020-043_2100)
 - Proposed Ground Floor Plan (2020-043_2110)
 - Proposed First Floor Plan (2020-043_2111)
 - Proposed Roof Plan (2020-043_2112)
 - Proposed Elevations (1) (2020-043_2200)
 - Proposed Elevations (2) (2020-043_2201)
 - Proposed Sections (2020-043_2220)
3. No development shall take place, until a Construction Method Plan (CMP) has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i. Details of the routing of construction vehicles to the site, including hours of access and access and egress arrangements and security procedures;
 - ii. Details of interim car parking management arrangements for the duration of the construction;
 - iii. Details showing how wheels of vehicles associated with the construction works are washed to prevent the spread of mud onto the highway;
 - iv. Measures to control the emission of dust during construction including details of suppressing dust and containing stored or accumulated materials;
 - v. A scheme for recycling/disposing of waste resulting from construction works;
 - vi. Measures to minimise noise/vibration disturbance to nearby residents from plant and machinery;
 - vii. Delivery and construction working hours;
 - viii. The name, role and contact details of the authorised personnel responsible on-site for fulfilling the CMP, during the course of the construction of the development.

The approved CMP shall be adhered to throughout the construction period for the development.

4. No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
5. No development above ground level shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include planting specifications and numbers. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied or the completion of the development, whichever is the sooner; in accordance with an agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. Prior to the occupation of either dwelling hereby permitted, the boundary treatment shall be erected in accordance with the approved details and shall be maintained and retained thereafter.
7. Prior to the occupation of either dwelling hereby approved, secure cycle parking and refuse storage for recycling containers and wheeled refuse bins shall be constructed in accordance with the approved details. After which each space shall thereafter be retained as secure cycle parking and refuse storage for recycling containers and wheeled refuse bins for the occupiers of the approved development.
8. None of the dwellings hereby permitted shall be occupied until the vehicle parking spaces shall have been provided in accordance with drawing no 2020-043_2100. Thereafter those spaces shall be retained for the parking of vehicles only.
9. No development above ground level shall take place until details of the implementation, maintenance and management of the sustainable drainage system, shown on approved drawing 22029-SWD—DP-01 Rev P01, have been submitted to and approved in writing by the local planning authority. Those details shall include: i. a timetable for its implementation; and, ii. a management and maintenance plan for the lifetime of the development. None of the dwellings hereby permitted shall be occupied until the sustainable drainage system has been implemented and it shall be managed and maintained in accordance with the approved management and maintenance plan.
10. The development hereby permitted shall not be occupied until details of safe access/egress for emergency services vehicles, in the case of a flood event, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

11. The development hereby permitted shall not be occupied until details including a maintenance schedule of the proposed green roof for Unit 02 have been submitted to and approved in writing by the local planning authority. The green roof shall be implemented in accordance with the approved details and retained thereafter.
12. No development above ground level shall take place until details of the sound insulation measures to mitigate noise transmission between the properties to mitigate noise transmission between proposed units have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and be retained as such thereafter.

*** END OF CONDITIONS ***