



Appeal Decision

Site visit made on 6 October 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 October 2025

Appeal Ref: APP/N1540/W/25/3370858

4 Lower Meadow, Harlow, Essex CM18 7RD

- 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 Mr Simon Champ of T&S Housing Ltd against the decision of Harlow District Council.
 - The application Ref is HW/FUL/25/00098.
 - The development proposed is the erection of 2-storey, 3 bedroom end of terrace dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - biodiversity assets, with particular regard to trees;
 - the character and appearance of the area;
 - the living conditions of neighbouring occupiers, with particular regard to privacy;and,
 - whether the proposal would make adequate provision for any additional need for sustainable transport improvement arising from the development.

Reasons

Biodiversity

3. Policy PL7 of the Harlow Local Development Plan (HLDP) (2020) outlines that the acceptability of development will be partially assessed in relation to the impacts that the development would have on trees and hedges, including proposed measures to mitigate any impacts. Policy PL8 of the HLDP goes on to state that green infrastructure and landscaping must be protected and enhanced as part of development. Policy PL9 of the HLDP states, amongst other matters, that development must conserve and enhance existing biodiversity assets.
4. Whilst the appellant has undertaken the necessary submissions relating to biodiversity net gain, a detailed tree assessment has not been undertaken in relation to existing tree specimens both within the site, and in close proximity, along the nearby public footpath. In the absence of such information, I am not able

to conclude that the development would not have an adverse effect on existing tree specimens.

5. I note that the specimens within the appeal site itself are relatively modest in their size and extent, and that the appellant intends to retain them, stating that their protection could be secured by an appropriately worded condition were the appeal to otherwise succeed. However, the proposed plans do not indicate the positioning of the existing trees and based on my site observations I am not convinced that their retention would be a plausible option given the proposed footprint of the dwelling. I therefore cannot be satisfied that the protection of the existing trees could be a matter left to condition.
6. The trees adjacent to the public footpath are far more substantial in their scale and extent. Subsequently they have a strong and positive effect on the overall biodiversity value of the surrounding area. In the absence of evidence to the contrary, I cannot be satisfied that the proposal would not adversely affect their longevity. This is not a matter that could be left to condition as the results of any survey works may warrant more substantial revisions to the proposal, for example to the footprint position of the proposed dwelling.
7. Based on the above, I cannot be satisfied that the proposal would not have a harmful effect on biodiversity assets, with particular regard to trees. In this respect it would be contrary to Policies PL7, PL8 and PL9 of the HLDP. The Council's reason for refusal also refers to Policy WE3 of the HLDP but this refers to international, national and locally designated wildlife sites. Based on the evidence before me, I find little direct relevance to this policy.

Character and appearance

8. The appeal site forms the end terrace of one of four two storey properties which share a high degree of consistency in the street scene. The scale, form and appearance of the terraced row displays a uniformity which is prevalent in the immediately surrounding area through several similar rows of terraces.
9. Given the arrangement of the terraced rows, which are typically built perpendicular to the street, the general consistency in the front and rear building lines of the rows are a notable feature of the area. The appeal site forms part of a row which has increased prominence noting its position adjacent to an area of grassed open space and the presence of a public footpath which runs alongside the appeal site.
10. The appeal proposal would take cues from the appearance of the existing terraced row, including through its flat roof design and the proposed use of materials. However, to achieve the width of the proposed dwelling within the shape of the plot, the front building line would notably be set back from the existing dwellings within the terraced row. At the rear, it is proposed that the ground floor would also extend beyond the rear building lines of the existing terraced row.
11. Nevertheless, there are already some inconsistencies to building lines both within the terraced row which the appeal site would form part of, and in the wider area. During my site visit I observed that in some instances, rear building lines are inconsistent within an established row, even at two storey height. The existing dwelling at 4 Lower Meadow already extends marginally beyond the other properties in the row at the rear. Whilst the proposed dwelling would extend even

further beyond this, it would primarily be through a single storey rear element with a limited height achieved through a flat roof design.

12. Based on the above, the failure to respect the existing building lines would not be such a notable deviation that it would disrupt the established urban grain of the surrounding area. The appeal site could accommodate the existing dwelling without appearing as an overdevelopment of the site. The effect on the character and appearance of the area would therefore be acceptable.
13. In respect to this main issue, the proposal would comply with Policy PL1 of the HLDP which seeks to achieve a high standard of design for all development through numerous criteria. One of these is that development must protect, enhance or improve local distinctiveness, including through taking account of local character and context. It would also comply with Policy H2 of the HLDP which, amongst other matters, requires residential development, including infill development, to not have an unacceptable adverse effect on the character of the locality and the appearance of the street scene.

Living conditions

14. Policy PL2 of the HLDP states that in assessing the acceptability of development on amenity, numerous criteria, including privacy and overlooking will be considered. The Council's Design Guide Addendum (2021) sets an expectation for directly facing habitable room windows to normally require a minimum separation distance of 18 metres, except where the existing character of the area varies from this.
15. The distance between the rear first floor windows of the proposed dwelling, and the front first floor windows of the dwellings to the south would fall notably short of the 18 metre distance referred to in the Council's design guidance. However, the guidance explicitly outlines a degree of flexibility depending on existing site circumstances. In this case, the first floor rear elevation of the proposed dwelling would align with the terraced row to which it would be attached.
16. Whilst I accept that there may be some intervisibility between windows, this would not be materially different to the relationships which are already established through the original street pattern of the terraced blocks. The proposal would therefore not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to privacy. On this basis the proposal would comply with Policy PL2 of the HLDP.

Sustainable transport

17. The Council has advised that a financial contribution is required towards the provision of Harlow's Sustainable Transport Corridor (STC). Although the appellant has confirmed a willingness to provide this, I have not been provided with a planning obligation.
18. Policy IN6 of the HLDP refers to planning obligations, stating that permission will only be granted if provision is secured for related infrastructure, and any planning contributions which are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. Policy SIR1 confirms that an Infrastructure Delivery Plan (IDP) has been prepared for the Harlow area which identifies and prioritises

infrastructure projects required in the Local Plan period, and sets out funding mechanisms and lead agencies responsible for their delivery.

19. The Council's statement contends that the IDP expects all windfall sites to make provision for STC contributions to the sum of £5,976.92 per dwelling. However, I have not been provided with any detailed evidence to explain the effect that the appeal proposal might have on transport infrastructure to a degree that it would justify such a contribution for a single, three-bedroom property. Planning Practice Guidance is clear that the community infrastructure levy is the most appropriate mechanism for capturing developer contributions from small developments.
20. Accordingly, I cannot be certain that the contributions sought would be necessary to make the development acceptable or that they would be directly related to the development and fairly and reasonably related in scale and kind. Consequently, and notwithstanding the aims of development plan policy, I am unable to conclude that a planning obligation seeking to provide this contribution would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development and I find no direct conflict with Policies IN6 or SIR1 of the HLDP.

Other Matters

21. The proposal would be acceptable in numerous respects including in relation to flood risk, drainage, effect on living conditions and transport matters. Nevertheless, these factors do not specifically weigh in favour of the proposal.
22. The proposal would provide an additional dwelling in a sustainable location, utilising part of an existing residential plot, whilst retaining an adequate garden area for that plot. The National Planning Policy Framework recognises the benefits that windfall, and small to medium sized sites can have on overall housing delivery. The proposal would also present the opportunity to add to the local workforce of existing commercial uses. Whilst these represent economic and social benefits of the proposal, in the context of a single dwelling, the benefits are modest and not sufficient to outweigh the harm that I have identified in respect to biodiversity, to which I have given significant weight.
23. I note that the appellant feels dissatisfied with the Council's handling of the application. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

Conclusion

24. Whilst I have found no harm in relation to character and appearance, living conditions or sustainable transport, neither this or the benefits of the proposal outlined above, outweigh the harm in respect to the effect on biodiversity with particular regard to existing trees. This brings the scheme into conflict with the development plan when read as a whole, and material considerations do not indicate a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

L Gardner

INSPECTOR