
Appeal Decision

Site visit made on 25 January 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 February 2022

Appeal Ref: APP/R5510/W/21/3284688

Land behind 1 and 3 Lulworth Waye, Lulworth Waye, Hayes UB4 0HN

- 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 Contract Beds Holdings Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 75713/APP/2021/2629, dated 14 June 2021, was refused by notice dated 26 August 2021.
 - The development proposed is erection of two x 2-bed semi-detached dwellings with associated parking and amenity space following demolition of existing garage'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of two x 2-bed semi-detached dwellings with associated parking and amenity space following demolition of existing garage at land behind 1 and 3 Lulworth Waye, Lulworth Waye, Hayes UB4 0HN in accordance with the terms of the application Ref 75713/APP/2021/2629 dated 14 June 2021 subject to the conditions in the attached schedule.

Preliminary Matter

2. The description of development stated on the appeal form is consistent with the description used on the Council's decision notice and provides a more succinct description of the proposal than that stated on the application form. I have therefore used it in the banner heading and my formal decision above.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) whether or not living conditions for occupiers of the development would be acceptable with particular regard to the provision of amenity space.

Reasons

Character and Appearance

4. The appeal site is within a predominantly residential area that is for the most part characterised by semi-detached dwellings of generally similar overall form and scale which are arranged on reasonably consistent building lines fronting the streets. As a result, there is a sense of coherence and distinctive rhythm to the street scenes, and the set back of dwellings behind areas of garden and parking and backdrops of relatively long rear gardens provides for a spacious

quality despite the typically modest gaps to the sides of buildings. However, terraced dwellings on Lulworth Way and adjoining streets to the south and east of the appeal site result in some variety in the form and layout of the closest buildings to the site, including as a consequence of the usually less generous depth and/or overall size of their gardens in comparison to the nearby semi-detached dwellings.

5. The appeal proposes a pair of semi-detached dwellings on land to the rear of 1 and 3 Lulworth Way, served by an existing access alongside No 1 to parking and garages to the rear of No 1 and dwellings on Wimborne Avenue.
6. Policy DMH 6 of the Hillingdon Local Plan: Part Two - Development Management Policies 2020 (DMP) advises that there is a presumption against the loss of gardens due to the need to maintain local character, amenity space and biodiversity. The appellant comments that the site has not been maintained or used as garden for some years, but I have no substantive evidence that the lawful use of the site is no longer residential garden. Be that as it may, it is still important to consider the specific circumstances of the site and the development proposed, and Policy DMH 6 advises that a limited scale of backland development may, in exceptional cases, be acceptable subject to certain criteria being met.
7. The third of these criteria requires that buildings are more intimate in mass and scale and lower than frontage properties. The Council suggests that the dwellings would be of greater height than Nos 1 and 3 contrary to this requirement. However, the ridge heights marked on the proposed section and the existing street scene drawings indicate that the dwellings would nevertheless sit lower than the ridges of Nos 1 and 3 and of the neighbouring dwellings at 5 and 7 Lulworth Way and 35 Wimborne Avenue, albeit minimally in the case of Nos 1 and 3. The dwellings would additionally be of slightly smaller depth and width than Nos 1 and 3 and many of the other dwellings surrounding the site. While the differences would not be great, I consider taking these factors together that the proposed dwellings would overall be of more intimate mass and scale than frontage properties and would appear lower so as to comply generally with Policy DMH 6 iii), and the Council does not allege conflict with the other criteria listed in this Policy.
8. The proposal would reduce the existing openness to the rear of Nos 1 and 3. However, the appeal site is unusually deep in comparison to the typical gardens to semi-detached dwellings in the vicinity of the site, and even at the closest point, separation between the dwellings and the rear of Nos 1 and 3 would be similar to that between dwellings at 5-11 Lulworth Way and 36 Shaftesbury Way. Space between the sides of the dwellings and their boundaries would be limited, but the access and adjacent undeveloped strip of land would provide for a degree of openness to their sides. In any event, the relationship to their boundaries would not be out of keeping with many of the dwellings nearby which are similarly positioned close to boundaries at their sides.
9. Likewise, while the gardens to both the existing and proposed dwellings would be shorter than many nearby, their overall size would not in my assessment be significantly smaller than those of neighbouring terraces so as to stand out. In addition, the boundary to the rear of Nos 1 and 3 would not be far forward of the boundaries to Nos 5-11. These factors in combination with the generous space to the front of the dwellings would ensure that the proposal would not

appear unduly cramped on the site, and I do not consider the existing break in built form and overall sense of spaciousness between buildings would be harmfully eroded by the presence of the development.

10. The lack of frontage to the dwellings and their location to the rear of Nos 1 and 3 would be unusual, but they would be served by an existing access from Lulworth Way. The proposal indicates that the access would be surfaced, but it would not therefore be a new feature in the street scene. In addition, the dwellings would in part replace the existing garage on the site, and would also be close to assorted outbuildings to the rear of dwellings on Wimborne Avenue, some of which are of fairly large footprint. I recognise the different nature of the dwellings to these outbuildings and their greater two-storey height, and there would be some views of them from the surrounding streets, but they would nevertheless be seen in the context of the existing access and buildings. From many viewpoints, they would also be seen together with the adjacent terrace on Shaftesbury Way, and although these dwellings are on a different orientation and front the street, their proximity means the development would not in my judgement appear isolated. Notwithstanding the uncharacteristic position of the dwellings, I consider having regard to the specific circumstances of the appeal site and development proposed that the arrangement would not in this case be incongruous or harmfully disruptive to the overall rhythm of the area.
11. While it would be different, I find for these reasons that the development would not be unacceptably prominent or visually intrusive. It would assimilate well with its surroundings, and would make effective use of the site without undermining or detracting meaningfully from the area's character or appearance. Given my finding that local character would not be harmed which is one of the reasons given within Policy DMH 6 for the general presumption against the loss of gardens, I consider that the development of the site would in this case be acceptable.
12. I acknowledge the Council's concerns that the development could set a precedent leading to erosion of the area's character. However no directly comparable sites have been put forward, and it seems to me that the particular circumstances of the appeal site, including its overall size and existing access to the rear, would be unlikely to be repeated elsewhere. Each application and appeal must also be determined on its individual merits, and I do not find a generalised concern of this nature would justify withholding permission in this case.
13. I conclude on this main issue that the proposal would not cause unacceptable harm to the character and appearance of the area. Accordingly, I find no conflict with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies 2012, Policies DMH 6 or DMHB 11 of the DMP, or Policies D1 or D3 of the London Plan 2021 (LP). Together, these policies broadly require high quality design which is in harmony with and responds positively to its context and existing character, and which makes a positive contribution to the local area. Similarly, it would accord with requirements within the National Planning Policy Framework (the Framework) for development that is sympathetic to local character; and support for development that makes efficient use of land while taking into account factors including the desirability of maintaining an area's prevailing character and securing well-designed places.

Living Conditions

14. Policy DMHB 18 of the DMP includes a requirement for provision of amenity space to serve residential development in accordance with standards at Table 5.3. Gardens of 60sqm are shown to the rear of each of the dwellings meeting the minimum amenity space provision of 60sqm specified for 2 and 3 bedroom houses. However, the Council asserts that the area of useable amenity spaces would be around 54sqm.
15. I note that the gardens would include cycle stores. Nevertheless, these would be of relatively modest size, and their location at the rear corners of the gardens means that the remaining open areas of the gardens would be of functional shape. In combination with their size, I am satisfied that they would accommodate a range of activities. Moreover, outbuildings or other forms of storage are often found within gardens and can offer a useful outdoor facility for residents. While it may not be possible to use the space occupied by the cycle stores for activities such as sitting out or for play, I see no reason from the evidence before me that a modest element of storage space should necessarily be discounted from offering 'useable' space to residents of the site as part of the overall outdoor space. Taking these factors together, I find that the overall provision of amenity space for the dwellings would in this case be of good quality, and would offer a suitable quality of life for occupiers.
16. I therefore conclude on this main issue that living conditions for occupiers of the development would be acceptable with regard to provision of amenity space. As a consequence, I find no conflict with Policy DMHB 18 of the DMP which requires, amongst other things, provision of good quality and useable private outdoor amenity space to serve new residential development.
17. I note that the Council's reason for refusal refers additionally to detriment to the residential amenity of existing occupiers. However, Nos 1 and 3 would retain gardens in excess of the relevant standards, and in the absence of substantive evidence to the contrary I am satisfied that the development would not cause unacceptable harm to the living conditions of existing occupiers.

Other Matters

18. Although not forming part of a reason for refusal, the Council's report raises concern over the access to the dwellings from Lulworth Waye, commenting that the surface condition, lack of lighting and active frontages would not contribute to a comfortable and safe environment. However, the access is included within the boundary of the site, and it would be possible to secure further details of surfacing and any external lighting to the access by way of a planning condition. Given also the relatively short length of the access, I am satisfied that a suitable residential environment could be created.
19. There is also no firm evidence before me that use of the access and activity on the site would increase the likelihood of burglaries, and it seems to me that greater activity and consequent surveillance of the access would instead be more likely to reduce opportunities for crime and anti-social behaviour.

Conditions

20. I have considered suggested conditions having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary, or for the sake of consistency, brevity, clarity or to avoid

duplication. I have also avoided the use of pre-commencement conditions where this is not necessary for a condition to achieve its purpose.

21. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty.
22. I have attached conditions to require details of how construction will be managed (3) protection for trees (4) and provision for surface water management (5). The appellant has questioned the need for these conditions, but I consider they are necessary in the interests of the living conditions of neighbouring occupiers and highway safety given the fairly constrained access to the site and proximity of neighbouring dwellings; to safeguard the character and appearance of the area given the presence of trees on adjoining sites; and in the interests of flood risk having regard to the location of the site within an area noted as susceptible to surface water flooding. Nevertheless, I have omitted some suggested details that I consider to be unnecessarily prescriptive or unduly onerous having regard to the small scale of the development. I have also omitted a suggested requirement to detail methods to minimise use of potable water as part of condition 5 in the absence of compelling evidence to demonstrate that this is necessary. Conditions 3, 4 and 5 are pre-commencement conditions as details need to be agreed before any works take place to ensure that they are effective, and the appellant has agreed to their wording.
23. Conditions requiring details of external materials (6) and provision for landscaping including surfacing of the access (7) are necessary to ensure a satisfactory appearance. However, from the information before me I can see no reason it would be necessary to require details prior to any works taking place, and I have amended the suggested conditions accordingly. I have also removed requirements for details that are not relevant to the development proposed (such as materials for balconies or privacy screens). Furthermore, I see no clear reason that it would be necessary to require details of above and below ground services and existing and proposed ground and finished floor levels in this case given the scale of the development and the details already provided on the submitted plans.
24. In addition, I have removed requirements for details of refuse and cycle stores and boundary treatments and parking layouts to be submitted as part of condition 7 given that these are already indicated on the submitted plans and I have no firm reason to consider the details inadequate. I have however imposed conditions requiring details of the allocation of parking and provision for electric vehicle charging and implementation of parking and the access (8) and the implementation of the indicated refuse and cycle stores and boundary treatments (9). These conditions are necessary in the interests of the living conditions of neighbouring and future occupiers, highway safety and to meet requirements within the LP for electric vehicle charging.
25. I have included a condition to require that the dwellings are constructed in accordance with Building Regulation requirement M4(2) 'accessible and adaptable dwellings' (10), which is necessary to ensure compliance with Policy D7 of the LP. Because this standard includes consideration of access to the dwellings, I do not consider a separate suggested condition to require details of step-free access to the dwellings would be necessary. Finally, a condition to

restrict the addition of glazing to the sides of the dwellings (11) is necessary to safeguard the living conditions of neighbouring occupiers.

Conclusion

26. For the reasons given above, I find that the proposal would accord with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 2865-SK1-2, 2865-02-01, 2865-02-02, 2865-02-03, 2865-02-04, 2865-02-05 and MS-4786.
- 3) No development shall take place, including any works of demolition, until a demolition and construction management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall detail:
 - i) the phasing of development works;
 - ii) the hours during which works will occur;
 - iii) traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development process (including measures to reduce the numbers of construction vehicles accessing the site during peak hours;
 - iv) measures to reduce the impact of the development on local air quality and dust through minimising emissions throughout the demolition and construction process; and
 - v) the storage of demolition/construction materials on site.

The approved details shall be implemented and maintained throughout the duration of the demolition and construction process.

- 4) No development shall take place, including any works of demolition, until a scheme for the protection of trees on land adjacent to the site that could influence or be affected by the development and the appropriate working methods have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of trees shall be carried out as approved.
- 5) No development shall take place until a scheme for the provision of sustainable water management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include (i) information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater

and/or surface waters; (ii) a timetable for its implementation; and (iii) a management and maintenance plan for the lifetime of the development including arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be implemented in accordance with the approved details and shall be permanently retained/maintained as such thereafter for as long as the development remains in existence.

- 6) No development above proposed ground level shall take place until details of all materials and external surfaces, including information relating to make, product/type, colour and photographs/images, have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and shall be permanently retained as such thereafter.
- 7) No development above proposed ground level shall take place until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 1. details of soft landscaping;
 - 1.a planting plans at a scale of not less than 1:100;
 - 1.b written specification of planting and cultivation works to be undertaken;
 - 1.c schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate;
 2. details of hard landscaping;
 - 2.a hard surfacing materials to include treatment of the access road;
 - 2.b external lighting;
 3. a landscape maintenance schedule for a minimum period of 5 years from the completion of development including proposals for the replacement of any tree, shrub, or area of turfing/seeding within the landscaping scheme which dies or becomes seriously damaged or diseased within this period; and
 4. a programme of implementation.

The scheme shall be implemented in accordance with the approved details and programme of implementation and thereafter maintained in accordance with the approved scheme.

- 8) The development shall not be occupied until details of the allocation of parking spaces within the site and the provision of 2 active and 1 passive electric vehicle charging point have been submitted to and approved in writing by the Local Planning Authority, and parking, access and turning areas for vehicles have been laid out in accordance with the approved details and with the arrangements illustrated on plan nos 2865-02-02, 2865-02-04 and 2865-02-05. The development shall thereafter be retained in accordance with the approved details.
- 9) The development shall not be occupied until cycle stores, refuse stores and boundary treatment as illustrated on plan nos 2865-02-02, 2865-02-04 and 2865-02-05 have been laid out in accordance with the approved plans, and the cycle stores, refuse stores and boundary

treatment shall thereafter be retained in accordance with the approved details.

- 10) The dwellings hereby approved shall be constructed to meet the standards for a Category 2 M4(2) dwelling, as set out in Approved Document M to the Building Regulations (2010) 2015, and all such provisions shall remain in place for the life of the development.
- 11) No windows shall be inserted into walls to the side of the approved dwellings at first-floor level or above.