



Appeal Statement

Erection of a pair of semi-detached houses
AT
Land R/O 1 & 3 Lulworth Waye,
Hayes UB4 0HN

Reference:
1LW-1797

Date:
5 October 2021

1. Introduction

- a. This Appeal Statement has been prepared by Just Planning on behalf of Contract Beds Holdings Limited to support an appeal against the decision of London Borough of Hillingdon to refuse planning permission for the erection of a pair of new semi-detached houses on land to the rear of numbers 1 & 3 Lulworth Way, in Hayes.
- b. Following a description of the site and surrounding area, the report considers the planning history, sets out an overview of relevant planning policy and outlines the case for the appellant.
- c. It will be demonstrated that the proposal complies with relevant local and national policies and that planning permission should therefore be granted.

2. Background

- a. On 14 June 2021, the appellant submitted an application (reference: 75713/APP/2021/2629) to London Borough of Hillingdon for the following development:

Erection of two x 2-bed semi-detached dwellings with associated parking and amenity space following demolition of existing garage.

- b. In a Decision Notice dated 26 August 2021, the Local Planning Authority (LPA) advised that the application had been refused, for the following reasons:

- 1 *The proposed development, by reason of its siting and layout would result in a development of the site, which would fail to harmonise with the existing local and historic context of the surrounding area. The principle of intensifying the residential use of the site as proposed, as well as the proposed loss of existing private rear garden area would have a detrimental impact on the visual amenity, character and appearance of the street scene and of the area as a whole. The proposal is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policy DMH 6 and DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020), Policies D1, D3 and D6 of the London Plan (2021), guidance within The London Plan Housing Supplementary Planning Guidance (March 2016) and the NPPF (2021).*
- 2 *The proposed development, by virtue of its failure to provide amenity space of sufficient size and quality commensurate to the size and layout of the said unit would result in an over-development of the site detrimental to the residential amenity of existing and future occupiers. The proposal is therefore contrary to Policies DMHB 11 and DMHB 18 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020).*

3. Site Description

- a. The appeal site is a large and regularly shaped parcel of land located to the rear of numbers 1 & 3 Lulworth Way, a pair of semi-detached houses located on the eastern side of the road. The officer's report describes the site as part of the rear gardens of these houses, but it is, in fact, a separate site, fenced off from numbers 1 & 3. The site is shown in the centre of the satellite image in figure 1, below.



Figure 1: Satellite image of the appeal site and immediate surroundings

- b. A right of way runs along the northern side of the site, providing access to garages at the rear of houses fronting Wimborne Avenue, as well as a garage and parking space on the appeal site itself. The eastern boundary runs along the rear gardens of houses fronting Shaftesbury Way.
- c. The immediate area is predominantly residential and suburban in character, though the houses are relatively densely developed and tightly spaced. There is a mixture of detached, semi-detached and terraced houses in a variety of architectural styles. Various additions and extensions to individual dwellings contributes further diversity to the streetscene.

- d. The site is sustainably located within a built-up area with easy access to transport links and local shopping facilities. There are no listed buildings on the site and it is not located in a designated conservation area.

4. Planning History & Appeal Proposal

- a. On 4 December 2020, the council refused planning permission for a similar proposal for the erection of a pair of semi-detached dwellings on the appeal site (reference: 75713/APP/2020/2128). The application was refused for the following reasons:

- 1 *The proposed development, by reason of its siting and layout would result in a development of the site, which would fail to harmonise with the existing local and historic context of the surrounding area. The principle of intensifying the residential use of the site as proposed, as well as the proposed loss of existing private rear garden area would have a detrimental impact on the visual amenity, character and appearance of the street scene and of the area as a whole. The proposal is therefore contrary to Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), Policy DMH 6 and DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020), Policies 3.5, 7.1 and 7.4 of the London Plan (2016), guidance within The London Plan Housing Supplementary Planning Guidance (March 2016) and the NPPF.*
- 2 *The proposed development, by virtue of its siting, size, scale, bulk, height and proximity, would be detrimental to the amenities of the adjoining occupiers at 1 Lulworth Way by reason of overlooking and loss of privacy. Therefore the proposal would be contrary to Policy DMHB 11 of the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020).*

- b. The current proposal is a revision of the refused scheme in order to respond to the council's concerns. The houses are reduced in size and are set further away from the existing houses at the front of the site. In addition, the depth of the existing gardens at numbers 1 and 3 Lulworth Way is increased, in order to enhance their living conditions.

- c. The proposal is for the demolition of the existing garage on this site and the erection of a pair of semi-detached houses. The houses are brick built with rendered first floor elevations and tiled, pitched roofs. They have porch overhangs. The houses are a symmetrical pair.
- d. They are each laid out with a kitchen/diner and WC at ground floor level and two bedrooms (of which one en-suite) and a bathroom at first floor level. There is parking for three cars to the front of the houses, along with soft landscaping. They have rear gardens each with an area of 60sqm. The submitted plans make appropriate provision for refuse, recycling and bicycle storage.
- e. The houses are accessed via the existing vehicular right of way running along the northern end of the site. This right of way already served the existing garage on the site and will be resurfaced to improve its quality and function.

5. Planning Policy

- a. Planning law states that decisions on planning applications must be taken in accordance with the statutory development plan unless material considerations indicate otherwise. The relevant parts of the development plan for the area are the Hillingdon Local Plan: Part One - Strategic Policies (November 2012), the Hillingdon Local Plan: Part Two - Development Management Policies (January 2020) and the London Plan (2021).
- b. According to the decision notice, the development fails to comply with policy BE1 of the Strategic Policies, policies DMH 6, DMHB 11 and DMHB 18 of the Development Management Policies and policies D1, D3 and D6 of the new London Plan.
- c. Policy BE1 (Built Environment) of the Strategic Policies requires all new development to improve the quality of the built environment in order to create successful and sustainable neighbourhoods. Among other things, the policy states that development proposals should be sensitive to local identity, landscapes, townscapes and views, improve areas of poor environmental quality, improve the quality of the public realm, and not result in the inappropriate development of gardens and green spaces that erode the character of suburban areas.
- d. Policy DMH 6 (Gardens and Backland Development) of the Development Management Policies sets out a presumption against the loss of gardens *"due to the need to maintain local character, amenity space and biodiversity"*. Backland development may be allowed where it does not harm neighbouring residential amenities (including as a result of vehicle access and parking arrangements), where the rear dwellings *"are more intimate in mass and scale and lower than frontage properties"* and where natural features are retained.
- e. Policy DMHB 11 (Design of New Development) requires that all new development exhibit a high quality of design. Development should harmonise with its surroundings in terms of its scale, size and detailed design. It should use high quality materials. It should not unacceptably harm the residential amenity of close neighbours.
- f. Policy DMHB 18 (Private Outdoor Amenity Space) states that:

"All new residential development and conversions will be required to provide good quality and useable private outdoor amenity space."

- g. Table 5.3 sets a minimum standard of 60sqm of outdoor amenity space for a two- or three-bedroom house.
- h. The London Plan is the overall strategic plan for London, setting out an integrated economic, environmental, transport and social framework for the development of London over the next 20-25 years. The 2021 London Plan sets significantly more homes to be provided within the outer London Boroughs (including Hillingdon) than the previous 2016 London Plan.
- i. Policy H1 sets a London-wide target to provide an annual average of 52,287 net homes across London. The Plan sets the London Borough of Harrow an annual target of 1,030 additional homes per year to contribute towards the target.
- j. Policy H2 encourages the optimisation of small sites to provide new homes. It sets a presumption in favour of small housing developments. According to the policy:

"Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to:

- 1. significantly increase the contribution of small sites to meeting London's housing needs*
- 2. diversify the sources, locations, type and mix of housing supply*
- 3. support small and medium-sized housebuilders*
- 4. support those wishing to bring forward custom, self-build and community-led housing."*

- k. The policy goes on to say that the boroughs should:

"recognise in their Development Plans that local character evolves over time and will need to change in

appropriate locations to accommodate additional housing on small sites"

- l. Table 4.2 of the plan sets the London Borough of Harrow to deliver 295 homes per year through the development of small sites.
- m. Policy D1 is a strategy policy that requires that local planning authorities undertake area assessments and use them as a basis to identify areas for growth. Though it is quoted in the council's reason for refusal, it is not, in fact, a development management policy.
- n. Policy D3 requires development to make the best use of land by following a design-led approach that optimises the capacity of sites. It requires that developments:

"enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportion."

- o. Policy D6 sets out minimum quality standards for new dwellings. It requires that a two-bedroom, three person dwelling laid out over two floors has a minimum gross internal area (GIA) of 70sqm.
- p. The revised National Planning Policy Framework (NPPF), adopted in July 2021, sets out the government's national planning policies and how these policies should be applied. It identifies a presumption in favour of sustainable development. Development is sustainable when it meets the economic, social and environmental needs of a community.
- q. Chapter 5 deals with housing supply and sets out the government's objective to boost substantially the supply of homes.
- r. According to paragraph 69:

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly."

- s. Part (c) states that councils should:

"support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes"

- t. Chapter 11 encourages developers and local planning authorities to make the best use of land and to focus on previously developed land in sustainable locations. According to paragraph 120(d), planning decisions should:

"promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)"

- u. Paragraph 125 requires that densities be maximised, to *"ensure that developments make optimal use of the potential of each site"*.

6. Case for the Appellant

Principle of Development

- a. The NPPF emphasises the need to deliver high-quality new housing, ideally on existing (previously developed) brownfield sites in sustainable urban areas with access to transport links and local shopping facilities. It notes that smaller, windfall sites are often built out relatively quickly.
- b. The new London Plan increases the borough's housing targets and sets new targets for the development of small sites in particular, especially in the outer London boroughs. Policy H2 of the London Plan notes that the character of local areas should be allowed to evolve to accommodate smaller scale housing developments.
- c. According to its first reason for refusal, the council objects in principle to the appeal proposal on the basis that it would harm the character and appearance of the area. This is not, in fact, an 'in principle' objection. Though DMH 6 of the Development Management Policies discourages what it calls 'backland' or 'garden' development, it does not rule it out in principle.
- d. The site is currently an underused area of land to the rear of the existing houses, beyond their rear gardens. It is an anomalous piece of 'leftover' land and the proposal will make more efficient use of it, providing much-needed new housing in a sustainable location. The proposal is therefore acceptable in principle.

Refusal Reason 1: Design & Appearance

- e. Policy DMHB 11 of the Development Management Policies, underpinned by policy D3 of the London Plan, requires that all new development exhibit a high quality of design, and respect and reflect the character of the surrounding area. Policy DMH 6 relates specifically to 'backland' development, which is discouraged unless there is no harm to the character and appearance of the area, to neighbours' residential amenities and to biodiversity and other natural features.
- f. In this case, the council is satisfied that there is no harm to neighbours or to biodiversity but is concerned about a harmful impact on the character and appearance of the area. The officer's report argues that:

"The loss of what is a residential rear garden and the impact of the proposed dwellings on the immediate locality is considered to be detrimental to the character and appearance of the surrounding street scene. The infilling of the gap, which at present provides an important break in the built form, would appear out of character with the pattern, scale and form of development within the surrounding area. The proposal is thus unacceptable in principle."

- g. The site is not, strictly speaking, a residential garden. It is a large plot of land to the rear of, and separate from, the gardens at 1 & 3 Lulworth Waye. It is not currently used as garden land. Even if it is considered to be garden land, its redevelopment cannot be considered unacceptable in principle – site-specific harm must be identified. DMH 6 does not rule out garden development in all circumstances and policy H2 of the London Plan specifically endorses increased densities in existing suburban locations, which implies garden development.
- h. The council describes it as a 'gap' and as 'isolated', which contradicts its argument that it is garden land intimately associated with existing dwellings. It does not substantiate its contention that the land is an *"important break in the built form"* - the plot is to the rear of existing houses and is largely invisible from the public realm. The council does not clearly identify any clear public interest in keeping it undeveloped.
- i. The officer's report also makes the case that:

"The proposed dwellings would be sited away from the main road in an isolated position to the rear of 1 and 3 Lulworth Waye. Their backland location is completely out of character with the surrounding area, which is characterised by properties which front the road and contribute to the appearance of the street scene. The siting of the new dwellings is therefore considered to be harmful to the areas character and prevailing pattern of residential development."

- j. The site is not isolated – it is in an established residential area and surrounded on all sides by existing dwellings. It is true that the area is primarily characterised by frontage development, but the council does not identify any clear harm to visual amenities from the appeal development. The houses will be set well away from the road and largely concealed from view. There is no direct harm to the streetscene.

- k. The council argues that:

"The form of backland development proposed has the potential to set a precedent which would lead to increased densities and the erosion of an area characterised by properties fronting the road with spacious plots."

- l. The site is something of an anomaly – it is not one of a number of similar sites in this immediate area that might all be developed. It has fairly unique circumstances – it is a large plot, with independent access and is severed from the houses around it. There is no reason to believe that a harmful precedent would be set – every proposal is assessed on its own merits.
- m. There is also no suggestion that the council objects to the design of the houses in and of themselves. The officer's report acknowledges that *'the scale of the dwelling would be generally consistent with others within the area'*.
- n. The council suggests that the houses will be set too close to their boundaries. However, the northern boundary is with the right of way and the southern boundary is along an undeveloped area of open land. As a result, there will be openness to either side of the houses. The case officer argues that the size of the gardens also means that the houses will appear cramped, but the gardens are reasonably sized, at 60sqm, and quite deep. They complement open areas to the front of the houses. Plot coverage is not excessive and densities reflect the surrounding area.
- o. The council suggests that the houses should be smaller than other houses in the area. They are, in fact, somewhat smaller than neighbouring houses – they are two-bedroom, 70sqm dwellings. If they were designed to be any smaller, they would look out of place. They will integrate better with the surrounding pattern of development if they are generally similar in size and scale to the surrounding built form.
- p. The council argues that this area is characterised by a high degree of openness, with houses on spacious plots, generous spacing and large gardens. This is a mischaracterisation of the area around the appeal site. As the satellite image in figure 2, below, shows, most of the neighbouring sites are densely developed, with limited spacing to side boundaries and relatively shallow gardens.



Figure 2: Satellite image of the appeal site (red dot) showing the density of surrounding development, with relatively shallow rear gardens indicated by red lines

Refusal Reason 2: External Amenity Space

- q. The second reason for refusal argues that the gardens proposed for the new dwellings are not sufficient in size and quality. This assertion is not substantiated at all in the officer's report and the appellant is therefore not clear what the council's concerns are.
- r. The gardens are level and regularly sized, to the rear of the houses and enclosed so that they are private. There is direct access from the ground floor reception space into each garden. They are not unusually overlooked and they will enjoy good levels of sunlight. They meet the minimum 60sqm size required by policy DMHB 18 of the Development Management Policies and, as shown by figure 2, above, are commensurate in size with gardens to neighbouring houses.
- s. The appellant notes that there were no objections to the appeal proposal from neighbours or other local residents.

7. Conclusions

- a. Although the council frames its refusal as an objection in principle, this does not accord with local, regional or national policies that allow (or encourage) the development of windfall sites in established residential areas as long as there are no unacceptable adverse impacts.
- b. In this case, the council is mainly concerned about harm to the streetscene, but the houses are located well back from the street where they will not be prominent in public views. There is no suggestion that the houses represent poor design in and of themselves, and they integrate well with the surrounding pattern of development. Contrary to the council's assertion, they will not appear cramped on this large site.
- c. The gardens are level, regularly-shaped, private and meet the minimum sizes set out in policy. There are comparable in size to gardens to other houses in this immediate area.
- d. For these reasons, it is considered that the proposed development would comply with the development plan and national planning policy and the inspector is respectfully requested to allow the appeal.



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