

Appeal Decision

Site visit made on 26 April 2022

by A Caines BSc(Hons) MScTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2022

Appeal Ref: APP/R5510/W/22/3290754

49 Apple Tree Avenue, West Drayton UB7 8BY

- 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 Kulwant K Chaggar against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 38364/APP/2021/3545, dated 20 September 2021, was refused by notice dated 15 November 2021.
 - The development proposed is new dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for new dwelling house at 49 Appletree Avenue, West Drayton UB7 8BY in accordance with the terms of the application Ref 38364/APP/2021/3545, dated 20 September 2021, subject to the conditions in the schedule to this Decision.

Main Issues

2. The main issues are the effect of the development on:
 - i) the character and appearance of the area; and
 - ii) the living conditions of the occupiers of 16A Birch Avenue, with particular regard to outlook.

Reasons

Character and appearance

3. The surrounding area is residential in character with dwellings arranged in either short terraces, or semi-detached pairs. 49 Apple Tree Avenue is an end of terrace dwelling that occupies a large triangular-shaped plot with a wide frontage extending to the junction with Birch Avenue. The land to the side is enclosed by solid timber fencing, and at the time of my inspection, was somewhat neglected and underutilised.
4. The proposal would result in the subdivision of the plot and the construction of a new two-storey dwelling attached to the existing property. The design of the dwelling would follow the form, height and general appearance of the existing terraced building, and as a result, would harmonise appropriately with the architectural composition and character of the terrace.
5. The generous spacing between dwellings at corner plots does add to the quality of the surroundings by providing a greater sense of spaciousness at the corner junctions. However, the spacing is inconsistent due to the various developments that have taken place at these plots over time, including some

new dwellings. Indeed, the Council's officer report notes that the host plot has a wider frontage in comparison to other nearby corner plots.

6. The new dwelling would not interrupt any established building lines in Apple Tree Avenue or Birch Avenue. It would retain a large garden area around it, including at the front and sides, while also providing ample dedicated space for parking and manoeuvring within the site. Moreover, the drawings indicate that the separation distance between the main two-storey flank elevation of the dwelling and the opposing rear elevation of No 16A would be some 15.7 metres. Consequently, the development would not enclose the side gap. Nor would it appear cramped or squeezed in to the plot. Rather, it would make an efficient use of underutilised land in a manner that relates appropriately to the surrounding pattern and spatial layout of the area.
7. I therefore conclude that the development would not harm the character or appearance of the area. Thus, the proposal complies with Policy BE1 of the Hillingdon Local Plan: Part One - Strategic Policies 2012 (the SP), Policy DMHB11 of the Hillingdon Local Plan: Part 2 - Development Management Policies 2020 (the DMP), and Policy D4 of the London Plan 2021 (the LP), which among other things, require development to incorporate principles of good design including harmonising with the local context. The Council has also referenced DMP Policy DMHB12 (Streets and Public Realm) and LP Policy D8 (Public Realm) in the refusal reasons, but I do not consider these to be relevant to the appeal scheme, and I find no conflict with them.

Living conditions

8. As set out above, the two-storey flank elevation of the new dwelling would be around 15 metres from the rear elevation of 16A Birch Avenue. It is also significant that it would be set back at least half of that distance from the solid boundary fence. The modest kitchen projection would be around 3 metres closer, but single-storey in height, and still set back appreciably from the boundary fence. Thus, even though the development would be visible from the rear windows and garden of 16A Birch Avenue, I am content that there is sufficient separation to ensure that its scale and siting would not be unacceptably dominant or overbearing.
9. I therefore conclude that the development would not harm the living conditions of the occupiers of 16A Birch Avenue, with particular regard to outlook. Thus, the proposal complies with SP Policy BE1, and DMP Policies DMHD1 and DMHB11, where they seek to ensure that development does not have an adverse impact on the amenity of neighbouring occupiers, including through loss of outlook.

Conditions

10. The conditions suggested by the Council have been assessed against the guidance contained in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (the PPG). In particular, I have had regard to the Government's intention that planning conditions should be kept to a minimum, and I have imposed only those conditions which meet the relevant tests, making changes to the wording where necessary.
11. The commencement and approved plans conditions are imposed for certainty. Conditions relating to the external building materials, hard and soft

landscaping, and boundary treatments are necessary to ensure a satisfactory appearance of the development. A condition relating to cycle parking and refuse storage facilities are necessary to promote sustainable travel choices and ensure satisfactory arrangements for the external storage and collection of household waste. A condition to install a water butt is imposed to manage surface water drainage and conserve water supplies. Conditions preventing use of the flat roof as a balcony and requiring obscure glazing to a side-facing window are necessary to protect the privacy of neighbouring occupiers.

12. However, a requirement for a construction management plan would be unduly onerous for a development of this scale and nature, and having regard to the site characteristics, so the suggested condition is not imposed.
13. The provision of an electric vehicle charging point, step free access, and other Building Regulations compliance, are all matters that fall under the Building Regulations regime. It is not necessary to duplicate the function of other regulatory bodies or controls in these regards, so the suggested conditions are not imposed.
14. A condition has been suggested to prevent the insertion of additional windows. However, the permitted development (PD) restrictions that apply to any new upper floor window in a side elevation would be sufficient to protect the privacy of neighbouring occupiers, so the imposition of such a condition is unnecessary.
15. A further condition has been suggested for the blanket removal of PD rights to the entire site. However, the PPG states that conditions restricting the future use of permitted development rights, including blanket removal of freedoms to carry out small-scale domestic alterations, are unlikely to pass the test of reasonableness or necessity. Similarly, the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Based on what I have seen and read, there are no site-specific features, constraints, or context that would warrant an enhanced level of restriction or control on an exceptional basis, so the condition is not imposed.

Conclusion

16. I conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions.

A Caines

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: OS Plan; 4536/01 Rev A; 4536/03 Rev A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) No above ground construction works shall take place until details of all proposed hard and soft landscape works, including details of boundary treatments, hard surfaces, and landscape planting have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details and condition 5.
- 5) All landscaping planting works approved under condition 4 shall be carried out before the end of the first planting season either following the first occupation of the dwelling or the substantial completion of development, whichever is sooner. Any trees or plants which within a period of 5 years from substantial 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 to those originally planted.
- 6) The dwelling hereby permitted shall not be occupied until the cycle parking and refuse storage facilities shown on dwg no. 4536/01 Rev A have been installed at the site and shall be retained as such thereafter.
- 7) The dwelling hereby permitted shall not be occupied until a water butt has been installed to at least one of its downpipes and shall be retained as such thereafter.
- 8) The flat roof at the side of the dwelling hereby permitted shall not at any time be used as a balcony, veranda, roof garden or similar amenity area.
- 9) The first floor window in the side elevation facing 16A Birch Avenue shall be obscurely glazed to at least scale 4 on the Pilkington scale and shall be retained as such thereafter.