



Appeal Decision

Site visit made on 23 August 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Appeal Ref: APP/M5450/W/22/3297296

37 Oakington Avenue, Harrow HA2 7JQ

- 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 Ms S Shethna against the decision of London Borough of Harrow.
 - The application Ref P/4607/21, dated 18 November 2021, was refused by notice dated 2 February 2022.
 - The development proposed is described as extensions and change of use for physiotherapy clinic and residential use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - whether the location of the development is acceptable with regard to the local development strategy;
 - the effect of the development on the character and appearance of the area; and
 - the effect of the development on the living conditions of the occupiers of the property, with particular reference to the size and configuration of the outdoor amenity space.

Reasons

Location of the development

3. Policy CS1 of the Harrow Core Strategy (2012) (the Core Strategy) sets out that the Harrow and Wealdstone Intensification Area, town centres and strategic previously development sites in suburban areas will be the focus for new development. While it does not exclude all other land, CS1.B also states that garden development will be resisted.
4. The Supplementary Planning Document: Garden Land Development (2013) (the GL SPD) defines garden land as any land within the curtilage of a building, the principal use of which is residential, including hardstandings, outbuildings plus some specific exceptions. Garden land development is defined as any development on garden land that results in the formation of one or more new dwellings (houses or flats), again with some exceptions. For the avoidance of doubt, the GL SPD confirms that householder development, such as extensions,

ancillary domestic outbuildings, hardsurfacing, walls and fences do not constitute garden land development.

5. The appeal proposal includes extensions to an existing dwelling and the change of use of part of the property to a physiotherapy clinic. Consequently, whilst located within the curtilage of a residential building, the proposed development would not meet the definition of garden land development set out in the GL SPD. Accordingly, Policy CS1 does not preclude the proposed development.
6. Policy DM46 of the Harrow Development Management Policies Local Plan (2013) (the Local Plan) requires proposals for new community facilities to be located within the community they are intended to serve. Further, Policy S2 of the London Plan (2021) seeks to support the provision of high quality new and enhanced health and social care facilities in accessible areas. Similarly, paragraph 93 of the National Planning Policy Framework (the Framework) promotes healthy and safe communities by planning for local services to enhance the sustainability of communities and residential environments.
7. There is no disagreement between the main parties that the proposed development involves the relocation of an existing physiotherapy clinic currently operating elsewhere in the borough. Therefore, it does not constitute a new community facility. Even if it was considered to be a new community facility, given a significant proportion of the clinic's clients reside within the same postcode, the appeal site is located within the community served by the health facility.
8. Therefore, I conclude that the development would not be contrary to Policy CS1 of the Core Strategy, insofar as it relates to garden land development, and the GL SPD is not determinative guidance in respect of this appeal. Additionally, I find no conflict with Policy DM46 of the Local Plan regarding the enhancement of an existing health facility within the borough.

Character and appearance

9. The appeal site comprises a detached dwelling located in a residential area. Variations in fenestration, use of materials, extensions and additions, boundary and front garden treatments are present along the avenue. However, the prevailing built form comprises semi-detached and detached dwellings set back from a tree-lined highway.
10. The proposed development would introduce a new use into the immediate area. Whilst other residential streets may include, and be proud of, similar health uses, Policy DM33 of the Local Plan supports ancillary economic activity where the property would remain substantially residential in character.
11. As highlighted by the appellant, the bespoke design would allow the physiotherapy clinic to function as a separate, specialist use and not be hidden. Given the physiotherapy clinic would be located within the ground floor front rooms, when viewed from the avenue the building would have the appearance of a non-residential use with a dwelling above. Overall, the property would not remain substantially residential in character.
12. Whilst it may be the case that the residential space has been carefully designed, and the clinic is small scale, the ground floor layout would be dominated by the new use. This would be further emphasised by the additional entrance to the physiotherapy clinic and large area of hardstanding for car

parking at the front. I acknowledge that other properties nearby have areas of hardstanding in front gardens, these are clearly associated with the residential use of the dwellings and not formally marked out as a car park. In addition, the proposed long working hours and number of daily clients would result in the activity associated with the development being clearly identifiable as a non-residential use.

13. The single storey side extension would replace the existing garage with a larger footprint. Irrespective of whether its size would only marginally exceed what could be built under permitted development rights, the resultant wide frontage would dominate the existing dwelling. The loss of existing landscape features to the front and lack of replacement planting would also increase the prominence of this unusual feature in the streetscene.
14. Supplementary Planning Document: Residential Design Guide (2010) (RDG SPD) specifies roof alterations and dormer windows should not dominate buildings and avoid the gabbling of existing hipped roofs on detached houses. Notwithstanding the variety of roofscapes in the area, few examples of hip to gable extensions are found nearby and only on semi-detached dwellings. Therefore, the use of gabbling to both sides of the dwelling, combined with the rear dormers would dominate the host building and result in an incongruous form that detracts from the character of the avenue.
15. Whilst the appeal site is not located within a conservation area or an area of special residential character, the proposal would nevertheless unacceptably harm the character and appearance of the area, contrary to Policy DM33 of the Local Plan. It would also be contrary to Policy D3 of the London Plan, Policy CS1 of the Core Strategy and policies DM1, DM22 and DM23 of the Local Plan. These policies, amongst other things, seek to ensure new development responds positively to the local character, retain and enhance existing landscape features and provide appropriate landscaping.
16. Similarly, I find conflict with the guidance set out in the RDG SPD and principles within Chapter 12 the Framework which, amongst other things, seek to ensure good design that is sympathetic to the local area.

Living conditions

17. The existing outdoor amenity space comprises two areas: one to the rear, directly accessible from the dwelling; and the other to the side, fenced off and accessed via a gate from the rear garden. Whilst both these areas are of an unusual shape in the context of the local area, their combined area is similar to other dwellings nearby. Based on my observations during my site visit, I have no reason to doubt these spaces are functional.
18. There are no Core Strategy or Local Plan policies before me that provide a quantitative standard for outdoor amenity space. However, my attention has been drawn Standard 26 of the London Plan's Housing Supplementary Planning Guidance (2016) (the SPG) which specifies a minimum area of private outdoor space per dwelling. Notwithstanding this, to maintain an adequate area for practical use which reflects the established character of the locality, the RDG SPD outlines extensions are unlikely to be permitted where they exceed 50 percent of the rear or other main garden area.

19. As the appeal proposal involves the loss of the side garden area and parts of the rear garden, the overall quantum of outdoor amenity space would be reduced by more than 50 percent. Therefore, although exceeding the minimum standard in the SPG, the resultant garden area would not be reflective of the local area. Additionally, the proportions and shape of the remaining space would not represent an adequate nor functional garden area for the dwelling.
20. I conclude that the development would cause unacceptable harm to the living conditions of the occupiers of the appeal property, contrary to Policy D3 of the London Plan, and policies DM1 and DM27 of the Local Plan which seek to ensure new development delivers appropriate amenity space. Similarly, as the remaining garden space would be impractical for its purpose, I find conflict with the guidance contained within the RDG SPD.
21. I also find conflict with the principles and guidance set out in Chapter 12 of the Framework which aims to achieve well-designed places by, amongst other things, providing a high standard of amenity for existing and future users.

Other Matters

22. Given the limited evidence confirming the property's original form, I cannot be certain that all, or specific parts, of the appeal proposal could be constructed under permitted development rights. However, in reference to the High Court¹ decision presented to me, I have adopted the two-stage approach to the issue of fallback relating to elements of the appeal proposal.
23. I am satisfied that there is a reasonable likelihood that the roof extensions would be built regardless of this decision. However, as these additions comprise significantly smaller forms than the appeal proposal as a whole, it would be less harmful.
24. I have no compelling evidence to indicate that the hardstanding area at the front would be constructed given its association with the proposed physiotherapy clinic use. This limits the weight that I can attach to it as a fallback position.
25. Even if the width of the side extension was reduced to comply with the relevant permitted development rights, as this is not the appeal proposal before me, it does not represent a realistic fallback position.
26. I appreciate that, irrespective of my decision, the appellant could make improvements to the existing dwelling and sell the property. However, regardless of the likelihood of this action, it is not a determinative factor in my assessment.
27. Whilst the proposed development would have economic benefits in terms of employment opportunities, as it would involve the relocation of an existing health facility with existing employees, these would be minor. As such, they would not outweigh the harm I have identified above.
28. I note the circumstances which led to the appellant's ownership of the property. Whilst it may be the case that the property had been left untouched for many years, at the time of my site visit the property was occupied.

¹ *Gambone v Secretary of State for Communities and Local Government and Wolverhampton City Council* [2014] EWHC 952 (Admin)

Additionally, I have limited compelling evidence before me to indicate it could not continue to be occupied.

29. The lack of objections to the planning application is not a reason, in itself, to allow development that is unacceptable and this, therefore, does not change my assessment.
30. Even if I were to consider that the proposed development would not be noisy, unpleasant or unneighbourly, and would not affect the on-street parking or the living conditions of existing and future residents of the area, these are neutral factors and do not weigh in favour of the proposal.

Planning Balance and Conclusion

31. Whilst I have concluded that the location of the proposed development is not inappropriate, this is a neutral factor and does not outweigh the harm I have found with regard to the character and appearance of the area and the living conditions of the appeal property.
32. For the reasons given above, having regard to the development plan as a whole, and all other relevant material considerations, the appeal is dismissed.

Juliet Rogers

INSPECTOR