



Appeal Decision

Site visit made on 16 August 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/R5510/W/23/3315737

42 Field Heath Road, Uxbridge, Hillingdon UB8 3NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Gary Wynne against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 17611/APP/2022/993, dated 23 March 2022, was refused by notice dated 9 December 2022.
 - The development proposed is the demolition of a two-storey building with rear dormers used as an existing bed and breakfast, and the erection of stepped back three-storey residential development comprising of seven flats, alterations to existing drop kerb, all associated external works and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's reasons for refusal refer to the National Planning Policy Framework (the Framework) dated July 2021. A revised version of the Framework was published in September 2023. However, the changes made to the Framework are not relevant to the main issues in this case.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of 1 and 2 Newlyn Close and 40 Field Heath Road in respect of outlook and privacy, and the occupiers of 3 Newlyn Close, 46 Field Heath Road and 2 Micawber Avenue in respect of privacy;
 - whether the proposal would provide a suitable housing mix to meet local housing needs;
 - whether the proposal would make appropriate provision to effectively manage local on-street parking.
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposal on highway and pedestrian safety with particular regard to vehicular egress from the site.

Reasons

Living conditions

Outlook

4. The proposal includes a substantial three-storey building which, being deep and wide, would occupy a large portion of the appeal site towards the rear part of the plot. The two-storey flank wall of the proposed building would be close to the rear garden boundaries of 40 Pield Heath Road (No 40) and 1 Newlyn Close (No 1), and a large truncated hipped roof with flat-roofed dormers to three sides would sit above the external walls of the proposed building.
5. While the proposed building would be taller, wider and deeper than the existing building which it would replace, the effect of the change in scale and mass on the outlook from No 40 would not be significantly different to the current arrangement. Furthermore, while the proposed building would be visible from the garden, and obliquely from the rear windows, of 2 Newlyn Close (No 2), the distance that would exist between the proposal and that property would be such that the proposal would not significantly or harmfully affect the outlook of the occupiers of No 2.
6. However, the proposed building would appear as a large and overly bulky structure across much of the bottom of the rear garden to No 1 and this would create an unacceptably harmful sense of enclosure in that garden. The proposal would be unduly oppressive in views from the rear garden of No 1 due to its height, mass and proximity to the boundary. This would be significantly different to the outlook currently afforded towards the appeal site from No 1, and this relationship between the proposal and the neighbour's rear garden would result in harm arising to the living conditions of the occupiers of that dwelling.

Privacy

7. The proposal includes windows to habitable rooms, including living rooms, at first and second floor. This would have the effect of introducing direct overlooking from the first-floor triangular bay windows of both bedrooms in flat 4 towards the rear garden of No 40; and direct overlooking of the rear garden of 3 Newlyn Close (No 3) from the first-floor bedroom windows to flat 5 and living room windows to flats 4, 5 and 6, and from the second-floor bedroom and living room windows to flat 7.
8. The effects of direct overlooking towards No 40 could be addressed by planning conditions requiring the use of obscure glazing to the relevant sashes and preventing their opening. However, this would not be an appropriate solution to prevent overlooking from those first and second-floor windows in the rear of the proposed building facing No 3 where they provide the sole or principal outlook from the relevant rooms. Moreover, preventing views from those windows through the use of obscure glazing would create harmfully oppressive living conditions for the future occupiers of flats 4, 5, 6 and 7.
9. There are views towards No 3 from the first-floor bedrooms in the existing building. However, those windows are significantly further from the common boundary with No 3, they serve rooms that are occupied generally for short periods as part of a guest house, and the proposal would create direct views through the windows proposed to the rear elevation of flat 7 from noticeably

greater height and in closer proximity than currently exists. The existing tall evergreen hedging to the boundary currently screens views from lower levels and from the first floor to some degree. However, such screening is not especially deep and there is no guarantee that this hedging would remain permanently in place.

10. The effects of direct views from the first and second-floor windows in the side elevations of the proposed building towards No 1 and the rear garden of 46 Pield Heath Road (No 46) could be addressed by planning conditions requiring the use of obscure glazing to the relevant sashes and preventing their opening. Views towards No 2 and 2 Micawber Avenue would be at oblique angles and these, along with other views towards more distant properties and their gardens would not result in significant harm to occupiers' living conditions. Nevertheless, the proposal would create an unacceptably harmful loss of privacy as a result of overlooking towards the rear garden of No 3.
11. The effects of the proposal on daylight, sunlight and overshadowing are not matters in dispute between the main parties and there is no clear reason for me to take a different view. Nevertheless, the lack of harm in these respects does not weigh in favour of the proposal.
12. For these reasons, while the proposal would not result in harm to the living conditions of the occupiers of No 2 and No 40 in respect of outlook and privacy, or the occupiers of No 1, No 46 and 2 Micawber Avenue in respect of privacy, it would result in unacceptable harm to the living conditions of the occupiers of No 1 in specific respect of outlook, and to the occupiers of No 3 in specific respect of privacy. Accordingly, the proposal would conflict with Policy DMHB 11 of the London Borough of Hillingdon Local Plan: Part 2 Development Management Policies (January 2020) (the Local Plan DMPs) which requires that development proposals should not adversely impact on the amenity of adjacent properties. The proposal would also conflict with paragraph 130 f) of the Framework which requires decisions to ensure that developments create places with a high standard of amenity for existing users.

Suitable housing mix

13. The supporting text to Policy DMH 2 of the Local Plan DMPs explains that the Council's information on housing need indicates a substantial borough-wide requirement for larger three bedroomed properties. Given the recent date of adoption of the development plan, and in the absence of evidence to the contrary, this adequately identifies the Council's latest information on housing need.
14. The Council may have deliverable housing sites in excess of the minimum five-year supply requirements. However, I have not been provided with information concerning the mix of housing that comprises the supply, and I am not persuaded by the contention that a requirement for larger family units is best suited for large scale developments.
15. Moreover, the appeal site is large enough to accommodate family sized units along with an appropriate level of private outdoor amenity space and is located in a suburban area where family housing would be appropriate given the proximity to local schools. No substantive evidence has been provided to demonstrate why in this case, given the space available within the appeal site,

the proposal cannot contribute towards the substantial requirement for three-bedroom homes in such locations.

16. For these reasons, the proposal would not provide a suitable housing mix necessary to meet local housing needs. Accordingly, the proposal conflicts with the requirements of Policy H10 of The London Plan (March 2021) (the London Plan) and Policy DMH 2 of the Local Plan DMPs which require housing schemes to generally consist of a range and mix of housing units having regard to robust local evidence concerning housing need.

Car parking provision

17. There is no dispute between the main parties regarding the amount of car parking proposed to serve the development, and this would be within the maximum quantum defined in the development plan.
18. The appeal site is in a moderately accessible location in the Transport for London Public Transport Accessibility Level (PTAL) rating system, having a PTAL rating of 3. There were some on-street car parking spaces available in the CPZ areas at the time of my site visit. However, this was during the day and would not necessarily be representative of parking space availability at other times.
19. Given the amount of car parking proposed and the policy aspiration set out at paragraph 124 of the Framework which, in seeking to achieve appropriate densities of development, encourages the efficient use of land by taking into account the scope to promote sustainable travel modes that limit future car use, a restriction on the distribution of parking permits to future residents would be appropriate. Such an approach achieved through a planning obligation would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out at paragraph 57 of the Framework. Accordingly, to ensure that the development would not lead to unacceptable harm to highway safety due to increased pressure for on-street parking, and to support sustainable transport choices, an appropriate mechanism to restrict future residents from applying for a parking permit would be required.
20. The appellant has indicated a willingness to enter into a legal agreement under section 106 of the Act to limit the ability of future residents to apply for parking permits within this Controlled Parking Zone (CPZ). However, I do not have a completed agreement before me. The appellant suggests that this matter could be addressed through a 'Grampian' planning condition requiring the legal agreement to be completed prior to first occupation.
21. However, I am mindful of advice provided in the Planning Practice Guidance (PPG) on the use of conditions, specifically that *'A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.'*¹ The PPG also further suggests that such an approach is more likely to apply in particularly complex development schemes, which is not the case in this instance. As such, in the circumstances of this case, I am not persuaded that a Grampian style

¹ PPG Paragraph: 010 Reference ID: 21a-010-20190723

condition can be used appropriately to secure that a legal agreement is entered into.

22. Consequently, in the absence of an appropriate mechanism to restrict future parking permit applications the proposal would not make appropriate provision to effectively manage local on-street parking. Accordingly, it would conflict with Policy T4 of the London Plan and Policies DMT 2 and DMT 6 of the Local Plan DMPs which require that development proposals should not increase road danger, address transport impacts in a sustainable manner, and address issues relating to congestion and amenity. The proposal would also conflict with the Framework insofar as it indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Character and appearance

23. Notwithstanding the Jet Clean commercial use immediately adjacent to the site, and other business uses at the nearby junction with Micawber Avenue, the appeal site is located in a primarily residential area. The existing building on the site is set back behind its car parking area a substantial distance from the highway. This differs in comparison with other buildings in the vicinity which appear more uniformly placed a short distance from the highway. Most buildings locally are two-storey, there are occasional single storey dwellings, some with rooms in the roof space, and more modern three-storey buildings can be seen on the housing estate opposite the appeal site. Overall, the area around the appeal site has a varied mix in terms of the appearance and scale of buildings.
24. The proposal would involve demolition of the existing building and the construction on a similar footprint of a taller and wider building when seen from the front. However, notwithstanding being in a modestly elevated position in relation to the highway to the front, given the scale and massing of the existing building and its significant set-back from the highway, and due to the relatively distant views that would be afforded of the proposal from the highway, it would not introduce such a change in scale, mass and appearance that would harmfully alter the street scene when viewed from public vantage points. This is notwithstanding the typical scale of other local development setbacks from the highway and the intentions to introduce triangular bay windows and a crown roof articulated by various dormers. Whilst the intended increase in scale when compared to current circumstances would be readily appreciable from neighbouring properties, this does not lead me to find the proposal to be unacceptable in character and appearance terms.
25. For these reasons the proposed development would have an acceptable effect on the character and appearance of the area. The proposal would therefore satisfactorily accord with Policy D3 of the London Plan, Policy BE1 of A Vision for 2026 Hillingdon Local Plan: Part 1 Strategic Policies (November 2012) and Policies DMHB 11 and DMHB 12 of the Local Plan DMPs insofar as these policies require development to achieve a high quality of design which responds to and enhances local distinctiveness, make a positive contribution to the local area in terms of layout, form, scale and materials taking into account the surrounding scale of development, building lines, rooflines, setbacks and streetscape rhythm, be well integrated with the surrounding area and not result in the

inappropriate development of gardens that would erode the character of suburban areas.

26. Policy D1 of the London Plan sets out requirements for Councils to follow during plan-making. As such, it does not provide criteria directly relevant to the determination of proposals in respect of this main issue.

Highway safety

27. The proposal would generally accord with Appendix C of the Local Plan DMPs and the Council's Domestic Vehicle Footway Crossover Policy (June 2022) in terms of requiring car parking areas to be designed to allow vehicles to exit and enter sites safely in a forward gear. Notwithstanding the details provided on the plans in this case, due to the space available at the site entrance, a vehicle crossover providing adequate pedestrian visibility splays could be secured by planning condition were the appeal to be allowed.
28. For these reasons, I am satisfied that, subject to the imposition of, and compliance with, appropriate planning conditions, the proposal would not be harmful to highway and pedestrian safety with particular regard to vehicular egress from the site. Accordingly, the proposal would comply with Policy T4 of the London Plan and Policies DMT 2 and DMT 6 of the Local Plan DMPs which require that development proposals should not increase road danger, and that safe accessibility from within developments should be maximised.
29. Policy T6 of the London Plan generally concerns the provision of an adequate quantum of car parking to serve developments and other matters unrelated to this main issue. Although Policy T6 refers to the Transport for London guidance on parking management and parking design I have not been provided with that document and therefore have not had regard to it.

Other Matters

30. The Council's reasons for its decision are clearly set out in the decision notice. Advice provided by Planning Officers prior to that decision was given without prejudice, it did not bind the Council to a particular outcome, it was given in the spirit of cooperation in seeking improvements to the proposal and does not weigh in favour of the proposal in this case.
31. The provision of an additional seven two-bedroom flats would be a benefit in supporting the Government's objective, as described in the Framework, of significantly boosting the supply of homes, and it would provide accommodation likely to be in demand given the location of the site close to Hillingdon Hospital and Brunel University. Accordingly, I attribute moderate weight to this benefit, noting the current healthy housing supply position in the Borough. However, the scheme's benefits would be insufficient to outweigh the multiple harms and associated policy conflicts that I have identified.

Conclusion

32. For the reasons given above, having had regard to the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

David English

INSPECTOR