

Appeal Decision

Site visit made on 9 November 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2022

Appeal Ref: APP/R5510/W/22/3301303

Nursery, Lawn Road, Uxbridge UB8 2TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by RBMF Developers Ltd against London Borough of Hillingdon.
 - The application Ref 75251/APP/2021/4446, is dated 6 December 2021.
 - The development proposed is Redevelopment/refurbishment of nursery building (Use class E) including demolition of annex and rear extension. Erection of a three storey building comprising 1 x 1 bed, 1 x 2 bed residential units (Use class C3).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal results from the Council's failure to determine the planning application within the prescribed period. Nonetheless, the Council's statement of case sets out its concerns and this has informed the following main issues.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Rockingham Bridge Conservation Area;
 - The effects of the proposed development on the living conditions of the occupiers of Nos. 11, 13, 15, 17, 19 and 21 Lawn Road, as well as Nos. 1 and 5 Cross Road and the operations of the Nursery with particular reference to overlooking;
 - Whether the proposal provides acceptable cycle and parking arrangements including any effects on highway and pedestrian safety; and
 - Whether the proposal provides acceptable living conditions for future occupiers, with particular reference to outlook, privacy, light and external amenity space.

Reasons

Conservation Area

4. The appeal site is located within the Rockingham Bridge Conservation Area (CA). This covers a small area to the east of Uxbridge town centre. It is predominantly residential in character, largely comprising of two storey

Nineteenth Century terraced houses. There are also several more recent developments in the form of three storey blocks of flats. A defining characteristic of the CA is the relationship of the built form to the River Frays and Fassnidge Park, which run through it.

5. The appeal site comprises of a former Methodist Chapel with a later addition, which are occupied as a Nursery. This part of the road includes a mix of traditional terrace housing and more recent three storey blocks of flats. There is no formal CA appraisal. However, the former Chapel is identified within the Council's CA leaflet as a building that makes a positive contribution to the CA.
6. Although it is a modest building with an unassuming form, the Chapel has a pleasing simplicity to its design with its balanced fenestration to the front and central entrance porch. As such, it makes a small but positive contribution to this part of the CA. Overall, the Chapel's significance within the CA is derived from a combination of its historic fabric, its representation of its functional history and social values.
7. The existing metal clad addition is a somewhat utilitarian structure that does not make a positive contribution to the character of the CA. However, it is small and is set back from the front façade of the Chapel, ensuring it is subservient to, and reflects the simplicity of, the Chapel. As such, it is not an unduly dominant feature. This contrasts with the appeal proposal, which would be aligned with the main front façade of the Chapel and would be taller than it.
8. The angular nature of the design of the proposed building, relative to Lawns Road, would create some sense of space from the front façade of the Chapel. However, the rear block, including the external staircase, would be very close to the side elevation. In combination with the height proposed, the resulting scale of building and positioning would fail to harmonise with the Chapel in the street scene.
9. The contemporary design with its angular form to Lawns Road, use of fibre cement board, prominent roof terrace and flat roof would exacerbate the effects from the scale and positioning, combining to jar injuriously in this location, against the simplicity, modest form, and proportions of the Chapel. This would also undermine the prominence of the Chapel, and thus, its historical and communal importance. There maybe flexibility with some elements, such as the fibre cement board, but that would not overcome my overall concerns.
10. The proposed building would be lower than the large block of flats and, in this regard, the built form would step down to the Chapel. However, there would be a larger gap to the block of flats than there would be to the Chapel, and the proposal would be set forward from the flats, increasing the proposed development's prominence in the street scene. As such, the lower height in relation to the flats does not overcome my concerns regarding the height and physical relationship with the Chapel.
11. Overall, the proposal would not preserve or enhance the character or appearance of the CA. The harm would be localised to this part of the CA and the effects would be less than substantial in the context of paragraph 202 of the National Planning Policy Framework (the Framework). In accordance with paragraph 202 I must balance that less than substantial harm against the public benefits of the development.

12. The proposal would refurbish the Chapel, with benefits to the Nursery use, and it would result in the removal of the metal clad structure. However, the proposed replacement building would cause greater harm to the character and appearance of this part of the CA than the existing structure, due to the subservient scale and positioning of the existing structure. Moreover, it has not been demonstrated that the appeal scheme as designed, and with the harm I have identified, is the only way of renovating the existing Chapel building.
13. Heritage assets are irreplaceable and great weight should be given to their conservation. Accordingly, there are no public benefits that would outweigh the less than substantial harm to the CA. The proposal would therefore conflict with the requirements of Policies BE1 and HE1 of the Hillingdon Local Plan: Part One - Strategic Policies (LP1) (2012), Policies DMHB1, DMHB4, DMHB11 and DMHB12 of the Hillingdon Local Plan: Part Two - Development Management Policies (LP2) (2020), Policies HC1, D3, D4 and D8 of the London Plan (2021) and the Framework, insofar as they are relevant to this main issue. These say, amongst other things, that the Council will conserve and enhance Hillingdon's distinct and varied environment, its settings and the wider historic landscape which includes CAs.

Living conditions – neighbouring properties

14. The London Plan (2021) defines a habitable room, as any room used or intended to be used for sleeping, cooking, living or eating purposes. In this regard, any bedrooms in the upper floors of neighbouring properties would constitute a habitable room.
15. The elevated nature of the terrace would allow its users to look down into the first floor rooms of Nos. 11, 13, 15, 17, 19 and 21 Lawn Road. In this regard, the terrace would appear unduly invasive from these neighbouring properties. The location of planters and pulling the terrace back from the edge would not, in my view, prevent this, due to the small depth of the planters.
16. The nearest neighbouring properties within the large block of flats are Nos. 1 and 5 Cross Road. These units have a small side window facing directly toward the appeal site and windows on the front. Neither party has provided any substantive evidence regarding the use of these rooms, although the Council has advised that the smaller, side windows, are secondary windows. In the absence of any substantive evidence to the contrary, I have no reason to not consider them as habitable rooms.
17. The large roof terrace on the proposed residential building would allow views toward the front facing windows. Given its elevated nature, even though the angle would not allow direct views deep into the room, the degree of angle would still allow considerable views. This would not be mitigated by the small depth of the planters and position of the railings. The angle from the smaller first floor terrace would be more acute and would not be of a level that would, in my view, cause significant overlooking.
18. The first floor bedroom windows and the second floor living room windows within the proposed building would face directly toward the external play area of the Nursery. Given the elevated nature and close proximity, this would result in a significant level of overlooking. The appellant indicates that these windows would be obscure glazed, which would preclude views. This could be conditioned were I minded to allow the appeal.

19. The alterations to the Chapel would include the insertion of a mezzanine floor, which would be set back from the windows. This would limit the extent of overlooking. The area of mezzanine nearest the window would provide access to the lift shaft and the shaft would prevent views out from most of the mezzanine floor. Moreover, given the nature of the Nursery use it would not be occupied all the time. Overall, I do not consider the extent of overlooking from the mezzanine to be significant.
20. To conclude on this main issue, the proposal would have an unacceptable effect on the living conditions of the occupiers of Nos. 11, 13, 15, 17, 19 and 21 Lawn Road and Nos. 1 and 5 Cross Road with particular reference to overlooking from the large roof terrace. I therefore find conflict with the requirements of Policy DMHB11 of the LP2 and the Framework, insofar as they relate to this main issue. These say, amongst other things, that development proposals should not adversely impact on the amenity, daylight and sunlight of adjacent properties and open space.

Cycle and parking arrangements

21. The proposed disabled parking space would be positioned parallel to the road and footway to the front. It is unclear from the information before me how the manoeuvring of the vehicle into the space would work in practice, particularly if vehicles were parked on the opposite side of the road. I recognise that this matter was not raised by the Highways Authority. However, it was raised by the Planning Officer, and from the evidence before me I can not be satisfied that there would not be significant manoeuvring onto the footway itself. This would be prejudicial to pedestrian safety and highway safety as vehicles travel around the corner adjacent to the Chapel. Given the increased vulnerability of young children leaving or arriving at the Nursery, it is not appropriate to address this matter by way of a condition were I minded to allow the appeal.
22. The proposal indicates two cycle parking spaces below the stairs within the site grounds. Due to the height of the staircase rising above the bike access area, I consider that there would be sufficient space to manoeuvre the bikes in and out. Precise details, including how they would be secured, could be required by way of a condition were I minded to allow the appeal.
23. Reference is made to the Council seeking a legal obligation to prohibit future residents from applying for parking permits, and thus, mitigate any potential impact on what the Council consider an already saturated on street parking area. However, the appellant has provided a parking stress survey and the Council accepts its findings that there is spare capacity. It is unclear therefore why such a legal obligation would be reasonable and necessary in the circumstances. This has not thus, been a determinative matter in my findings.
24. To conclude on this main issue, I am not satisfied that the proposal would provide acceptable parking arrangements with particular reference to highway and pedestrian safety. I therefore find conflict with the requirements of Policies DMT1, DMT2 and DMT6 of the LP2, Policies T4 and T6 of the London Plan and the Framework insofar as they relate to this matter. These say, amongst other things, that development proposals will be required to meet the transport needs of the development and address its transport impacts in a sustainable manner. In order for developments to be acceptable they are required to maximise safe, convenient and inclusive accessibility to, and from within developments for pedestrians, cyclists and public transport users.

Living conditions - future occupiers

25. The proposed layout means that the windows on the ground floor would not face directly toward the neighbouring Nursery or neighbouring properties opposite, with only angled views possible. Moreover, whilst passers-by would be able to look inside from the footway over the boundary, this is not an unusual situation. Indeed, it is a common feature within the terrace housing within the CA. Any views from passers-by would be fleeting and would not, in my view, give rise to unacceptable living conditions for the ground floor living accommodation.
26. The open plan living, and kitchen area would have windows on multiple sides. As such, even though the staggered design of the building, and its close positioning to the side boundary wall, would limit outlook and light from individual windows, the number of windows and their height would ensure acceptable levels of light and outlook. The ground floor bedroom window would look onto a modest sized garden to the rear and toward the boundary wall, but the room would be served by a wide and tall window. As such, I am satisfied that this would provide acceptable light and outlook. Given the nature of the bathroom as a non-habitable room the two windows would be appropriate.
27. The ground floor flat would have 5 areas of external amenity space. Cumulatively, this would exceed the requirements of both the LP2 and the London Plan. I recognise that the shape and size of each area would limit their effectiveness to provide significant useable space. However, the ground floor flat is a 1-bed unit and as such would not be suitable for family accommodation. Moreover, there would be sufficient space to sit outside and provide some useability. Given the overall amount, I am satisfied that this would be sufficient for the size of the unit. Moreover, whilst there would be some potential overlooking from upper floors of neighbouring properties, in a residential environment, a certain degree of overlooking of gardens is not unusual.
28. Given the angle of the view from the first and second floor windows at Nos. 1 and 5 Cross Road, there would not be a significant degree of overlooking of the first floor terrace and the bedroom 1 window. Given the size and shape of the second floor roof terrace, this property would have acceptable external amenity space.
29. To conclude, the proposal would provide acceptable living conditions for future occupiers, with particular reference to outlook, privacy, light and external amenity space. I therefore find no conflict with the requirements of Policies DMHB11, DMHB18 of the LP2, Policy D3 of the London Plan or the Framework, insofar as they relate to this main issue. These, amongst other things, say that development proposals should deliver appropriate outlook, privacy, and amenity.

Other Matters

30. I note that the appellant has made changes to their scheme, considering the different site constraints, and following pre application advice with the Council with a view to finding a solution. However, this is not a matter for my consideration in this appeal and I am only able to make my decision taking into account the plans that were before the Council when the appeal was lodged.

31. The absence of harm in respect of other considerations are neutral matters weighing neither for nor against the proposal. Concerns regarding the processing of the application are not issues that I can assess as part of this appeal and do not affect the planning merits of the proposal before me.

Conclusion

32. Drawing the above together, the proposal would not preserve or enhance the CA and there are no public benefits that would outweigh the less than substantial harm I have identified to it. Moreover, the proposal would have an unacceptable effect on the living conditions of the occupiers of Nos. 11, 13, 15, 17, 19 and 21 Lawn Road and Nos. 1 and 5 Cross Road with particular reference to overlooking from the large roof terrace. Furthermore, I am not satisfied that the proposal would provide acceptable parking arrangements with particular reference to highway and pedestrian safety.
33. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed and planning permission is refused.

Mr R Walker

INSPECTOR