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# Appeal Decision

Site visit made on 2 May 2012

**by Ian McHugh DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 July 2012**

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**Appeal Ref: APP/M5450/A/12/2168568**  
**29 Paines Lane, Pinner, Middlesex, HA5 3DF**

- 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 Mr Dennis Slade against the decision of Harrow Council.
  - The application Ref P/2690/11, dated 4 October 2011, was refused by notice dated 13 December 2011.
  - The development proposed is demolition of existing garage and creation of a 3 bedroom house to the rear of No. 29 Paines Lane.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. In coming to a view on this proposal, I have had regard to the recently issued National Planning Policy Framework (the Framework) on which both parties have been consulted. I note that following the adoption of the Council's Core Strategy (CS) on 16 February 2012, Policy EP20 of the Harrow Unitary Development Plan 2004 (UDP), which is quoted in the Council's decision notice, is no longer relevant. I have also taken into account Core Policy CS 1 of the CS, which has been drawn to my attention by the Council, in reaching my decision. None of the policies relevant to this appeal appear to be at odds with the new Framework. In determining this appeal, I have had regard to the Framework and to the written comments made on this matter.
3. Reference has been made in the appeal documentation to Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 3: Housing. These have been replaced by the Framework and where relevant, I have considered the guidance contained in the Framework in reaching my decision.
4. The description of the application includes the demolition of an existing garage. I observed on my site visit that it has already been demolished. As this is not an issue that has been raised by any of the parties, there is no need for me to consider the matter further.

## **Main Issue**

5. The main issue is the effect of the development on the character and appearance of the area.

## **Reasons**

6. The site comprises part of the rear garden area of number 29 Paines Lane which is a detached house situated on a large plot. The area is residential in character and is generally defined by development similar to the appeal site although there are pockets of higher density housing opposite on Barrow Point Lane.
7. The site is secluded and is substantially enclosed by mature trees, hedging and fencing and it is generally screened from public view. The size of the existing plot at number 29, combined with its trees and hedging contribute significantly to the spacious appearance and suburban characteristics of the site and its surroundings.
8. The proposal would result in the subdivision of the plot and the erection of a two storey detached dwelling within its own separate curtilage. The new dwelling would be sited behind the existing dwelling. This would be significantly at odds with the prevailing pattern of development in the area which consists of large dwellings on large plots fronting the highway. It would be an uncharacteristic form of development which would be out of keeping with its surroundings, unacceptably harming the character and appearance of the area.
9. It has been put to me that the development at number 23 Paines Lane is an example which should be followed. I note however that the Council states that it was constructed in 1956. Consequently, taking into account the passage of time, the existence of that development carries little weight in my decision. I also consider that the developments at Barrow Point Lane and Paines Close, which have been referred to me by the appellant, are materially different in concept being small estates of dwellings arranged in a planned layout. My attention has also been drawn to an appeal decision at 21 South Hill Avenue (reference: M5450/A/11/2156771), where the Inspector concluded that the principle of residential development on garden land would be appropriate. That appeal was however dismissed because of the impact of the proposed development on the character and appearance of the area. I have similar concerns with regard to the current appeal.
10. The appellant argues that ancillary buildings could be erected on the site and that the effects of these would be very similar to the proposed house. Whilst, I do not have the full details of these buildings, ancillary domestic structures are not uncommon in rear gardens. However, a new dwelling would generally have different characteristics, including the creation of a separate curtilage and the generation of its own domestic paraphernalia.
11. I note that the Council has a presumption against "garden" development as part of its spatial strategy for the Borough and that it aims to meet its housing requirement on previously developed land. Although the Framework does not prevent development on garden land in principle, it does require new developments to respond to local character and history and to reflect the identity of local surroundings (paragraph 58). For the reasons given above, the proposal fails to achieve this. I therefore conclude that the proposal would be

harmful to the character and appearance of the area and that it would conflict with Saved Policy D4 of the *UDP* and Core Policy CS 1 of the *CS* and Policy 7.4 of *The London Plan 2011* which I consider to be the most relevant in this case. These require new development to have regard to the scale, character and form of the surrounding environment, and to respond positively to the local and historic context of the site.

### **Other Matters**

12. The Council considers that the proposal would be harmful to the amenities of the occupiers of neighbouring properties, including number 29 Paines Lane by virtue of increased disturbance and general activity at the rear. I note the appellant's intention to provide acoustic fencing to mitigate in this regard. Whilst the creation of an additional dwelling would potentially increase activity in the rear garden area, I consider that given the separation distances between dwellings and the screening effect of the existing hedges and trees, any such activity would not be so intrusive or harmful as to justify refusal of the proposal.
13. The Council also considers that the proposal would fail to adhere to Secure by Design principles insofar that it would not be naturally overlooked by passers-by and that the presence of mature vegetation would prevent natural surveillance from neighbouring sites. However, the proposed dwelling and its access drive would be clearly visible from number 29 Paines Lane. This would provide a reasonable amount of surveillance and security. In addition, there is no substantive evidence before me to show that the proposed dwelling would be significantly at risk from crime in the locality. Representations have been received locally with regard to highway safety. I note however that the Council's Highways Engineer has no specific concerns and I have no evidence to show that the proposal would have any significant impact on highway safety in the area.
14. Concern has been expressed that the development would result in overlooking and loss of privacy to neighbouring residents. Given the separation distances and the mature vegetation around the site, I consider that there would be no significant harm in this respect.
15. It has also been stated that the development would be detrimental to wildlife and the ambiance of the area. However, I have no evidence to show that any such impact would be significant.
16. I acknowledge that the proposal would make a modest contribution to housing stock in the area and that there are no objections to the design of the proposed dwelling. These however, do not outweigh the harm that I have identified above.

### **Conclusion**

17. I conclude for the reasons given above, that the appeal should be dismissed.

*Ian McHugh*

INSPECTOR



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# Appeal Decision

Site visit made on 5 July 2012

**by Ray Wright BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 27 July 2012**

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## **Appeal Ref: APP/M5450/A/12/2171610**

### **21 South Hill Avenue, Harrow, Middlesex HA2 0NN**

- 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 Mr B Porter against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/3364/11, dated 13 December 2011, was refused by notice dated 8 February 2012.
  - The development proposed is 'erection of a single storey 2 bedroom dwelling house with associated parking.'
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## **Decision**

1. The appeal is dismissed.

## **Procedural Matters**

2. The Harrow Core Strategy (CS) was formally adopted in February 2012 and I have therefore taken this into account and accorded the relevant policies appropriate weight in respect of this appeal.
3. The National Planning Policy Framework (Framework) was published in March 2012, after the appeal was made. The appellant and the Council have been given the opportunity to comment on the relevance of the Framework to their cases. I have had regard to the responses and to the Framework in determining the appeal. I find that none of the Core Strategy or Unitary Development Plan policies, relevant to this appeal, appear to be at odds with the new Framework.

## **Main Issues**

4. The main issues in this case are the effect on the character and appearance of the area having regard to national and local policy guidance on the location of new housing development and whether the proposal would provide acceptable living accommodation for future occupiers.

## **Reasons**

5. The appeal site is occupied by a detached bungalow fronting South Hill Avenue. It is one of a small group of bungalows on this side of the road (nos 19-25) which are set within spacious plots. To the rear of the site is a railway line and on the opposite side of the road are two storey houses.
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6. The proposal is for the erection of a detached bungalow, consisting of two bedrooms, kitchen and living room, on the existing side garden of the appeal property. The design and form of the proposed bungalow would reflect that of the existing property with a gabled roof to the frontage.

#### *Character and Appearance*

7. The Framework confirms that Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example, where development would cause harm to the local area. Similarly, the London Plan indicates that Boroughs may introduce a presumption against development on private residential gardens where this can be locally justified.
8. Policy CS 1 of the CS indicates that proposals that would harm the character of suburban areas and garden development will be resisted, with development directed 'to town centres and strategic previously developed sites'. In this current policy context I consider the effect of such garden development on the character of the area is paramount.
9. The previous appeal decision in respect of this site (APP/M5450/A/11/2156771) identified that a key element of the overall character of this stretch of the road is the space to the sides of the existing bungalows and the retained gaps between them. The appeal decision confirmed that the width of the appeal plot would be noticeably less than others in the road. The proposal was therefore considered cramped and out of keeping.
10. The plot width in this scheme would be largely unchanged from the previous appeal and as a consequence would remain under half that of the adjoining property at 23. I appreciate that in this proposal, following the previous appeal decision, the gaps between the proposed bungalow and its side boundaries have been increased. As proposed, it would now be set in two metres from each side boundary and the gap between it and the existing dwelling would now be around 3 metres. However, these proposed gaps would still be far less than those at adjoining bungalows. The development would still largely infill the garden area between the existing dwelling and the side boundary to the adjoining bungalow, adversely altering the characteristic spacing in the road. Therefore the proposed changes do not resolve or overcome the issues highlighted as being unsatisfactory in the previous appeal. The proposal would, to my mind, still result in a cramped form of development which would not suitably relate to its surroundings.
11. The proposal overall would be out of keeping and would adversely affect the character and appearance of the area. As such it would be contrary to Policy CS 1 A and B of the CS together with Policies 3.5A, and 7.1D of the London Plan and Policy D4 of the Harrow Unitary Development Plan which all aim to protect and safeguard the character of areas.

#### *Living Conditions*

12. The Council indicate that in respect of its space standards 'as both bedrooms show a double bed, the proposal was assessed as a 2 bedroom, 4 person bungalow.'

13. However, the submitted plans show two bedrooms, one accommodating a double bed and the other a single bed. While actual occupation may not conform to the details shown on the drawings, it seems reasonable, in this case, to consider the proposal based on the space standards for a two bedroom, three person unit. The standards are set out in the LP and the Harrow Residential Design Guide Supplementary Planning Document (SPD). These give a requirement of 61 square metres for a two bedroom three person unit. The Council indicate the unit is 66 square metres and therefore it would meet this standard.
14. In respect of the individual room sizes the Council indicate that the bedrooms are each 10 square metres which is under the recommended level of 12 square metres for a double bedroom, as set out in the London Housing Design Guide. However, one bedroom is indicated as a single bedroom where the space requirement is less (8 square metres) and again, on this basis, the standard would be met. In addition the bedroom indicated with a double bed has a regular shape, with suitable additional space for other bedroom furniture. I do not consider the minimal deficiency identified, in itself, is a reason to withhold planning permission.
15. I conclude that the unit would provide acceptable living accommodation for future occupiers and as such would not conflict with Policy 3.5C of the LP, Policy D4 of the UDP or SPD.

### **Other Matters**

16. Comments have been received from the neighbouring occupier regarding the impact on the character of the area (as considered above) and in respect of loss of privacy. As proposed there is only one window to the side elevation facing number 23 and this would be to a bathroom. Were a permission to be granted a condition could be imposed to restrict the opening of this window and require it to be obscure glazed to preclude any overlooking and loss of privacy.
17. I note that the bungalow has been identified by the appellant as potentially providing a unit 'ideally suited to the elderly.' However, the Council indicate that there is no significant shortage of such accommodation and no contrary evidence has been provided. I also appreciate the current occupier of the bungalow considers the garden area involved is redundant, of little use and is hard to maintain. However, this matter is not of sufficient weight to overcome the harm identified to the character of the area.

### **Conclusion**

18. While I have concluded the proposal would provide acceptable accommodation for future occupiers, this does not outweigh or negate my concerns regarding the harm to the character and appearance of the area that would be caused by the development. For the reasons given above, and having regard to all other matters raised, I conclude this appeal should be dismissed.

*Ray Wright*

INSPECTOR



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# Appeal Decisions

Site visit made on 1 May 2012

**by Stephen Roscoe BEng MSc CEng MICE**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 June 2012**

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## **Appeal A Ref: APP/M5450/A/12/2170398**

### **Land r/o 107-111 Sylvia Avenue, Hatch End, Pinner, Middlesex HA5 4QL**

- 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 Charterhouse Homes Ltd against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/2977/11, dated 31 October 2011, was refused by notice dated 19 December 2011.
  - The development proposed is the erection of a detached dwelling with parking and access from Newland Close.
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## **Appeal B Ref: APP/M5450/A/12/2170405**

### **Land r/o 107/111 Sylvia Avenue, Hatch End, Pinner, Middlesex HA5 4QL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Charterhouse Homes Ltd against the decision of the Council of the London Borough of Harrow.
  - The application Ref P/2982/11, dated 1 November 2011, was refused by notice dated 19 December 2011.
  - The development proposed is the erection of a detached dwelling with parking and access from Newland Close.
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## **Procedural Matters**

1. The application under Appeal B was submitted in outline with all matters reserved for future consideration apart from access, and the appeal has been considered on this basis.

## **Decisions**

2. The appeals are dismissed.

## **Reasons**

### *Character and Appearance*

3. The main issue in these cases is the effect of the proposals on the character and appearance of the surrounding area. The appeal site comprises the rear parts of three rear gardens of residential plots on Sylvia Avenue which contain semi-detached bungalows that are prevalent in this part of the avenue. The site adjoins the rear gardens of Nos 1 and 2 Newland Close, which back onto the Sylvia Avenue plots. The generally two storey detached houses of Newland Close were built as infill development, but the close now has its own character in contrast with that of the avenue. The developed parts of the close

- and the avenue lie generally parallel to each other, and the appeal site fronts a part of the close that links the two character areas.
4. In views from Newland Close and Sylvia Avenue, the appeal site comprises part of a green buffer between the development on the close and the avenue. It separates the two different character areas, and this is reinforced by development on the close being at a higher level than that of the avenue. This necessitates a retaining wall along part of the front of the site that accommodates a level difference between the site and the lower link road. The green buffer is replicated on the opposite side of the link road.
  5. The proposals under Appeals A and B would introduce development into this buffer, notwithstanding that one of the houses on the close has been extended towards the road. The development would significantly reduce the separation that the buffer provides. Furthermore, it would harm the suburban character of the area in conflict with Core Strategy<sup>1</sup> (CS) Core Policy CS1 which seeks to resist such garden development. It would also introduce a negative relationship between the urban structure and the natural landscape in conflict with London Plan<sup>2</sup> Policy 7.4B.
  6. The ground floor of the dwelling under Appeal A would lie at a similar level to that of the houses in the close. Its south elevation would be prominent and would have a strong vertical emphasis in views from the link road and the avenue. This would be due to its apparent two storey height to accommodate the falling ground levels, even if the lower part of the elevation was screened. Total screening would be unlikely to remain in perpetuity, despite the appeal site being larger than the residential plots in the close.
  7. The east elevation would be somewhat screened by garden trees on the front boundary of the appeal site, but only one of these has the benefit of Tree Preservation Order (TPO) protection. Whilst it would be possible to require the retention of the remainder by the imposition of an appropriate condition, this would be difficult to enforce given their proximity to the location of the front elevation of the proposed dwelling. It would be likely therefore that, in time, the east elevation of the dwelling would be seen from the link road and the close in a prominent position above the retaining wall. It would appear obtrusive and out of character, even though it would reflect the scale of the avenue bungalows, due to its close proximity to the very different two storey houses on the close.
  8. The proposal under Appeal B could have a lower ground floor level than that proposed under Appeal A. Part of the ground floor of any dwelling could then be below the level of the link road, and a retaining structure would be required to support the link road. Furthermore, another retaining structure would be required between the dwelling and the property at No 1 Newland Close. Under such a scenario, any dwelling may, in terms of its elevation, be less prominent than that under Appeal A. The resulting poor relationship, in the vertical plane, between any such dwelling and its surroundings would however be uncharacteristic for the area.
  9. A similar situation would apply to development at any level on the site due to its cross fall. Such a poor layout and regard to the street pattern,

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<sup>1</sup> Harrow Core Strategy: February 2012

<sup>2</sup> The London Plan: Spatial Development Strategy for Greater London: July 2011



under Appeals A or B, would conflict with UDP<sup>3</sup> Saved Policy D4 and London Plan Policy 7.4B. Moreover, it would not reinforce the character of the neighbourhood or enhance the public realm as required by London Plan Policies 7.1D and 7.6B.

10. A eucalyptus tree lies immediately to the south of the appeal site, and some 50% of its canopy overhangs the site. This overhang would include part of a proposed car parking area within the site under Appeal A. The retention of this tree of value would accord with UDP Saved Policy D10 and London Plan Policy 7.21B. The tree has the benefit of protection under TPO 942: Sylvia Avenue (No 1) Hatch End, and consent has been given for a 30% reduction in its crown.
11. Pressure to fell the tree, as a result of the proposals under Appeals A and B, would be unlikely and work without consent would also be unlikely given its prominence in the public realm. The proposals under Appeals A and B would therefore be likely to retain the street side greenness in relation to this tree in accordance with UDP Saved Policy D10. This would be different to a previous proposal under Appeal Ref APP/M5450/A/11/2149293, where a double carport was situated within about 1.5m of the trunk of the tree. The absence of harm in this regard however would not outweigh the other harm identified.
12. The decision on the previous appeal found that the proposal at that time, for two detached houses on the appeal site, would not be unacceptable in principle. This was notwithstanding that the site was not classified as previously developed land. It did however find harm: to the character and appearance of the area (due to elevation, prominence and cramping from the topography); that the existing retaining wall prevents integration between the two character areas; and likely harm to the trunk of the eucalyptus tree due to the proximity of construction works. Since this appeal however, the Council's CS has been adopted with a presumption against garden development. Furthermore, the National Planning Policy Framework suggests that local planning authorities should consider policies to resist inappropriate development of residential gardens. The existence of the CS would therefore outweigh the position in respect of development being acceptable in principle on this site, which was set out in the previous appeal decision.
13. Here, the proposals under Appeals A and B would have a harmful effect on the character and appearance of the surrounding area. The development plan also seeks to resist inappropriate garden development in accordance with Government policy. The previous appeal therefore does not support these appeals in terms of the acceptability in principle of development on the site.
14. I therefore conclude that the proposals would have a harmful effect on the character and appearance of the surrounding area. I further conclude that they would thus conflict with Core Strategy Core Policy CS1, UDP Saved Policy D4 and London Plan Policies 7.1D, 7.4B and 7.6B.

#### *Other Matters*

15. It has been suggested that the existing gardens in which the appeal site is located are too large for the occupiers to easily maintain. Any difficulty in maintaining the gardens however would not be sufficient reason to allow development in an area that provides separation between the two residential

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<sup>3</sup> Harrow Unitary Development Plan: 30 July 2004

roads as previously described. The proposals would be situated in a sustainable location and would assist in correcting the Council's housing land supply shortfall in respect of a critical dwelling size. Whilst these are valid reasons in support of the appeals, they would not outweigh the harm identified.

*Conclusion*

16. Having also taken into account all other matters raised, none carry sufficient weight to alter the decisions. I therefore conclude that the appeals should be dismissed.

*Stephen Roscoe*

INSPECTOR