



Appeal Decision

Site visit made on 24 September 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th December 2019

Appeal Ref: APP/M5450/W/19/3233640

106 Uxbridge Road, Hatch End, Pinner HA5 4DS

- 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 D Patel against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/1880/19, dated 18 April 2019, was refused by notice dated 18 July 2019.
 - The development proposed is demolition of an existing house and erection of new three storey residential building housing one replacement dwelling and five new dwellings with associated parking, bins and cycle store.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. Although it does not form part of the Council's reason for refusal it is clear from the evidence that, in the event that planning permission were to be granted, in order for the scheme to proceed, there would be a requirement to carry out works within the highway to adjust the configuration of a splitter island within the carriageway of Uxbridge Road, located to the south of the appeal site. This is a matter of some importance to the proposal and I have, therefore, included the effect of the development on highway safety in the vicinity of the appeal site as a main issue.

Main Issues

3. The main issue in this appeal are:
 - The effect of the proposed development on highway safety in the vicinity of the appeal site; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Highway safety

4. The appeal site is located on the north-west quadrant of the roundabout junction of Uxbridge Road, Rowlands Avenue and Headstone Lane. Uxbridge Road is a very busy main road and at the time of my site visit was carrying a

high volume of traffic. Substantial numbers of vehicles were also using Headstone Lane. Rowlands Avenue to the north had a lower number of vehicle movements. These roads are subject to a 30 mph speed limit. To the east of the roundabout, Uxbridge Road has two lanes in each direction and a 40 mph speed limit. West of the roundabout, Uxbridge Road has single carriageway in each direction. The north, south and west arms of the roundabout have splitter islands with pedestrian refuge areas in the centre of the carriageway, whilst the four lane section to the east has a grassed central reservation. I observed that the majority of the vehicle movements were of through traffic, eastbound and westbound, on Uxbridge Road.

5. The appeal site is currently occupied by a single dwelling house with two vehicular access points to Uxbridge Road, one at each end of the site frontage. The access at the eastern end of the site is coincidental with the 'Give Way' markings for the roundabout.
6. The appeal proposal would abandon these two existing access points and replace them with a single, central, access point serving four car parking spaces for the development. Due to the proximity of the proposed access to the roundabout junction, the Council state that right turn manoeuvres into and out of the site would be hazardous. From what I saw when I visited the site where I spent some time observing traffic movements and flows, I would concur with this. Uxbridge Road was carrying a heavy and regular flow of traffic in both directions, and whilst I accept that this is necessarily a snapshot of the time that I was there, I have no reason to believe that this was not typical for a normal week day in the late morning. It is also reasonable to assume that at peak times there would be increased numbers of vehicles using the roads near the appeal site.
7. As a result of the position of the proposed access to the site, a vehicle waiting to turn right into the site would obstruct traffic leaving the roundabout to access Uxbridge Road westbound. A vehicle egressing the appeal site to travel westbound on Uxbridge Road would have to negotiate the eastbound carriageway where vehicles may be waiting to enter the roundabout and would potentially have its visibility to and from faster moving vehicles leaving the roundabout to travel west on Uxbridge Road obstructed. This would, in my view, have a significant adverse effect on highway safety and would not provide a safe and suitable access to the site contrary to the expectations of the National Planning Policy Framework (the Framework) and Policy DM1 of the Harrow Development Management Policies 2013 (the DMP).
8. In order to create safe access arrangements, the Council state that it is essential to extend the existing splitter island adjacent to the appeal site in order to create a one way in and out arrangement at the proposed new access by physically preventing vehicles from crossing the centre line of the road. This is not disputed by the appellant. Nonetheless, no details of the necessary works to the highway have been submitted and there is no mechanism before me, such as a planning obligation, to ensure that any necessary works are secured and implemented. Both main parties suggest that a financial contribution to undertake these works could be achieved using a planning condition.
9. The Planning Practice Guidance (the PPG) sets out that no payment of money or other consideration can be positively required by a condition when granting

planning permission. The PPG goes on to say that a positively worded condition which requires the applicant to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990 or an agreement under other powers, is unlikely to be enforceable.

10. However, where the six tests for conditions set out in the Framework and the PPG will be met, it may be possible use a negatively worded condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, entering into a planning obligation requiring the payment of a financial contribution). The PPG does, nonetheless, state 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. The PPG goes on to say that such a condition may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk and that this may apply in the case of particularly complex development schemes.
11. Due to the modest scale of the proposal, to my mind, it does not meet the criterion of being a complex development scheme, nor is it a major scheme that would bring significant public benefits. In addition to there being no details of the required works or the level of financial contribution that may be necessary, beyond a broad estimate, neither party has suggested how such a condition could be worded. In these circumstances I cannot determine that any such condition would meet the tests set out in the Framework and PPG. I am, therefore, not satisfied that this matter could be resolved by use of a planning condition.
12. Based on the evidence submitted by the parties and what I saw when I visited the site, in the absence of a planning obligation to secure the highways works that are described as essential by the Council, I cannot find that the proposed new access would be either safe and suitable, nor can I find that the development would not cause harm to the safe operation of the highway in the vicinity of the appeal site.
13. I have noted that the Council do not have an objection to the level of parking provision proposed by the development. The appeal site is in an area where there is good access to public transport and local services are within walking distance of the site. The future occupiers of the development would not therefore necessarily be dependent on private cars to meet their day to day transport needs and I am satisfied that the level of car parking provision is acceptable and would not lead to overspill parking on the highway creating a traffic hazard. However, this does not outweigh the other harm that I have found in respect of the highways network.
14. I conclude that the proposed development would cause harm to highway safety in the vicinity of the appeal site. It would not comply with the requirements of the Framework that new development provides a safe and suitable access to the site, or Policy DM1 of the DMP which expects new development to provide safe, sustainable and inclusive access arrangements.

Character and appearance

15. When read together, Policies 3.5, 7.4 and 7.6 of London Plan 2016 (the London Plan); Policy CS1B of the Harrow Core Strategy 2012 (the Core Strategy); and Policy DM1 of the DMP expect, amongst other matters, that new development

be of a high quality design that has regard to its context, including the scale design, massing, density and orientation of surrounding buildings, and comprises details and materials that complement, but do not necessarily replicate, the local architectural character. Further, more detailed, guidance on the design of new residential development is set out in the Harrow Residential Design Guide Supplementary Planning Document 2010 (the SPD), which is intended to be read alongside these more general design policies.

16. The appeal site currently comprises a large, detached, two storey dwelling house with a hipped roof, set back from the highway. To the frontage there is a driveway and small landscaped area, and to the rear, a long garden. It sits at the end of a row of residential properties on the north side of Uxbridge Road. The closest of these to the appeal site are a mix of semi-detached and detached dwellings with 'Mock Tudor' detailing and prominent gabled frontages. Further to the west the designs are more varied and buildings with Art Deco influences are interspersed with those with half-timbered details. The building presently on the site is of a design that is unique in the group of buildings having a flat, rendered façade and simpler architectural detailing and roof form than other buildings nearby. To the south side of Uxbridge Road, the built form consists of mainly larger buildings in a range of non-residential uses. To the north of the appeal site on Rowlands Avenue is a single storey, brick built, building used as a church and nursery school. Beyond this is a residential area comprised of the same house designs that are present on the north side of Uxbridge Road.
17. The appeal site is located on the north-west quadrant of a roundabout junction. The north-east and south-west quadrants are undeveloped with areas of open space beyond. The south-east quadrant has two storey semi-detached houses served by their own separate access road, Boniface Walk, separated from the main road network by a grass verge. Large trees are present at the roadside and on the grassed island of the roundabout.
18. Whilst the proposed new building does not directly copy the design of the nearby houses, it is evident that design cues in the form of the gabled frontage and half-timbering details have been drawn from them. The proposed new building would contain flats, but these would be accessed from an internal lobby area and the front façade, with only one main entrance, is designed in such a manner that the building would appear not dissimilar to a single large dwelling house. Although it would be perceived as a three storey building, the overall height would not be significantly greater than the height of the adjacent two storey houses and the frontage would be of a similar width to the pairs of semi-detached houses that are common in the area. The Council are concerned that the footprint of the proposed building extends over much of the plot width. However, I saw during my site visit that many of the other houses in the surrounding area are also built up in proximity to their plot boundaries and that the existing house on the site with its attached garage also occupies a large proportion of the plot width. In these respects, the proposed new building would not be inconsistent with its context, particularly as the present dwelling on the site diverges from the prevailing design of the house types in the area.
19. I accept that the appeal site is in a prominent location. Nonetheless, it would be the last building on this stretch of Uxbridge Road and due to the open nature of the north east and south west quadrants of the roundabout and the

degree of separation from the single storey building to the north, the slightly larger size of the building would provide a strong visual stop to the row of dwellings on Uxbridge Road and create a distinctive visual presence at the junction. The appeal site is not within a conservation area and although the appeal proposal would change the appearance of the surrounding area, I do not find that the magnitude of the change would be either substantial or harmful.

20. The reason for refusal refers to conflict with the SPD, however, neither the planning officer's report or the reasons for refusal refer to any specific requirements that are not met. The SPD seeks to ensure that new residential development is of an appropriate design for the area in which it is to be located, that it does not adversely affect existing residential properties and that it provides suitable living accommodation for the proposed future residents. From what I have read and from what I saw on my site visit, I do not find any conflict with the requirements of the SPD.
21. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements of Policies 3.5, 7.4 and 7.6 of the London Plan, Core Strategy Policy CS1B and Policy DM1 of the DMP.

Other matters

22. I have had regard to the points that have been raised by third parties, both in respect of the original planning application and in relation to the appeal. Some of these have been covered above. Even taking into account that the proposed new building would contain three floors of accommodation, due to the size of the rear garden areas, the degree of separation from properties to the rear would be well in excess of that which is normally considered acceptable to prevent overlooking or loss of privacy. Whilst I accept that there may have been permission granted for new dwellings elsewhere in the Borough, there is no evidence that the appeal proposal would result in an oversupply of dwellings.

Conclusion

23. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would not cause harm to the character and appearance of the area, and it is common ground between the parties that the new development would provide suitable living conditions for the future occupiers and that there would be no adverse effects on the living conditions of existing, neighbouring, occupiers. The appeal proposal would comply with the relevant requirements of the development plan in these respects.
24. However, it is not in dispute between the parties that there is a need to carry out highways works in order to create a safe and suitable access to the site. No mechanism, such as a planning obligation is in place to secure these works and I have concluded that it would not be appropriate to use a planning condition to do so. I have further found that, if these works are not carried out, the proposed development would create a significant risk to highway safety in the vicinity of the appeal site which would conflict with the requirements of national policy set out in the Framework and one of the

requirements of DMP Policy DM1. This is an important material consideration which indicates that planning permission should be refused, notwithstanding that the proposal complies with the development plan in other respects. For this reason, the appeal must fail.

25. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR