

Appeal Decision

Site visit made on 20 August 2014

by M C J Nunn BA BPL LLB LLM BCL MRTPI

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

Decision date: 10 October 2014

Appeal Ref: APP/M5450/A/14/2221570

25 & 25a Corbins Lane, Harrow, Middlesex, HA2 8EL

- 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 W E Black Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref: P/0189/14, dated 17 January 2014, was refused by notice dated 22 April 2014.
 - The development proposed is described as: "demolition of existing dwellings and erection of a new building to provide 10 x 2 bed flats with associated parking and garden amenity area".
-

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The appellant has submitted a revised plan (13/3312/1 Rev A) that shows the proposed block repositioned further forwards within the site towards Corbins Lane. The Council has commented on the revised plan, but importantly, others with an interest in the scheme, including local residents, would not have had the opportunity to do so. Therefore, to avoid any prejudice, I have assessed the application as it was originally submitted to the Council.
 3. The appellant has submitted a Unilateral Undertaking (UU) dated 3 September 2014. This relates to a methodology for calculating an affordable housing contribution were the scheme to generate profits in excess of that predicted in the submitted Financial Viability Assessment. I deal with this matter in my decision.
 4. An application for costs has been made by the Council of the London Borough of Harrow against W E Black Ltd. This application is the subject of a separate decision.
 5. The main issues are:
 - i. the effect of the proposal on the character and appearance of the area; and
 - ii. whether the scheme provides adequate living conditions for existing residents in terms of outlook and privacy.
-

Reasons

Character and Appearance

6. The appeal site is currently occupied by two detached bungalows, both set in reasonably substantial plots. Recessed from the road, the dwellings are on a similar, albeit curved alignment, with the neighbouring semi-detached properties at Nos 23a and 23. The east and southern boundaries of the site are bounded by Findon Close. The surrounding area is mixed in character, and includes bungalows, semi-detached and terraced dwellings, as well as some more recent blocks of flats. St Paul's Church, a substantial building, is located close by to the north.
7. I appreciate that the appellant has attempted to achieve a high quality design. The proposal would comprise a substantial block of flats, of a traditional architectural style, incorporating pitched 'crown' roofs, with dormer windows to the rear elevation. The design would include brick faced elevations as well as render finishes. An attempt has been made to break up the mass of the elevations, with projecting front gabled bays that would provide articulation. The building would not exceed the height of the adjacent properties at Nos 23 & 23a. Landscaping is also proposed to enhance the development.
8. Also, other flat developments exist in the vicinity, notably to the north in Meadow Close, so a scheme comprising flats would not be intrinsically unacceptable here. That said, I have concerns about aspects of the scheme. The considerable overall width of the frontage and significant depth of the block would give the impression of an unduly bulky and dominant building. The proposed higher density of development, compared with that currently existing at the site, together with the substantial size of the block, means that the appeal scheme would appear over-dominant in this setting.
9. Notwithstanding the attempt to break down the mass of the block through architectural detailing, and the retention of gaps either side of the building, it would nonetheless appear overly large and unremitting. The width of the proposed building would exceed that of the three storey block positioned at the rear of Meadow Gate (Nos 1-18), itself a substantial building.
10. Furthermore, the plans show that a large portion of the area to the front would be given over to hardstanding to provide parking spaces for ten cars. The relatively limited space for soft landscaping would create an unduly harsh and stark impression, and fail to provide an appropriate setting for the building. It would detract from the existing street scene, notwithstanding its mixed character. The appellant mentions that some front gardens of individual dwellings in the vicinity comprise mainly hardstanding. This may be so, but the proposed car parking area here is more extensive than in those cases.
11. The scheme would also result in a change in terms of the vistas into the site from public vantage points. The presence of this large block on an area that is currently occupied by two modest bungalows with associated gardens would inevitably entail the removal of some existing greenery, shrubs and trees. Whilst I accept no protected trees would be removed, the effect of the proposal and its frontage car parking would be to introduce increased urban built form on land that is currently green and verdant, altering views from surrounding areas. Although there may be some scope for landscaping to soften the

- appearance of the scheme, I consider the development would make the area a less attractive place.
12. The Council has raised an 'in principle' objection that the proposal would involve development of land which includes private residential gardens, contrary to Policy CS1 of the Core Strategy and the Supplementary Planning Document (SPD) on '*Garden Land Development*'. These create a presumption against garden development and seek to direct growth to town centres and strategic previously developed sites. Importantly, the National Planning Policy Framework ('the Framework'), whilst excluding gardens from the definition of 'previously developed land' (the effective use of which is encouraged), does not prohibit garden development where no harm would be caused to the area's character, and so does not convey a 'blanket ban' on such development. However, in this case the proposal would seriously detract from the locality's appearance.
 13. In support of the proposal, the appellant refers to an appeal scheme for nine flats allowed at 21 Corbins Lane in 2009 (Ref APP/M5450/A/08/2089146), now forming part of the Meadow Gate development. However, that scheme differs from this appeal in certain significant respects: unlike the appeal plot, that site was narrow and previously contained a bungalow located at its front. That appeal scheme permitted two separate blocks, one set behind the other, both less than half the width proposed here. The resulting blocks are more domestic in scale, and blend more naturally with the neighbouring dwellings at Nos 23a and 23. Because of these differences, I do not consider that that appeal sets a precedent for this scheme.
 14. Reference is also made to the 'prior approval' extensions recently granted at each existing bungalow enabling a full width single storey extension some 8 metres deep. If built, these extensions would increase the total floor area of each bungalow, although their combined enlarged footprint would still be significantly less than that of the proposed apartment block. Furthermore, the effect of the additions would not be comparable to the overall size and bulk of the appeal scheme. Consequently, I do not consider that they provide a justification for the appeal proposal.
 15. I conclude overall on the first issue that the proposal would materially harm the character and appearance of the area. It would conflict with Policy CS 1 of the Core Strategy which states that proposals that harm the character of suburban areas and garden development will be resisted. The scheme would also be contrary to Policy DM 1 of the Development Management Policies which requires proposals to achieve a high standard of design, having regard to the local character and pattern of development. It would conflict with Policies 3.5, 7.1, 7.4 and 7.6 of the London Plan which have similar aims. The proposal would also be contrary to advice within the Council's SPDs: '*Residential Design Guide*' and '*Garden Land Development*' which provide further guidance on the implementation of development plan policies.

Living Conditions

16. Although the new block would be set away some 3.5m from the common boundary, the plans as originally submitted show it would project significantly beyond the rear elevation of No 23a closest to the appeal site. As a

consequence, the proposal would appear overbearing, imposing and obtrusive when viewed from that property. This would cause a loss of outlook, particularly to the rear first floor window at No 23a closest to the appeal site and would create a more 'hemmed in' feeling, both within that dwelling itself and its rear garden. I acknowledge that there is currently a single storey pitched roof garage close to the boundary, but its height and resulting impact on No 23a is far less than would be the case were the appeal proposal to succeed.

17. The Council has also raised concerns that the proposal would give rise to overlooking to the adjacent property, No 23a, resulting in a loss of privacy, both actual and 'perceived'. I acknowledge a number of secondary flank windows serving the kitchens and lounges of the flats would face directly towards the neighbouring property. However, the appellant has indicated that these secondary windows, none of which is large, could be obscure glazed in order to safeguard privacy and to prevent direct overlooking to No 23a. Consequently, I do not find this a valid reason for the appeal to fail.
18. I find overall on the second issue that the scheme would harm the living conditions of existing residents at No 23a in respect of outlook. This would conflict with Policy DM1 of the Development Management Policies which requires proposals to achieve a high standard of amenity having regard to the visual impact of the development when viewed from within buildings and outdoor spaces.

Other Matters

19. The Council has raised objections regarding the vertical stacking arrangement of the rooms of the flats, in that some of the living and kitchen areas overlap with bedrooms on the first and second floors. However, a condition requiring proper sound insulation so as to meet the relevant building regulations and to avoid noise transmission would ensure satisfactory living conditions for future residents, were I minded to allow the appeal.
20. Another of the Council's reasons for refusal related to the failure of the scheme to make provision for affordable housing. The appellant has subsequently provided a Financial Viability Assessment (FVA) which seeks to demonstrate that the scheme could not viably support the inclusion of on-site affordable housing. The Council broadly accepts the findings of the FVA, and I see no reason to take a different view on this issue. However, this does not alter my other concerns.
21. Further to the FVA, the Council has also suggested 'heads of terms' to form the basis of a planning obligation. Essentially, this would seek to secure a proportion of any 'surplus' profit over that anticipated in the FVA as a contribution to affordable housing. The appellant has subsequently completed planning obligation in the form of a UU dated 3 September 2014 to address this issue. However, as I have found the appeal unacceptable for other reasons, the appeal does not turn on this matter. It is therefore unnecessary for me to consider the UU in detail, or whether it complies with the tests within the Framework or Community Infrastructure Levy Regulations.
22. A further reason for refusal relates to the lack of details as to how the proposal would seek to reduce carbon emissions and incorporate sustainable design

measures. The appellant has now provided a Sustainability Statement providing further details. Although the Council has reservations about its contents, I am satisfied that such matters could be dealt with by a condition, were I minded to allow the appeal.

23. In reaching my decision, I have taken into account all the submissions of the appellant. I have considered the proposals in the context of the presumption in favour of sustainable development set out in the Framework, including encouraging the effective use of previously developed land. However, the Framework is clear that it is proper to promote or reinforce local distinctiveness, and to seek a good standard of amenity for all existing and future occupants of land and buildings. I find this proposal would fail to achieve those objectives.
24. I have also weighed the advantages of the scheme, including that it would provide additional housing stock, thereby addressing housing needs in London; that the proposed units would provide suitable accommodation for first time buyers; that the scheme would represent a more efficient use of land in a sustainable location, close to public transport, shops and services; that it is proposed to employ energy efficiency measures within the building, and achieve Code Level 4 for Sustainable Homes. I have also taken into account the appellant's point that the Draft Further Alterations to the London Plan suggest a substantial increase in London's population that will necessitate increased housing targets. However, none of these factors outweigh my concerns about the scheme.

Conclusion

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

Matthew C J Nunn

INSPECTOR