
Appeal Decision

Site visit made on 24 June 2025

by T Wood BA(Hons) BTP MRTPI

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

Decision date: 04 August 2025

Appeal Ref: APP/P1940/W/24/3358047

8 Hallows Crescent, South Oxhey, Watford WD19 7NT

- 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 Jayawardane against the decision of Three Rivers District Council.
 - The application Ref 24/1072/FUL, dated 4 July 2024, was refused by notice dated 9 October 2024.
 - The development proposed is described as a new bungalow at the rear of the garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The submitted appeal form clearly refers to the Council's decision relating to the above planning application reference (24/1072/FUL). However, the submitted appellant's statement refers to application reference 23/1023/FUL; I have assumed this to be an error. The 'Introduction' section of the appellant's statement appears to refer to a different site, again I have taken this as an error. It also refers to policies within The London Plan. However, this is irrelevant to the appeal as this local authority is not within London. Therefore, I shall not address this aspect of the appellant's statement.

Main Issues

3. The main issues in this appeal are;
 - The effects of the proposal on the character of the area
 - The effects of the proposal in relation to the amenity space for the new and retained dwellings
 - The effects of the proposal in relation to affordable housing
 - The effects of the proposal in relation to biodiversity.

Reasons

Character of the area

4. The appeal property is a 2 storey end of terrace house and its rear garden area. The site sits within a predominantly residential area although it sits adjacent to a service road beyond which is a small parade of retail/commercial

- premises. The area mainly consists of similar 2 storey houses, although there are some examples of 3 storey blocks of flats and the adjacent commercial parade contains 3 storey properties. There is a large grassed open space opposite the appeal site.
5. The adjacent service road runs along the flank plot boundary and serves a number of garages and the rear of the commercial parade. Immediately to the rear of the garden at No 8 is a modest single storey building accommodating a boxing club.
 6. The proposal would use a large section for the existing rear garden to provide a detached single storey dwelling and a very small amenity area. The remaining garden area for No 8 would be much reduced. The proposal indicates that the elevations would be of brick and the roof would be flat, although it would have a very shallow apron of tiling around it. A blank elevation would face towards the service road and the elevation facing onto the proposed amenity area would have windows and a door.
 7. I accept that there are a variety of building styles within this area and these largely reflect their function; the garages are plain and functional, the commercial buildings have the associated shopfronts and dispa lys and the residential properties are of a scale and design which reflect their use and contain elevations with windows and doors.
 8. Whilst accepting other building styles and uses in the area, I consider that the proposal would be read as part of the residential environment as it would be sited within what is currently a rear garden of a house. In addition, its use would also be residential. Compared to the other residential uses on the immediately adjacent sites, the proposed plot would be markedly smaller, the building would be very different in its style and proportions and the space around it would be very limited. I consider that these factors would all combine to result in a residential development that would be considerably out of character with the other residential development which make its immediate context. I consider that comparing it to the overtly stark and uninteresting design of the boxing club would not be appropriate for a building that accommodates a very different use. The appellant indicates that the proposal would be set back from the road at Hallowes Crescent and it would be unobtrusive. Whilst I accept that it would not represent a highly prominent feature, it would still be seen from Hallowes Crescent and would also be visible to users of the garages and the other adjacent uses and from there it would appear out of place within the residential environment within which it would sit.
 9. Therefore, I consider that the proposal conflicts with Policies CP1, CP3 and CP12 of the Core Strategy (CS) and Policy DM1 of the Development Management Policies Local Development Document (DMP).

Amenity Space

10. The proposed dwelling would be provided with a very modest amenity area to one side of the building. In addition, the proposal would result in a much reduced garden area for the existing house at No 8 Hallowes Crescent. The Council's normal requirement, as set out in its Appendix 2 of the Development Management Policies LDD, for a development of this nature would be 42 sqm of amenity space and the provision is for around 22 sqm. In relation to the

retained house at No 8 the Council indicates that the remaining rear garden would be around 33 sqm which would be inadequate.

11. The amenity area for the proposed dwelling would clearly be very limited and confined and would not provide a suitable or adequate area to enjoy any outside activity. In addition, its restricted depth would mean that the outlook from the windows in this elevation would be similarly limited, due to the need to provide a boundary feature between the existing and new garden areas. Furthermore, the restricted garden would be likely to be overlooked from the rear facing first floor windows in No 8 Hallows Crescent.
12. As a result of the proposal, both the existing and proposed dwellings would not be provided with sufficient amount and quality of amenity space to meet the reasonable needs of the residents. In relation to the appellant's argument that a nearby park could cater for such needs, I do not consider this to be sufficient to make up for the significantly inadequate spaces proposed. Therefore, the proposal raises conflict with Policy CP12 of the CS and Policy DM1 of the DMP

Affordable Housing

13. Policy CP4 of the Core Strategy seeks an overall provision of around 45% of all new housing as affordable. In relation to small sites delivering between 1 and 9 dwellings, the use of commuted payments towards off site provision is considered. The Council's submitted documents set out a strong case for an acute need for affordable housing in the area and indicates the importance of small sites in contributing to the provision of affordable housing.
14. The Council indicates that the appellant submitted a draft S106 Obligation with the planning application but this was not pursued. From the submitted documents, it appears that the appellant does not contest that a contribution to affordable housing is justified and required by Policy CP4 in this case but has not submitted a completed Obligation with the appeal.
15. Based on the submitted case, I consider that a contribution, as referred to by the Council, has been demonstrated to be necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, the lack of any means to require a contribution for affordable housing is in conflict with Policy CP4 of the CS.

Biodiversity

16. Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to a number of exemptions.
17. The appellant has indicated that if permission is granted for the development to which this application relates the biodiversity gain condition would not apply because the application relates to development which is 'de minimis' ie. below the threshold. The appellant not provided any further explanation of this and the Council indicates that, as the appeal site is around 80 sqm, it falls above the threshold for 'de minimis' development in this context

18. The appellant has submitted no additional material in relation to this matter. Therefore, on the basis of the evidence before me, it appears that the Biodiversity Net Gain condition would apply and insufficient information has been provided to enable an assessment to be made regarding what gain can be achieved.

Other Matters and Conclusion

19. The documents submitted by the Council indicate that it cannot currently demonstrate a 5-year housing land supply. Paragraph 11 and footnote 7 of the National Planning Policy Framework states that, in relation to decision making that if the policies which are most important for determining the application are out-of-date then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
20. The appellant indicates that he is seeking to optimise the use of the site but I consider that the effects of the proposal mean that it fails to achieve this. Also, the contention that the proposal would provide internal accommodation of an acceptable standard is a neutral matter in my consideration.
21. In terms of considerations in favour of the development, the proposal would contribute to the provision of housing in an area where there is a recognised shortfall. However, this would only be for a single dwelling and so the benefit is limited. Against this, the proposal would have a harmful effect on the character of the area, would fail to provide (or retain) accommodation with adequate amenity space, would fail to make suitable provision for affordable housing and does not demonstrate how the required gain in biodiversity would be met. I judge that these unacceptable effects significantly and demonstrably outweigh the modest benefit of the proposal. As a consequence, the appeal is dismissed.

T Wood

INSPECTOR