

Appeal Decision

Site visit made on 30 August 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 1 November 2016

Appeal Ref: APP/L5810/W/16/3151093

The Chalet, Hampton Court Road, East Molesey, Surrey KT8 9BP

- 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 Myck Djurberg against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 15/5183/FUL, dated 27 November 2015, was refused by notice dated 30 March 2016.
 - The development proposed is described as the 'retention of existing vehicle access gates'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has stated that the authorised use of the appeal site is not solely as a dwelling house, indicating that the Chalet has historically been associated with the Boatyard and used for ancillary purposes in this regard. The site history also demonstrates that approval was granted to use the whole of the Chalet as a restaurant under application 07/2585/FUL and that it has once been a tearoom.
3. Based on the evidence before me, the use of part of the appeal site for commercial purposes is probable, particularly as an application for a change of use of the Chalet to a dwelling was made under application 12/0529/FUL. This application was not determined having been withdrawn. Although during my site visit there were no obvious signs that a restaurant or office is currently in situ at the appeal site, I have not been presented with substantive evidence to indicate that the whole Chalet is a lawful dwelling house. I have considered the appeal on this basis.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on highway safety with particular reference to sightlines.

Reasons

5. The appeal site encompasses a Grade II listed building believed to date from the late 1800s. Separate pedestrian and vehicular access points to the appeal property are available from Hampton Court Road, which is a very busy thoroughfare with high levels of traffic.
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6. The appeal proposal is for the retention of the existing vehicular access in its current form. Drawing 212(9)101 shows the access as being 4.8m wide, set 3.77m back from the edge of the carriageway and flanked on either side by a wall rising to 2.34m. A pair of solid gates has been installed at the entrance. Supporting drawings demonstrate that there is sufficient space within the site for vehicles to turn and exit in a forward gear.
7. Due to the depth of the pavement vehicles, on exiting the site, have sufficient visibility along Hampton Court Road to see vehicles and to be seen when entering the carriageway. This is because sufficient visibility splays can be achieved¹. As such, the safety of the access in terms of vehicle to vehicle sightlines is not in dispute.
8. However, due to the height of the brick walls either side of the access and the solid construction of the gates it has not been possible to provide visibility splays in accordance with the Council's standard for pedestrian sightlines, set out in its SPD². The standards being 2.1m x 2.4m with boundary treatment and landscaping kept below 0.6m or designed to be visually permeable, which was the case in approved application 13/1495/FUL.
9. The effect of the height, solidity and siting of the boundary walls is that vehicles exiting the site in a forward gear would have the bonnet of the vehicle approximately 1m into the pavement before achieving the necessary pedestrian visibility splay. As such, a vehicle exiting the appeal site would be protruding onto the pavement before the driver would be able to see any pedestrians. In my view this is a potentially dangerous situation as the site has a lawful commercial use and thus the access could be used regularly and by larger vehicles, as evidenced by the Council. The Council also suggests that the access may be serving the Boatyard and no substantive evidence has been submitted to counter this proposition.
10. The potential frequency and nature of the use of the access would be particularly hazardous for more vulnerable pedestrians such as children and those with mobility or visual impairments, as these pedestrians may not respond, or be able to respond, to the presence of an emerging vehicle. The situation would also present a potential conflict with those that are moving faster than an average pedestrian speed, such as joggers, as they may not have sufficient time to react to the protrusion of a vehicle onto the pavement. I therefore find that the inadequate pedestrian visibility splays at the access are harmful to users of the pavement.
11. In reaching the above finding I note that the pedestrian survey commissioned by the appellant found that the pavement was not intensively used during the survey period and therefore pedestrians would be likely to leave a generous buffer between themselves and the edge of the appeal site³. However, the appellant's survey was undertaken over a limited period at a single time of year and therefore I am not entirely satisfied it is a true reflect of the pavements use, especially in the summer months.
12. Moreover, I note the Council's points that the pavement can be intensively used when events are being held at Hampton Court Palace or on Hampton

¹ See visibility splays set out in Manual for Streets

² Front Garden and other Off-street Parking Standards Supplementary Planning Document 2006 (SPD)

³ As confirmed in Pedestrian Comfort Guidance for London 2010

Court Green and that the northern footway along Hampton Court Road may not always be the more attractive route for pedestrians, as it depends where they are going. As such, the pedestrian survey does not alter my finding that the access is unsafe.

13. The access is relatively wide and therefore visibility for pedestrians looking into the site, and for drivers of vehicles exiting the site, would be better than if the access were a more conventional width. This is demonstrated in the appellant's Highway Consultant's Technical Note (TN)⁴. In which drawings show that if a pedestrian(s) is walking centrally in the pavement then it would be possible for a pedestrian to see the bonnet of a car whilst it is still within the appeal site without them having to cross the access and thus the path of the vehicle. Moreover, by limiting visibility the driver is likely to be more cautious and emerge from the site slowly⁵.
14. However, this analysis is based on a number of assumptions, including a vehicle exiting the site in the middle of the access and a pedestrian walking centrally in the pavement. The access is not designed to require a central exit and therefore it is not difficult to envisage situations when this may not occur or when a pedestrian may not be centrally placed in the pavement⁶. Additionally there may be other more intangible factors, such as a driver being in a rush, which could have a bearing on how the access is used. Moreover, the intensity in the use of the access, if used commercially, could also have a bearing on the position of cars when exiting the site. As a result, I am not satisfied the analysis set out in the TN is sufficient to be relied on as a guarantee that there would in most instances, be adequate and safe visibility.
15. The analysis in the TN is also reliant, to an extent, on a pedestrian being able to see adequately and paying attention, which may not always be the case. In my view, it would be significantly safer for the driver of the vehicle exiting the site to be able to see a pedestrian and not rely on the pedestrian being able to see the vehicle protruding onto the pavement and react to its emergence. This is the rationale behind the pedestrian visibility splays set out in the Council's SPD and supported by the Inspector in appeal decision APP/L5810/A/12/2176380.
16. During my site visit I observed that it is not uncommon amongst the residential properties to the south east of the appeal site, which are accessed from Hampton Court Road, to have high boundary walls, fences and landscaping along the highway frontage. These features restrict pedestrian visibility splays at some of the properties to the extent that the Council's pedestrian visibility standard does not appear to be met. This includes the access to the Huff House, with pedestrian visibility splays to the north west being restricted by the front boundary wall, which is shown on drawing 212(9)101 as being 1.75m tall. I have not been presented with substantive evidence to suggest these existing accesses have resulted in accidents.
17. The use of these accesses, and the appeal access, without any recorded accidents having occurred lends some weight in favour of the appeal scheme. However, the accesses to the south east of the appeal site serve dwellings,

⁴ Reference HTPA/15/2881/TN01

⁵ See Manual for Streets

⁶ The Council refers to surface water flooding and noise from vehicles as factors that might push pedestrians away from a central course.

whereas the appeal access has the potential to serve a commercial operation and is unacceptable for the reason I have already set out. As such, there is the potential for a material difference in the frequency and nature of the use of the accesses and therefore the appeal scheme is not justified by the design and presence of other vehicular accesses nearby.

18. I therefore conclude that the existing access does not preserve highway safety. As a consequence it is contrary to Policies DM TP6 and DM TP9 of the London Borough of Richmond upon Thames Local Development Framework Development Management Plan 2011 and the Council's SPD, which together seek to maintain highway safety by protecting pedestrians and ensuring adequate sightlines and visibility between highway users. Aims consistent with Paragraph 32 of the Framework, which seeks to ensure safe and secure access to sites is achieved through planning decisions.

Other Matters

19. I have had regard to Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and conclude that the development would preserve the character or appearance of the Hampton Village Conservation Area and the setting of the Chalet. I have seen no substantive evidence to suggest the retention of the wall and gates is necessary to preserve the significance of these designated heritage assets.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR