

Appeal Decision

Site visit made on 22 November 2016

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 15 December 2016

Appeal Ref: APP/L5810/W/15/3157389

40A Strawberry Hill Road, Twickenham, Richmond Upon Thames TW1 4PU

- 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 and Mrs Lanyon against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref 15/5214/FUL, dated 10 December 2015, was refused by notice dated 15 March 2016.
 - The development proposed is the erection of a detached two bedroom house arranged over two storeys and incorporating a lower ground floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. Whether the proposal preserves or enhances the character or appearance of the Strawberry Hill Road Conservation Area, the character, appearance and setting of the adjacent Building of Townscape Merit (BTM) and the area generally.
 - ii. The effect of the proposal on highways safety.
 - iii. Whether or not the proposal would make adequate provision for affordable housing.
 - iv. The effect of the proposal on the site's ecology.
 - v. The effect of the proposal on the living conditions of the occupants of nearby residential properties with particular reference to outlook.

Reasons

Character and appearance

3. The appeal site is a plot of land to the rear of 40 Strawberry Hill Road, which was formerly used as part of the rear garden associated with that property, situated within the Strawberry Hill Road Conservation Area (the Conservation Area). The Conservation Area is characterised by two main avenues lined with substantial two and a half storey late Victorian houses set in generous garden plots with mature planting and important spaces between buildings. The front boundary treatments are varied and provide an important sense of enclosure to
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the street. The houses in the Conservation Area are unified by the use of red brick with varied detailing in brick, terracotta, tile hanging, and stone.

4. The development would lead to the loss of an area of open space which has a close relationship with the adjacent BTM and is significant in providing an open setting for that building and the surrounding townscape, generally. The verdant character of the plot and its associated soft landscaping and grass verge all contribute to the character and appearance of the BTM and the role of the site in providing a relatively open landscaped setting for No 40 and providing visual relief between the BTM and adjacent terraced properties to the rear.
5. Although the proposal would open up the site, as a consequence of the extent of site coverage by built form and hard surfacing, it would compromise the setting of the BTM, the character and appearance of the Conservation Area and the feeling of openness in the wider residential area. Although the loss of the soft landscaping could be partly mitigated by the implementation of a landscaping scheme, this would not outweigh the overall concern regarding the harmful impacts of the proposal.
6. The overall design of the proposal would reflect the design of the rows of terraced properties along Strawberry Hill Close, including materials, scale and massing. However, the plot would be wider than others along Strawberry Hill Close and does not reflect the overall form and pattern of development along the street. Given the interruption to the established pattern of development I find that the proposal would be harmful to the character and appearance of the area generally.
7. Given the scale of the proposal within the context of the Conservation Area as a whole, I consider that it would cause less than substantial harm to its character and appearance. In accordance with paragraph 134 of the National Planning Policy Framework (the Framework), I must weigh the harm against the public benefits of the proposal.
8. The appellant has not demonstrated specific benefits that may arise from the development. Although there may be some small economic and social benefits associated with construction activity and the provision of an additional dwelling, these do not, in my judgment, outweigh the harm that I have found.
9. For these reasons, I conclude that the proposal would fail to preserve or enhance the character or appearance of Strawberry Hill Road Conservation Area and would be harmful to character, appearance and setting of the adjacent the BTM and the area, generally. As such it would conflict with the design and heritage provisions of Policy CP7 of the CS, Policies DM HD1, DM HD3 and DM HO3 and DM DC1 of the DMP, the Local Plan Supplementary Planning Document Small and Medium Housing Sites Adopted February 2006 (SMHS SPD) and the Framework. These seek, among other things, to ensure that new development recognises distinctive local character, contributes towards creating places of high architectural design, conserves and enhances the character and appearance of conservation areas and preserves and enhances BTMs.

Highway safety

10. The planning submission shows two off street car parking spaces within the curtilage of the proposed dwelling. The maximum car parking standard for the proposal would be one space. Therefore, the current proposal shows over-provision of off street spaces. However, it would be relatively straight forward to design out the second space through landscaping.
11. Nonetheless, the remaining space would require access across an existing verge greater than one metre wide, which is significant in its contribution to the composition of No 40. The removal of a section of this verge would not comply with existing Council standards set out in the adopted Supplementary Planning Document Front Garden and Other Off-street Parking Standards (Parking SPD). Furthermore, it would result in a harmful effect on the street scene, the setting of the adjacent BTM and the character and appearance of the conservation area. Consequently, in this case the off-street car parking provision is unacceptable.
12. Although I appreciate that it was just a snapshot in time, during my mid-morning, mid-week site visit I observed that on street car parking was at capacity. I also observed other car users looking for car parking opportunities in the immediate vicinity of the site.
13. Although the appellants have now submitted a car parking survey the timing of the survey and the lack of detail and maps does somewhat undermine its findings. There is no evidence before me to indicate that the shortfall of parking provision within the proposal could be accommodated in the surrounding streets.
14. An additional residential unit would be likely to exacerbate the parking conditions in the vicinity of the site. There would be likely to be more potentially hazardous traffic movements near to the junction of Strawberry Hill Road and Strawberry Hill Close and the wider area as residents and others look for parking opportunities.
15. Therefore, on this issue I conclude that the inability of the scheme to provide policy compliant on-site parking provision would be likely to have a harmful effect on the movement of highway users in the area and consequently would harm highway safety. The proposal is contrary to the requirements of policies DM TP2, DM TP8 and DM TP9 of the DMP, Policy CP7 of the CS and the Parking SPD.

Affordable housing

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 state that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
17. Policy CP15 of the CS of the DMP relate to the provision of affordable housing. On housing sites capable of accommodating less than ten units policies require a financial contribution towards affordable housing related to the scale of the development. More detailed guidance is provided in the London Borough of Richmond Upon Thames Supplementary Planning Document Affordable Housing 2014 (Housing SPD).

18. On 28 November 2014 a Written Ministerial Statement (WMS) was published setting out the Government's policy with respect to Section 106 obligations. The WMS included a threshold beneath which affordable housing contributions should not be sought. The WMS was the subject of a High Court judgement on 31 July 2015 which upheld an application by West Berkshire District Council and Reading Borough Council challenging the WMS. Therefore, the WMS was no longer a material planning consideration.
19. However, on 11 May 2016 a Court of Appeal judgement upheld the Secretary of State's appeal and overturned the High Court judgement. Therefore, the WMS is a significant material consideration setting out particular circumstances when tariff style affordable housing contributions should not be sought from developments of ten units or less. Accordingly, updated paragraphs have been added to the Planning Practice Guidance (PPG) section on planning obligations to reflect the current position.
20. Although the Council's evidence indicates that there remains substantial need for affordable housing, as set out in the Council's Housing Strategy 2013-2017 and Homeless Strategy 2012-2016 among others, and the local planning authority considers there are circumstances that justify the continued implementation of the development plan policies, it is clear to me that the proposal would comply with the circumstances where a contribution towards affordable housing should not be sought.
21. I note that the Council's Local Plan Review has now reached pre-publication stage and that its existing affordable housing policies may be superseded by Local Plan Policy LP 36 Affordable Housing. I recognise that the emerging policy may be based on strong and robust evidence and research, but it does not yet form part of the development plan. As such, I give it limited weight in determining the current appeal.
22. Although the provision of such a contribution would accord with Policy CP15 of the CS and DM HO6 of the DMP, significant weight must also be given to the approach set out in the WMS which provides clarification on national policy alongside the National Planning Policy Framework (the Framework). Therefore, although the proposal conflicts with the development plan by making no contribution towards affordable housing provision, the conflict is outweighed by the change in Government policy as set out in the WMS.
23. I therefore conclude that in the event of the grant of planning permission a financial contribution would no longer be required.

Ecology

24. The Phase 1 Habitat Survey submitted with the planning application confirmed that there is no evidence of protected species on the appeal site, but that the existing trees and shrubs provide some value for nesting birds. Overall, it can be described as having some limited value to wildlife. The existing trees on site are conifers and they, along with the shrubs, have become rather overgrown. A suitable replacement tree and soft landscaping scheme could contribute towards improving the biodiversity value of the site and I note that a proposed site layout showing locations of biodiversity enhancements has been submitted as part of the Phase 1 Habitat Survey Report addendum with the appellant's appeal documentation.

25. The appellant has offered ecological mitigation. However, this falls short of the Council's requirements with regard to planting.
26. I consider that in order to mitigate the loss of the existing trees and shrubs it would be entirely appropriate in the event of granting planning permission for a planning condition to be used to require the submission of a detailed landscaping scheme and ecological enhancement. Such an approach could secure wildlife enhancements to compensate for the loss of existing trees and shrubs.
27. Consequently, on this issue I conclude that, in the event of a grant of planning permission compliance with a suitably worded planning condition could ensure that the proposal would have no harmful effect on the site's ecology. As such, it accords with the requirements of Policy CP7 of the CS Policies DM HO3, DM OS5 and DM DC4 of the DMP.

Living conditions

28. The proposed dwelling would follow the common building line on Strawberry Hill Close and its side elevation would be adjacent to the blank gable wall of No 31 Strawberry Hill Close. As such, it would have negligible impact upon the occupiers of this dwelling.
29. There would be some loss of vegetation between No 40 Strawberry Hill Road and the appeal site. However, the proposed dwelling would be situated a reasonable distance away and would not, in my judgment, be unduly obtrusive from the rear windows of No 40 Strawberry Hill Road.
30. Thus, although the appeal site is prominent within the street scene, I do not consider that the relationship of the proposed development to nearby residential properties would be so significant as to warrant refusal on the grounds of intrusion upon outlook.
31. I conclude, therefore, that the appeal scheme would not have an adverse impact upon the living conditions of the occupiers of nearby properties, with regard to outlook. It would not conflict with Policy DM DC5 of the DMP, which seeks, among other things, to protect adjoining properties from visual intrusion.

Conclusion

32. I have found that the effects of the proposal on ecological habitats could be dealt with by a suitable worded condition, that the proposal would no longer be required to make provision for affordable housing and that it would not harm the living conditions of the occupants of nearby residential properties, with particular reference to outlook.
33. These conclusions do not, however, outweigh my findings in relation to the scheme's failure to preserve or enhance the character or appearance of Strawberry Hill Road Conservation Area; its harm to the character, appearance and setting of the adjacent the BTM and the area, generally and its harmful effect on highway safety. Therefore, having had regard to all other matters raised, I conclude on balance that the proposal would conflict with the development plan as a whole and that the appeal should be dismissed.

Alastair Phillips INSPECTOR