
Appeal Decision

Site visit made on 21 March 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/L5810/W/16/3165397
48 Sixth Cross Road, Twickenham TW2 5PD

- 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 Ronald Ngoro against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/2822/FUL, dated 12 July 2016, was refused by notice dated 20 September 2016.
 - The development proposed was initially described as *'reconfiguration and extension of existing dwellinghouse to provide 3no. self-contained residential units. Associated external alterations to provide cycle storage, bin storage, amenity space, parking arrangements.'*
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Decision

1. The appeal is allowed and planning permission is granted for a half hip to gable roof extension, enlargement of existing dormer roof extension, erection of an additional dormer roof extension on rear roof slope and alteration to roof of single storey rear extension to provide a roof terrace to facilitate the conversion of existing dwellinghouse to 3No. self-contained residential flats (1 x 3 bedroom, 1 x 2 bed and 1 x 1 bed) and associated hard and soft landscaping, cycle and refuse and off-street parking at 48 Sixth Cross Road, Twickenham TW2 5PD in accordance with the terms of the application, Ref 16/2822/FUL, dated 12 July 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The application was originally described in the terms set out in the banner heading above, but I have adopted the more detailed description set out in the Council's decision notice and subsequently adopted in the appellant's appeal submissions in my decision. I am satisfied that the revised description more fully and accurately describes the proposal and I have determined the appeal on that basis.
 3. There were discrepancies in the drawing numbers between the Council's and appellant's submissions. The parties subsequently confirmed the plans upon which the Council determined the application and those upon which the appeal should proceed, and I have considered the appeal accordingly.
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Main Issue

4. The main issues in this appeal are:

- The effect of the proposed development on the character of the host property and the surrounding area;
- The effect of the proposed development on the living conditions of future occupiers of the proposed dwelling units, with particular reference to external amenity space; and
- Whether the proposed development makes adequate provision for affordable housing.

Reasons

Character

5. The host property is a substantial end of terrace dwelling within a short block of relatively large and substantial dwellings. I am advised that properties along Sixth Cross Road and the surrounding area remain largely occupied as family dwellings and have not been subdivided and converted into flats. I have not, however, been provided with any evidence to substantiate such an assertion, nor were my observations of properties along Sixth Cross Road conclusive on this matter one way or the other.
6. However, from Sixth Cross Road, the proposal would have limited visual impact on the external appearance of the host building. Externally, only the half-hip to gable extension would be noticeable, and given the form of the host building and those adjoining it, such alterations would not materially affect either the character or the appearance of the building.
7. Due to the wider plot width of the appeal site, I find that the sub-division of the existing rear garden would not result in a layout at odds with those of adjoining properties. The proposal would retain the existing garden area at the side and rear of No. 48, albeit sub-dividing it to create a garden area for the ground floor flat and a communal area for the upper flats. Whilst I will come back to the quantum of external amenity space below, the proposal would not fundamentally or materially alter the overall amount of external space at the rear of the host property. Moreover, because No.48 has a wider plot width than the other two adjoining properties within this short block, the overall form and layout of the sub-divided rear garden area would not appear as an incongruous layout, or otherwise be out of character with the surrounding area.
8. Similarly, the areas to the fronts of properties along Sixth Cross Road are varied. Perhaps due to the busy nature of the road, many have large areas of hardstanding at the front for the parking of multiple vehicles. In this respect, the existing property is no different, nor would the proposed layout differ from the established pattern along Sixth Cross Road.
9. As I have concluded that the proposal would have only limited visual manifestations, and such changes would not, in my judgement materially alter the character of the host property, I conclude that the proposal would not harm the character of either the host property or the surrounding area. I have not been presented with any compelling evidence to demonstrate how the proposal

before me would harmfully alter the character of the surrounding area, or that it would lead to a shortage of a particular house type or size.

10. Whilst I acknowledge that the existing property, described as a six-bedroomed dwelling, would be suitable as providing substantial family accommodation, so too would the three bedroomed ground floor flat with a garden area at least equivalent to the narrower properties immediately adjoining No. 48. Thus, I am not convinced that the proposal would lead to the loss of a family unit (and would instead provide a mix of unit sizes), and I am satisfied that the proposal would not harmfully or materially alter the character of the host property or the surrounding area sufficient to justify withholding planning permission. The proposal would not conflict with policies DM HO1, DM HO4 or DM HOP7 of the London Borough of Richmond Upon Thames Local Development Framework: Development Management Plan (2011) (DMP), or with policy CP7 of the London Borough of Richmond Upon Thames Local Development Framework: Core Strategy (2009) (CS).

Living Conditions

11. It is common ground that the proposal would make adequate provision for external amenity space for the ground and first floor flats. However, the second floor flat, located within the roof space and served by the two rear-facing dormer windows, would not have any external amenity space provided directly, and would instead be reliant on the space provided within the communal garden area at the rear of the existing building.
12. I note that the Council's Supplementary Planning Document: Residential Development Standards (2010) (SPD) states that apartments for 1-2 people should be provided with 5 square metres of external private amenity space. In my experience, such provision on upper floor flats tends to be in the form of balconies.
13. The proposal makes no such provision. However, I do not find the lack of provision to be terminal in this instance. The larger of the two rear-facing dormer windows would incorporate large opening glazed units with a glazed balustrade to allow this unit to be opened up to the outside elements. Furthermore, both first and second floor flats would have access to the communal garden area within the sub-divided rear garden of No. 48.
14. Having viewed the appeal site, and noted its more generous proportions when compared with those elsewhere within the short block (and beyond) on Sixth Cross Road, I am satisfied that the external areas would be sufficient so as to provide appropriate, and usable, outdoor areas. I acknowledge that the internal layout of the proposed development would be such that there would be no direct access from either of the upper floor units to the communal garden area. However, the overall layout of the site, and the mix of front, rear and communal garden areas, together with generous space for circulation within the site and for the storage of cycles would be sufficient to meet the needs generated by the development.
15. I am satisfied therefore that the proposal would not be in conflict with the aims and objectives of DMP policy DM HO4 in that amenity space in that it is agreed that the ground and first floor units would be provided with external amenity areas that would satisfy, or exceed, the provisions set out in the development plan and the SPD. With regard to the second floor flat, I am satisfied that the

design of the proposed unit, and particularly that of the large dormer window, would create a sufficiently airy flat with an outlook over the verdant gardens of surrounding properties that would provide a space and outlook no less usable than the 5 square metres the Council refer to in their officer report. Together with access to a communal garden area at the rear of the property unencumbered by cycle or bin storage as a consequence of the generously proportioned plot that No. 48 currently enjoys, I am satisfied that the proposal would meet the needs generated by its occupants in terms of access to outdoor amenity space.

Affordable Housing

16. DMP policy DM HO6 states that on sites capable of accommodating less than ten units, a financial contribution towards affordable housing commensurate with the scale of development will be required. CS policy CP15 which indicates that some form of contribution towards affordable housing will be expected on all new housing sites.
17. Although the appellant was initially prepared to make a financial contribution towards affordable housing there was disagreement as to the exact amount of contribution required. The appellant's Statement of Case¹ subsequently reconfirmed a willingness to enter into an agreement under section 106 to secure such contributions with that agreement to be secured by way of a planning condition.
18. However, whilst the Council have also suggested a condition to this effect, Planning Practice Guidance (the Guidance) advises that such a condition should only be imposed in exceptional circumstances in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk². I have not been presented with any such justification by either party that the proposal could be described in such terms and as the proposal would result in a net increase of only two units, I do not consider the proposal to be capable of satisfying such circumstances.
19. Therefore, in the absence of any mechanism to secure a contribution, the proposal would make no provision for affordable housing [contributions] and would thus conflict with development plan policies in this regard. My attention has however been drawn to the Court of Appeal judgement of 11 May 2016³ by the appellant, which reconfirmed the approach set out in the Written Ministerial Statement of 28 November 2014 (WMS) relating to contributions towards affordable housing and tariff-style planning obligations on small scale development. The WMS clearly states that '*for sites of 10-units or less and which have a maximum combined gross floor space of 1,000 square metres, affordable housing contributions should not be sought*'. This judgement re-established the content of the WMS as a material consideration in the determination of appeals. Whilst the development plan, which is comprised of the CS and the DMP, has statutory status under Section 38(6) of the Town and Country Planning Act 1990, the WMS is a clear and more up to date statement

¹ Paragraph 7.1

² Planning Practice Guidance – Paragraph: 010 Reference ID: 21a-010-20140306

³ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441 on 11 May 2016

of national policy and the thresholds to be applied and is therefore a material consideration to which I attach significant weight.

20. Whilst the proposal is in conflict with DMP policy DM HO6 and CS policy CP15 in that it makes no contribution towards local affordable housing provision, I do not find it to be at odds with current and up to date national policy in the form of the WMS and the Guidance. I have not been presented with any evidence to demonstrate how the failure to provide affordable housing would prejudice the Council being able to meet their affordable housing objectives, nor have I been presented with any evidence setting out why less weight should be given to the content of the WMS or the Guidance. Thus, I conclude that the absence of a binding agreement to secure a financial contribution towards affordable housing does not therefore count against the proposal.

Other Matters

21. A first floor balcony would be created above the existing single storey rear element by the replacement of the existing lean-to roof with a flat roof. This element of the building is set on the opposite side of the rear elevation of No. 48 to that of No. 50. As the appeal site is located within a terraced block there is, somewhat inevitably, already a degree of inter-visibility between properties. However, the proposed first floor balcony would introduce a degree of elevation that would allow views across and towards the area immediately to the rear of No. 50.
22. Although the balcony would be some distance from the fence separating Nos 48 and 50, the potential for increased overlooking and inter-visibility would exist as a result of the proposed development. However, I am satisfied that such matters could be adequately addressed through, for example, the use of a suitably worded condition to agree balustrade screen details to eliminate direct overlooking towards the rear of No. 50 and in order to ensure compliance with the provisions of DMP policy DM DC5.
23. Similarly, within the context of the generous areas at the front and side of the building, a similar approach to planning conditions could reasonably be applied to matters relating to the siting of refuse storage areas. In so doing, it would be possible to ensure appropriate visibility splays would be achieved and maintained at the entrance to the site from Sixth Cross Road. The Council's refusal reasons do not refer to any other concerns in terms of highway or pedestrian safety and so, via an appropriate condition, I am satisfied that the proposal would provide an appropriately sighted point of access to, and egress from, the site, in accordance with the aims and objectives of the Supplementary Planning Document: Front Garden and Other Off-Street Parking Standards.
24. I note that objections have been made on a number of grounds, including increased potential for noise and disturbance that would arise from the proposed sub-division of the property to flats, devaluation of properties and the significance of the site as a corner site in terms of the mass, scale and height of the proposed development, thereby reflecting the context of 46 Sixth Cross Road, on the opposite side of Fielding Avenue.
25. However, I have not been presented with any compelling evidence to demonstrate that the proposal would lead to an increase in noise and disturbance, whilst devaluation is not a material consideration to which I can

attach any significant weight. Although reference has been made to proposals at 46 Sixth Cross Road, I have not been provided with any details of that scheme. I note that the Council did not refuse the proposal on grounds relating to overdevelopment of the plot or on visual grounds relating to its location on a corner plot and I have in any event considered the appeal before me on its merits and upon the evidence before me.

Conditions

26. I have considered the Council's list of suggested conditions in light of the National Planning Policy Framework (the Framework) and the Guidance. I have also considered the appellant's comments in response, as set out in the appellant's final comments⁴. I have amended the suggested conditions where necessary in the interests of precision.
27. I agree that in addition to a time limit condition, a condition specifying the approved plans is necessary in order to provide certainty. In the interests of character and appearance, conditions relating to the use of matching materials and details of the external finishes of the dormer windows are necessary. In addition, conditions relating to the siting of refuse and recycling storage provision, the laying out of parking spaces, cycle parking and details of the balustrade screening prior to occupation are necessary in the interests of highway and pedestrian safety, accessibility by means of transport other than private car and residential amenity, respectively. I therefore attach conditions accordingly, albeit with removal of references to photovoltaic panels within the balustrade screening detail condition.
28. I agree that hard and soft landscaping and construction method statement conditions are necessary, albeit that they should reflect the scale of the proposed development. With amendment, I have imposed conditions to this effect.
29. I have not imposed a condition regarding availability of parking permits as the evidence before me indicates that sufficient on-site parking provision would be provided within the site, and I have not been presented with any justification for such an approach. Having regard to the advice set out in the Guidance regarding the use of conditions to require a planning obligation or other agreement to be entered into, and having concluded that the absence of affordable housing contributions does not count against the proposal, I have not imposed an affordable housing condition.
30. I consider that suggested conditions relating to landscape management, arboricultural method statement and further details of the proposed parking layout are not reasonably related to the scale and form of development proposed or can be dealt with via the provisions of other conditions. I have not therefore attached conditions in these respects.

Conclusion

31. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie INSPECTOR

⁴ Submitted by e-mail, dated 2 March 2017

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 153 001 Rev A; 153 005 Rev A; 153 010 Rev B; 153 011 Rev B; 153 020 Rev B; 153 030 Rev B; 153SK 005 Rev A; 153SK 010 Rev B; 153SK 011 Rev C; 153SK 020 Rev C; 153SK -3- Rev A and 153SK 040 Rev B.
- 3) No development shall take place, including any works of demolition, until a Construction Management Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period.
- 4) No new external finishes, including works of making good, shall be carried out other than in materials to match the existing.
- 5) No development shall commence until the facing materials of the dormer window cheeks and roofs have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in complete accordance with the agreed details.
- 6) None of the flats hereby approved shall be occupied until arrangements for the storage and disposal of refuse/waste have been made in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 7) None of the flats hereby approved shall be occupied until cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and finishes thereof.
- 8) None of the flats hereby approved shall be occupied until parking and turning space has been constructed and laid out in accordance with the approved plans set out in condition 2, and shall at no time be used other than occupiers / callers to the premises hereby approved, and for no other purpose. The parking spaces shall not be sold, leased or otherwise assigned other than for the sole use of the individual units.
- 9) Before the development hereby permitted is occupied, details of the balustrade screening to the side of the roof terrace facing towards the boundary with the neighbouring property at 50 Sixth Cross Road shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the first floor flat and shall thereafter be retained in accordance with the agreed details.
- 10) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;

- ii) finished levels;
- iii) hard surfacing materials;
- iv) planting details; and
- v) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 11) The dwellings hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Building Regulations requirements (2013).