

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: 12 May 2017

Appeal Ref: APP/L5810/W/16/3165298

115 - 121 Uxbridge Road, Richmond upon Thames, Hampton TW12 1SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Ferguson (London and District Properties (Management) Ltd) against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/3329/FUL, is dated 18 August 2016.
 - The development proposed is the erection of a first, second and third floor extension to 115 – 117 Uxbridge Road to provide four self contained flats and associated cycle store, refuse storage, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ferguson (London and District Properties (Management) Ltd) against the Council of the London Borough of Richmond upon Thames. This application is the subject of a separate Decision.

Procedural Matters

3. I understand that the emerging Local Plan has been published in its '*Publication version for public consultation*' stage but I am not aware of the exact stage it has reached, the extent of any outstanding objections or whether the policies concerned will be considered consistent with the National Planning Policy Framework (the Framework). Consequently, in accordance with paragraph 216 of the Framework I give it very limited weight.
4. A signed and dated Unilateral Undertaking (UU) has been submitted in order to address the Council's second reason for refusal relating to affordable housing. I shall return to this matter below.

Background and Main Issues

5. The Council did not reach a decision within the prescribed period on a planning application for the proposals now before me. They have however, as part of their Statement of Case, submitted putative refusal reasons had a decision been able to be reached.
 6. Having regard to the above therefore, I consider the main issues to be:
 - The effect of the proposed development on the character, appearance and setting of 115-117 and 119 -121 Uxbridge Road; and
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- Whether the proposal makes an appropriate contribution towards affordable housing.

Reasons

Character and Appearance

7. The appeal site comprises two 3½ storey semi-detached Victorian townhouses fronting on to Uxbridge Road, identified by the Council as being Buildings of Townscape Merit (BTM) and, consequently, non-designated heritage assets. Although the buildings are situated amidst a large expanse of hardstand, they nonetheless enjoy a prominent position within Uxbridge Road, dominating the surrounding area by virtue of their scale and physical presence.
8. Adjacent buildings on the western side of Uxbridge Road are of a much more modest scale, being a mix of smaller two storey buildings, bungalows and chalet-bungalows. Opposite the appeal site lies a more modern, mid- to late- 20th century flat-roofed three storey flatted development set within landscaped grounds.
9. The appeal buildings are, however, the significant and dominant feature at this point of Uxbridge Road. The appellant's Heritage Report identifies the interest in the pair of buildings as being related to their symmetry and scale. Although occupied as Houses in Multiple Occupation (HMOs) and somewhat marooned within a sea of hardstanding devoted to car parking, the buildings nonetheless retain a significant degree of symmetry and balance, the spacing around and between them affording intervening glimpses of smaller buildings and the verdant sylvan backdrop behind.
10. The proposed extension is described as a 'bridged' extension and would provide additional accommodation at first, second and third floors. Crucially however, it would physically link the two buildings. I note that both the Council and the appellant's Heritage Statement accept that the significance of the buildings lies not just in the degree of symmetry between them, but also that they were likely built as a symmetrical pair of dwellings.
11. Therefore, although I accept that the linking 'bridged extension' element would be set back from the façade of both buildings and would, in so doing, appear subservient to the point of being hidden in the longest views across the building's façade this would, in my judgement, be to miss the point. The linking element would instead be almost as wide as the each of the two existing buildings.
12. Moreover, whilst the front elevation of the extension would be set back behind the façades of both buildings, the eaves, roof and ridgeline of the extension would all align with the corresponding features of the existing buildings. The façade may well be set back from those of the flanking buildings, but the bridged extension would in my judgement nonetheless be anything but subservient to the existing buildings. In anything other than such views, the proposed extension would appear as a bulky and somewhat clunky addition to the existing buildings. Significantly, they would no longer be a pair of separate buildings sharing a sense of symmetry and balance.
13. Further, I find no correlation between the scale and massing of the resulting building with other plots along Uxbridge Road. Reference is made to the adjacent development at 102 Uxbridge Road as being comparable. More

generally, it is stated that the proposal has taken influence from the general scale, bulk and massing of residential properties close to the site, drawing on these factors to provide context to the setting and character of the extended host buildings.

14. I fail to see any similarities, however. Whilst the development opposite is also of three storeys it is of a more modern design, with somewhat squat vertical proportions and a flat roof giving it a lower, more horizontal emphasis than the appeal buildings. Furthermore, it is set within landscaped grounds with mature trees which together mean that it is a far less prominent proposition within the streetscene. Moreover, it is quite clearly not a BTM and so should not be, and is not, comparable with the appeal buildings. Nor do other residential properties close to the appeal site seem to me to provide context or influence to the scale, bulk or massing of the resulting building.
15. Although the proposal attempts to reflect the detailing of the existing buildings, I agree that the fenestration in particular lets the proposed extension down. The proportions of the windows would fail to reflect those of the existing openings at corresponding levels, and would also leave significant expanses of unbroken façade that are not particular features of the east elevation as it currently exists.
16. Thus, for the reasons set out, I conclude that the proposal would be a bulky, overly dominant and incongruous addition to the appeal buildings that would fail to respect the character, appearance, significance or setting of those buildings as Buildings of Townscape Merit. As such the proposal is in clear conflict with policy DM HD3 of the London Borough of Richmond upon Thames Local Development Framework: Development Management (DMP).
17. Whilst I attach only limited weight to the provisions of the emerging Local Plan for the reasons set out above, policy LP4 thereof also seeks to preserve, and where possible, enhance the significance, character and setting of non-designated heritage assets including amongst others, Buildings of Townscape Merit. Whilst not decisive in my decision, this supports my conclusions in respect of DMP policy DM HD3.

Affordable Housing

18. 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. Policy CP15 of the London Borough of Richmond upon Thames Local Development Framework: Core Strategy (CS) indicates that some form of contribution towards affordable housing will be expected on all new housing sites.
19. However, the Court of Appeal issued judgment in the case of *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. This confirmed that the policies 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 should be treated as a material consideration in the determination of appeals. The WMS, together with revisions to Planning Practice Guidance (the Guidance) to incorporate this judgement, states that there are specific circumstances in which contributions

for affordable housing should not be sought, making specific reference to developments of 10 units or less where contributions should not be sought.

20. I note that the Council's Cabinet adopted policy LP36 of the emerging Local Plan for development management purposes. It is, as set out above however, at a relatively early stage of the plan preparation process and leads me to attach only limited weight to its provisions. I note too, the resolution of the Council's Cabinet to continue to seek contributions towards affordable housing provision through continued implementation of DMP policy DM HO6. I have also considered the Council's evidence that affordable housing need within the Borough remains substantial and that small sites make a significant contribution to housing supply and their continued approach to seeking affordable housing contributions.
21. The approach set out within the WMS, which is reiterated in the Planning Practice Guidance (PPG), provides clarification on national policy and is to be read alongside the Framework. 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 but the WMS is a material consideration of more recent date. It is therefore a significant and more recent expression of Government policy on affordable housing contributions from small sites than the development plan, and is a material consideration in the determination of this appeal to which I give significant weight.
22. Although the appellant has submitted a signed and dated UU that makes provision for a financial contribution towards affordable housing, it nonetheless remains a point of dispute as to whether the proposed development should make a contribution towards the provision of affordable housing in the area. However, in light of the above I conclude that a contribution towards affordable housing is not required. As such, the signed and dated UU submitted by the appellant to secure such a contribution is not necessary to make the proposal acceptable in planning terms. Whilst the proposal would be in conflict with the development plan in this respect, it would not be so with national policy expressed in the WMS and the Guidance.

Other Matters

23. I have noted that the Council do not oppose the proposal in terms of its effect upon the living conditions of existing occupiers of the appeal buildings and those close to the site with particular regard to privacy, sunlight and daylight. The proposal would also result in a net increase in housing supply and would provide variety in the housing offered within the site.
24. I have also noted that the Council do not object to the proposal in terms of living conditions of future occupiers with particular regard to internal living accommodation, or in terms of highway safety. With appropriate conditions I am satisfied that matters such as the provision of vehicle and cycle parking, refuse storage and sustainability credentials could also be addressed to the Council's satisfaction. Together, these factors weigh in favour of the proposal but are not sufficient to alter my conclusions in respect of the main issues, set out above.

Conclusion

25. I have concluded that a financial contribution in relation to affordable housing, and the UU to secure it, would not be required. I have also noted that the Council do not oppose the proposal in terms of living conditions, highway safety, vehicle and cycle parking, refuse storage or the proposal's sustainability credentials. Whilst these factors weigh in favour of the proposal they would not outweigh the significant harm to the character, appearance and setting of the appeal buildings that I conclude would arise from the development proposed.
26. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR