

Appeal Decision

Site visit made on 28 March 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/L5810/W/16/3162724

20 Conway Road, Whitton, Richmond upon Thames TW4 5LR

- 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 Gurvinder Ahluwalia against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/0411/FUL, dated 3 February 2016, was refused by notice dated 19 September 2016.
 - The development proposed is described as retrospective application for the retention of two dwellings as per consented scheme DC/WEW12/3413/FUL/FUL.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development above has been taken from the application form. 'Retrospective' and 'retention' are not acts of development. The appellant has suggested that I consider the proposal on the basis that it is for the 'erection of two dwellings (1 x 2 bed and 1 x 3 bed houses)'. I consider that this better describes the appeal proposal than that set out above, and I have considered the proposal accordingly.

Background and Main Issues

3. Planning permission was granted in 2013 under application Ref 12/3413/FUL for the demolition of a dwelling and the erection of a pair of semi-detached bungalows with dormer extension and roof lights. The dwellings that have been constructed do not reflect those that were granted planning permission and the appellant is seeking planning permission for the dwellings as constructed.
 4. The main issues in this case are:
 - the effect of the development on the character and appearance of the area, having particular regard to the siting and design of the dwellings and the effect of the access construction on a nearby tree;
 - the effect of the development on the living conditions of the intended future occupiers, having particular regard to the design and layout of the dwellings;
 - whether or not the dwellings have been designed and constructed in a sustainable manner; and
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- whether or not the contributions sought toward affordable housing are reasonable and necessary.

Reasons

Character and Appearance

5. Conway Road is characterised by detached bungalows and two storey dwellings of varying design and materials. Dormer windows are present on a number of properties in the area. The appeal site is located on a bend in the road, beyond which is a railway line. The new dwellings are semi-detached with a single storey appearance which reflects the character and appearance of the area. They are sited forward of the neighbouring property at No 18, in a position previously found to be acceptable by the Council.
6. The roof over the projecting front gable of the property is higher than that previously approved. It is also higher than the gable feature at No 18. As a result, this feature is more visible in the street scene than neighbouring development, particularly on the approach from Hanworth Road. However, whilst the bulk of the roof is greater than neighbouring properties and that previously found to be acceptable by the Council, I consider that it is not unduly intrusive in the street scene, or out of keeping with the mixed architectural character of the surrounding area. The dormer window facing onto the railway line is of a modest size, set back from the front elevation and below the ridge line of the property, such that it is not intrusive in the streetscene.
7. I have not been provided with documentary evidence of the value of the grass verge that has been removed to the front of the site. The verges along this side of the road are relatively narrow, punctuated by access points serving dwellings. The provision of the access to No 20A reflects existing development in the area.
8. I note the Council's concern in respect of the street tree, however I have not been provided with evidence that the access works to No 20A have resulted in harm to this tree. I observed that the street tree is an attractive specimen and its loss would be unfortunate. However, I share the appellant's view that if the tree has been damaged, a planning condition could be attached to the grant of planning permission requiring its replacement.
9. In light of the foregoing, I conclude that the design of the dwellings and the new access are not harmful to the character and appearance of the area. There is no conflict with the character and urban design objectives of Policy CP7 of the London Borough of Richmond Upon Thames Local Development Framework Core Strategy (CS) or the design quality objectives of Policy DM DC1 of the London Borough of Richmond Upon Thames Local Development Framework Development Management Plan (DMP).
10. The Council has made reference to Policy DM DC 5 of the DMP in its fifth reason for refusal. This purpose of this policy is to protect existing occupiers from the unreasonable impacts of new development. I have found that the proposal would be more prominent in the street scene than the previously approved building, however, I am satisfied that there is sufficient separation distance between neighbouring properties and their windows to ensure that harm to

neighbouring occupiers' outlook would not result. There is also no conflict with this policy.

Living Conditions

11. DMP Policy DM HO 4 requires all new housing developments to comply with external and internal space standards. The Council has adopted a Supplementary Planning Document (RDSSPD) entitled Residential Development Standards which sets out, amongst other matters, baseline standards for internal space for residential properties. For houses with 2 bedrooms the SPD states that the baseline for the internal floor area should be at least 65 square metres; for houses with 3 bedrooms, it should be 75 square metres.
12. No 20A is shown to have 3 bedrooms; No 20B 2 bedrooms. The Council has calculated No 20A to have a floor area of 87.7 square metres which exceeds the standards set out in the SPD. The appellant's schedule of accommodation submitted with the planning application indicated that No 20B had a floor area of 61.2 square metres. This falls below the standard set out in the SPD for a 2 bedroom dwelling. However, this calculation did not include the first floor living area which the submitted drawings show as being 18 square metres. Taking this first floor accommodation into account takes the floor area for this dwelling above the minimum standards set out in the RDSSPD.
13. The Council's decision notice makes reference to the Technical Standards – Nationally Described Space Standard (NDSS) which have been published since the adoption of its RDSSPD. The NDSS sets out requirements for the gross internal floor area of new dwellings at a defined level of occupancy, as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling heights. These standards are optional standards which local planning authorities can set. The Planning Practice Guidance (PPG) and a Written Ministerial Statement (WMS)¹ make it clear that where a local planning authority wishes to use NDSS, they should only do so if reference is specifically made to them in their Local Plan. The CS does not make specific reference to the NDSS in any of the policies that I have been referred to. Consequently, the Council's concern that the new dwellings do not comply with the Government's NDSS carries little weight in my consideration of the proposal.
14. Furthermore, I found both dwellings to be spacious and light on my site visit providing pleasant living accommodation for the intended future occupiers. A good standard of amenity is provided as a result. The design and layout of the accommodation in both new dwellings complies with the purpose of DMP Policy DM HO 4, the design quality objectives of DMP Policy DM DC 1 and CS Policy CP7, and the RDSSPD.

Sustainable Design

15. CS Policy CP1 requires development to conform to a Sustainable Construction Checklist. This checklist includes a number of themes to ensure that new developments meet high environmental standards, and contribute, particularly through energy efficiency and water conservation to the Government's targets for carbon reduction. Amongst other matters CS Policy CP2 requires new development to minimise energy consumption and achieve a reduction in

¹ 25 March 2015

carbon dioxide emissions of 20% from on-site renewable energy generation. DMP Policy DM SD 2 has similar objectives.

16. Furthermore, DMP Policy DM SD 1 requires new homes to meet certain design standards, including a reduction in carbon dioxide emissions over the Building Regulations. The Council's adopted Supplementary Planning Document Sustainable Construction Checklist Guidance Document (SCCGD) provides further guidance in this regard and states that the sustainable design checklist is mandatory for certain forms of development, including residential development providing 1 or more new dwellings. The purpose of the checklist is to enable all building works to make an increased contribution towards local sustainability, and help create a townscape which will adapt to climate change, as well as mitigate its effects.
17. An Energy & Sustainability Statement was submitted with the planning application. This identified that the provision of 3 photovoltaic panel arrays on each dwelling would achieve a 20.5 per cent reduction in carbon dioxide emissions. In this regard, there would be no conflict with CS Policy CP2, or the renewable energy targets of DMP Policy DM SD 2.
18. The appellant has indicated that the provision of photovoltaic panels and the energy saving measures incorporated into the design of the dwellings achieves a 23.26 per cent reduction in carbon dioxide emissions. This falls considerably short of the Council's target for a 35 per cent reduction in carbon dioxide emissions over the Building Regulations. It is also below the figure quoted in respect of the planning application granted in 2013, which at the time marginally exceeded the Council's target of a 25 per cent reduction in carbon dioxide emissions. No viability information has been submitted to demonstrate why the required targets cannot be achieved.
19. The appellant considers that limited weight should be given to the development plan in this regard as he considers that the criteria is based on the withdrawn Code for Sustainable Homes. Whilst noting this concern, the Framework makes it clear that local planning authorities can set their own local requirements for a building's sustainability, in a way that is consistent with the Government's zero carbon buildings policy to support the move to a low carbon future. The Council's policies are broadly consistent with this approach and I afford them significant weight.
20. On the basis of the evidence before me, I am not satisfied that sufficient measures to minimise energy consumption and carbon dioxide emissions have been taken in the design and construction of the new dwellings. There is therefore conflict with the sustainable design objectives of CS Policy CP1, DMP Policy DM SD 1 and the SCCGD.

Affordable Housing Contribution

21. The appellant paid a contribution towards affordable housing in respect of the previously approved planning application on the site. No contribution is proposed in respect of the appeal scheme before me.
22. CS Policy CP15 seeks some form of contribution towards affordable housing from all new housing developments, including on sites of 10 units or less.

Where it is not proposed to provide affordable housing on site, Policy DMP Policy DM HO6 and the Affordable Housing Supplementary Planning Document (AHSPD) provide for a financial contribution to the affordable housing fund on sites proposing less than 10 units.

23. These policies pre-date the WMS of 28 November 2014 which states that for developments of 10 units or less, and which have a combined gross floor-space of no more than 1000 square metres, no affordable housing or tariff style contribution should be sought. The purpose of this is to ensure that small developments, such as this, are not stalled as a result of the requirement to provide for affordable housing. This advice is reflected in paragraph 031 of the Planning Practice Guidance (PPG) – Planning Obligations.
24. The Council has advised that it is using emerging Policy LP 36 of the Pre-Publication Local Plan as part of its assessment of planning applications. This policy relates to affordable housing and seeks contributions from sites of 1 unit or more. Whilst noting the Council's approach, given the stage that this plan is at, I am only able to attach very limited weight to this policy in my consideration of this appeal.
25. The Council has produced evidence that small housing sites make a significant contribution to housing supply and that the completion rate from large sites can be low. It is therefore reliant on financial contributions from small sites to meet local affordable housing need. The Council indicate that there is a large deficit in the supply of affordable homes and has drawn my attention to its emerging Strategic Housing Market Assessment which identifies a net deficit of over 900 affordable homes per annum in the Borough. The appellant has not disputed the Council's evidence in respect of the need for affordable housing or the lack of contribution from larger sites. Furthermore, I have no evidence before me to suggest that the development could not proceed if such a contribution is necessary. The Council has indicated that it would be prepared to deduct the contribution already paid by the appellant from the contribution sought. I note the appellant's comments questioning the expenditure of the affordable housing fund but I have no evidence to indicate that it is not being spent appropriately.
26. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. I have therefore had regard to the WMS and the PPG as material considerations and given them great weight. However, in this case, they do not outweigh the significant and substantial weight which I attach to the local evidence of affordable housing need.
27. I therefore find that on the evidence before me, the financial contribution sought by the Council towards affordable housing provision is reasonable and 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. The proposal would fail to secure appropriate financial contributions towards the provision of affordable housing and so would be in conflict with CS Policy CP15, DMP Policy DM HO6 and the AHSPD.

Conclusion

28. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR