
Appeal Decision

Site visit made on 16 May 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 22 June 2017

Appeal Ref: APP/L5810/W/17/3168466

53 Cole Park Road, Twickenham, Richmond upon Thames TW1 1HT

- 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 Mrs C Adalbert against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 15/1638/FUL, dated 19 April 2015, was refused by notice dated 24 August 2016.
 - The development proposed is erection of two semi-detached dwellings following the demolition of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two semi-detached dwellings following the demolition of the existing dwelling at 53 Cole Park Road, Twickenham, Richmond upon Thames TW1 1HT in accordance with the terms of the application, Ref 15/1638/FUL, dated 19 April 2015, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The appellant has submitted an executed unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990, which would secure a contribution towards the provision of affordable housing and restrict on-street parking permits. The appellant has made specific submissions about the necessity of a planning obligation and I will address this issue below.

Main Issues

3. (a) The effect of the proposed development on:
 - the character and appearance of the locality; and
 - on-street parking congestion in the area and the consequent impact this would have on highway safety and the living conditions of the occupiers of neighbouring properties; and(b) whether a financial contribution towards affordable housing is necessary.

Reasons

Character and Appearance

4. Cole Park Road is an eclectic suburban residential street with dwellings ranging in size between large, detached Victorian and Edwardian villas and more modest semi-detached properties. Architectural styles also vary significantly in the street with innovative, modern buildings sitting amongst more traditional
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houses. Older buildings also reflect differing styles with ornate detailing to some properties and unadorned plain structures close by, reflective of inter-war development. Roofs are a varied mixture of heights and styles, with flat roofs, hipped roofs and gables to front or side elevations. The overall street scene is characteristic of an organic growth in housing reflecting different eras and trends in architectural design.

5. The proposed development would be a complementary amalgamation of traditional and modern styles with a pitched roof sitting between front and rear gables encompassing green roof. Similarly, the external elevations would be red-brick and white-painted render coupled with glass and metal treatments of the proposed light-wells. The development would be similar in scale and height to the neighbouring semi-detached pair at 51 and 51A Cole Park Road. On the other side, the proposed development would be a metre or so higher than the existing building at 53A Cole Park Road but the variation in height would not be out of character for the existing street scene.
6. The footprint of the proposed development would inevitably reduce the area of the rear garden but the resulting building would have a similar footprint to the house at No 53A, and would leave rear garden space with a similar area.
7. The appellant provided an arboricultural impact assessment that identified for retention a number of mature trees to the front and rear of the appeal site. These trees are not protected but make a significant and valuable contribution to the character and appearance of the area and it is important to ensure their protection during construction and retention thereafter. The protection and retention of trees can be achieved by the imposition of conditions.
8. Policy CP7 of the London Borough of Richmond upon Thames Core Strategy 2009 (the Core Strategy) and Policies DM DC1 and DM HO2 of the London Borough of Richmond upon Thames Development Management Plan 2011 (the Local Plan) together seek to ensure that new development is of high quality design and respectful of local character.
9. Given the similar scale of the building and retained garden area compared to neighbouring properties, coupled with the street's eclectic architecture, I consider that the proposed development would complement the character and appearance of the area. Therefore, I conclude that the proposed development would be in accordance with Policies DM DC1 and DM HO2 of the Local Plan and Policy CP7 of the Core Strategy.

On-Street Parking

10. Cole Park Road is a wide street with a significant number of delineated parking spaces. Many dwellings incorporate off-street parking for one or more vehicles and on-street parking is controlled by means of a Controlled Parking Zone (CPZ). The Council was concerned that the absence of a satisfactory parking survey and insufficient off-street parking would lead to additional undue demand for on-street parking. However, it is not clear whether there was any concern about the impact of parking congestion on highway safety or the living conditions of the occupiers of neighbouring properties.
11. Policy DM TP8 of the Local Plan seeks to ensure that all new development includes an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking. The Policy is particularly concerned about this potential impact in areas where there is a demand for commuter parking.

12. The effect of the CPZ is to restrict the availability of parking spaces for vehicles without a parking permit. The appeal site is a five-minute walk or so from the Twickenham mainline railway station so is in an area where commuter parking might be problematic. My site visit occurred mid-morning, after peak time for commuting, and there were few cars parked in the street and ample spaces available. I accept that the situation at the time of my site visit represents just a snapshot and it would be reasonable to assume that the parking situation would be different in the evening when residents of the street have returned from work.
13. In December 2016 the appellant commissioned a post-decision parking survey undertaken using the Council's approved methodology. The survey identified that approximately 40 per cent of available spaces were available at peak use. Coupled with my site visit observations of available on-street and off-street parking, I consider that the conclusion there would be insufficient off-street parking is not made out. I also conclude that there would as a consequence no detrimental impact on highway safety or on the living conditions of the occupiers of neighbouring properties.
14. Policy DM TP8 accepts that developers could provide fewer parking spaces than recommended by the Council where there would be no unacceptable overspill of on-street parking in the vicinity of the development. Given the existing parking conditions, the CPZ and small scale of the development I consider that the proposed development would not cause an unacceptable overspill of on-street parking. Therefore I conclude that the proposed development would be in accordance with Policy DM TP8.

Section 106 Planning Obligation

15. Paragraph 204 of the National Planning Policy Framework states that planning obligations should only be sought where they meet the following three tests:
 - they are necessary to make the development acceptable in planning terms;
 - they are directly related to the development; and
 - they are fairly and reasonably related in scale and kind to the development.
16. Policy CP15 of the Core Strategy requires developers of new housing to contribute towards affordable housing. In small schemes of fewer than ten dwellings where the affordable housing cannot be delivered on site Policy DM HO6 of the Local Plan provides for the requirement to be met by way of a financial contribution. The Policy provides a scale determining the calculation of any contribution to take account of the size of the development.
17. The Council has provided a considerable body of evidence to show an unmet demand for affordable housing. Small developments make a significant contribution towards satisfying the general demand for housing as fewer large developments are completed. This has resulted in the Council becoming increasingly reliant on contributions from smaller developments to deliver affordable housing.
18. The appellant disputes the need for any contribution to affordable housing, arguing that it is not necessary to make the proposed development acceptable; it is onerous; and is not fairly related in scale or kind to the proposed development. The appellant has not disputed that there is an unmet affordable housing need in the borough. The appellant also disputes the need for any restriction on on-street parking permits.

19. The Written Ministerial Statement dated 28 November 2014 (the WMS) stated that no affordable housing or tariff style contribution should be sought from developers of small housing schemes of ten or fewer units with a combined gross floor space of less than 1000 square metres. The statutory position is that planning applications must be decided in accordance with the development plan unless material considerations indicate otherwise.
20. I have had regard to the WMS as a material consideration and, having taken account of the Council and appellant's views I attach great weight to it. I have also considered two recent appeal decisions (APP/L5810/W/16/3151789 and APP/L5810/W/16/3155064), where the Inspector found that affordable housing contributions were necessary to make proposed developments acceptable. I attach great weight to these decisions as material considerations because they dealt with similar issues and were decided in reference to the same Policies relevant to this appeal.
21. I consider that the affordable housing contribution is necessary to make the development acceptable because of the significant unmet need and the Council's increasing reliance on small schemes to meet that need. Therefore, the weight that I attach to the WMS is not sufficient to warrant departure from Policies CP15 and HO6.
22. The UU also provides for a limit on the number of parking permits that would be available to the future occupiers of the two units in the proposed development. This was the Council's requirement to address the issue of parking congestion. However, as referred to above, Cole Park Road is capable of absorbing the additional parking that might arise as a result of the development and therefore I consider that a limit on parking permits is not necessary to make the proposed development acceptable.
23. Therefore, with the benefit of the UU, I conclude that the proposed development would make an appropriate contribution to affordable housing and therefore would be in accordance with Policies CP15 and HO6. The inclusion of the proposed control over parking does not constitute a reason why I have granted planning permission.
24. The UU requires the appellant to make a contribution of £98,000 towards affordable housing, although there is provision for the sum to be reassessed to adjust for different costs and sale prices. I consider this to be reasonable and necessary to make the proposal acceptable and I have no evidence before to suggest that the development would not proceed if the contribution was required.

Other Matters

25. Objections included concerns about the effect the proposed development would have on the existing water table and water run-off, and on overshadowing and overlooking. In terms of flood risk, as part of the application process the appellant submitted a flood risk assessment report containing proposed protective measures. The Council accepted the appellant's flood risk assessment that identified the appeal site as a low-risk area. The report recommended protective measures to maximise mitigation that could be incorporated into the proposed development by way of a condition. Reports of water seepage into neighbouring properties do not seem to be attributable to the appeal site.

26. Turning to potential overshadowing, Cole Park Road runs roughly north the south so overshadowing would only affect No 53A which sits north of the appeal site. The ground floor kitchen and breakfast room at No 53A is served by a window on the side elevation that would be overshadowed by the proposed development. However, this is a secondary window and the Council identified that the main kitchen window is in the front elevation of No 53A so would be unaffected by overshadowing from the proposed development. I therefore give little weight to the overshadowing of the secondary window that would result from the proposed development.
27. There is potential for overlooking from the green roof and windows in the side elevations of the upper floors. However, these matters are not sufficient to justify dismissal of the appeal because the potential issue can be overcome by imposing conditions in respect of use and opaque glass.
28. The Council also raised a concern about the potential for noise and vibration disturbance from any plant or machinery installed in the basement plant room. This is not an issue upon which the Council refused the application but is a material concern. However, this is a matter that can also be addressed by the imposition of a condition in relation to installation of plant and machinery.

Conclusion

29. For the reasons given above, and taking into account all other matters, I conclude that the appeal should succeed subject to conditions necessary for the reasons mentioned and in the interests of proper planning.

D Guiver

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P070-402 B, P070-405 B, P070-406 B, P070-407, P070-408 B, P070-409 C, P070-410 C and TMC-15023-L.
- 3) The building hereby permitted shall not be occupied until the windows in the side elevations above ground floor level have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 4) The roof area of the building hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 5) Before any plant and/or machinery is installed and used on the premises, it shall be enclosed with sound-insulating material and mounted in a way which will minimise transmission of structure-borne sound in accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority. The measures implemented as approved shall be retained thereafter.
- 6) The proposed development shall be carried out in accordance with the proposed flood risk management measures as detailed in the Phase 1 Flood Risk Assessment Report dated May 2015 produced by Amblental Technical Solutions Limited.
- 7) All trees shown on the tree protection plan TMC-15023-L marked as category B and any trees whose canopies overhang the site shall be protected in accordance with the approved plan. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, other than in accordance with the approved plan.