
Appeal Decision

Site visit made on 28 June 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

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

Decision date: 21 July 2017

Appeal Ref: APP/L5810/W/17/3172428

Land to the rear of 15 - 17 Connaught Road, Teddington, Middlesex TW11 0PP

- 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 Andrew Tidmarsh against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 15/1793/FUL, is dated 27 April 2015.
 - The development proposed is the demolition of existing garages and the erection of two single storey houses (one house with a basement).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Tidmarsh against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate decision.

Main Issue

3. The main issue is whether appropriate provision is made for affordable housing.

Procedural Matter

4. I have noted that the Council has referred to the emerging Local Plan Policies in its appeal statement. However, this does not yet form part of the development plan and therefore, in determining the current appeal I have given it limited weight. However, I understand that the adoption and use of the Pre-Publication Local Plan Affordable Housing Policy LP 36 has been agreed for determining planning applications and development management purposes. Therefore, this particular policy has some weight in determining the current appeal.

Reasons

5. Policy CP15 of the Core Strategy Adopted April 2009 (the CS) seeks the provision of a range of housing to meet the needs of all types of households. There is an expectation that some form of contribution towards affordable housing will be made on all new housing sites. Policy DM HO6 of the Development Management Plan Adopted November 2011 (the DMP) provides that where it is not proposed to provide affordable housing on site, a financial

contribution will be secured via a legal agreement. Policy LP 36 of the Local Plan Publication version for consultation 4 January 2017 to 15 February 2017 (LP Publication version) seeks affordable housing contributions from all sites, based on the Council's local circumstances. The Council's approach to affordable housing provision is in line with the National Planning Policy Framework (The Framework) which requires Councils to meet the full, objectively assessed need for market and affordable housing. This can include financial contributions if they can be robustly justified.

6. I have also had regard to the Court of Appeal judgement in overturning the High Court Decision in the case of *The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council* which had effectively quashed the Written Ministerial Statement (WMS) of 28 November 2014 regarding contributions for affordable housing. The WMS states that *'for sites of ten units or less...affordable housing and tariff style contributions should not be sought.'* This approach is reflected Planning Practice Guidance.
7. I attach great weight to the WMS as a material consideration. However, based on the evidence before me I find that it does not outweigh the significant and substantial weight which I attach to the Council's strong local evidence of affordable housing need. Therefore I find that the proposal should contribute to the Borough's affordable housing need.
8. The appellant has stated that the Council has provided the required figure (£55,022) and that this matter is being progressed for completion. Although the appellant has not disputed the need for a financial contribution towards affordable housing I have seen no evidence of a signed and completed Section 106 Agreement. Therefore, I cannot take such an agreement into account when determining this appeal.
9. In the absence of a Section 106 Agreement with respect to a commuted sum towards affordable housing I conclude that the proposal would conflict with Policy CP15 of the CS, Policy DM HO6 of the DMP, Policy LP 36 of the LP Publication version, the Supplementary Planning Document Affordable Housing Adopted 6 March 2014 and the Framework.

Other matters

10. I acknowledge that there have been objections to the proposal from interested parties and I have made my own judgement on these other matters. There is clearly a matter of dispute between the appellant and a neighbour regarding land ownership. However, I can find no reason why the grant of planning permission would negate or supersede any private legal rights relating to land ownership. Accordingly, such issues relating to land ownership have not had any material bearing on my assessment of the planning issues in this case.
11. The proposed development would introduce a contemporary design into the existing residential environment. However, I observed on site that the proposal would not be particularly prominent from the public realm and that modern developments have successfully been integrated into the local area. The overall scale of the proposal is suitable to the location of the site.
12. The proposed dwellings would have a limited height and are a reasonable distance from nearby neighbouring residential properties. Therefore, I do not

consider that the proposal would be unneighbourly in terms of resulting in unacceptable overlooking, loss of light or being overbearing. I see no reasons why the proposal would be likely to generate unacceptable levels of noise and disturbance locally. Neither do I find it likely that the living conditions of the occupants of neighbouring residential properties would be harmed by light or glare from the proposal.

13. The proposal would result in the loss of existing garages which fall short of the currently recommended size of garages. Furthermore, from the evidence presented to me and my own observations on site it is clear that none of the garages on site are in use for private vehicle parking and serve no off street parking function. Therefore, given that on-site parking is proposed as part of the current scheme and on-street car parking is not at capacity I do not consider that the proposal would be likely to result in unacceptable harm to on-street parking conditions and highway safety. Concern has also been expressed that visibility at the access to the site is limited. However, given the limited traffic that would be generated by the proposal and the use of the access by a number of residential garages I do not consider that the highway conditions are likely to be prejudiced.
14. Given the limited amenity value of the trees around the site and evidence that the trees on adjacent land could be protected during any construction works I find no conflict on this matter.
15. Evidence presented confirms that the proposal would be generally compliant with the Council's sustainability requirements, including sustainable construction. Further clarification relating to reducing carbon dioxide emissions is required. In the event of allowing this appeal this matter could be the subject of suitably worded conditions.
16. Due to potential contamination associated with previous uses of the site and the sensitivity of the proposed residential use further investigation is required which could be conditioned in the event of allowing the current proposal.

Conclusion

17. For the reasons given above and taking into account other matters raised I conclude that the proposal conflicts with the development plan taken as a whole and that the appeal should be dismissed.

Alastair Phillips

INSPECTOR