



Appeal Decision

Site visit made on 19 June 2019

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 July 2019

Appeal Ref: APP/L5810/W/19/3226377

3 Bridle Lane, St Margaret's, Twickenham TW1 3EG

- 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 Renate/Toby Challis/Davis against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application Ref: 18/2816/FUL is dated 22 August 2018.
 - The development proposed is demolition of existing single storey precast concrete lock up units and erection of part two storey two bedroom detached house.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing single storey precast concrete lock up units and erection of part two storey two bedroom detached house is refused.

Preliminary Matters

2. The appeal is against a failure by the Council to give notice within the prescribed period of a decision on an application for planning permission. The Council subsequently confirmed that it would have refused planning permission for a number of reasons. These are addressed below.
3. The Council referenced a number of planning policies and guidance in its appeal statement, but these were not provided with its statement. I therefore requested copies, with copies for the Appellants, and invited the Appellants to submit any further representations in respect of the submitted policies and guidance. I have taken those further representations into account in my decision.
4. Although registering the application in accordance with the address given on the application form, the Council has subsequently raised a concern that the address of 3 Bridle Lane is misleading and some distance from Nos 1 and 5 Bridle Lane. Since the application was submitted another application has been received by the Council relating to a different parcel of land which does lie between Nos 1 and 5 Bridle Lane and is referenced as No 3 Bridle Lane. The Council considers that the more accurate address for this site to be Land rear of 198 Amyand Park Road and 198-200 Amyand Park Road.
5. I have taken into account the comments from the Appellants in this regard, including that the address of the appeal site has been registered as 3 Bridle Lane, following a Street Naming and Numbering application. Whilst I

understand the points raised by the Council at the appeal stage, from all the information before me, it is clear that there is no confusion over the location of the appeal site and that the Council and other consultees have also addressed the correct site in their comments. I am therefore satisfied that the appeal can be continued using the address set out on the application form and by the Council at the application stage.

Main Issues

6. The main issues in this appeal are:

- a) The effect of the proposal on the character and appearance of the local area;
- b) The effect of the proposal on the living conditions of surrounding neighbours with particular regard to loss of outlook, overlooking and loss of privacy;
- c) The effect of the proposed parking provision on highway and pedestrian safety, and
- d) Whether appropriate provision is made for affordable housing.

Reasons

Issue a) Character and Appearance

- 7. The appeal site is currently a rectangular, hard surfaced plot with garages/lock up units and open parking in front on the north west side of Bridle Lane and to the rear of residential properties on Amyand Park Road. Bridle Lane is a narrow and privately maintained lane, with access from both Amyand Park Road and Crown Road. It comprises a wide range of commercial and residential uses. Along the side of Bridle Lane including the appeal site, the land is generally open, including the rear gardens and parking for residential properties fronting Amyand Park Road. Opposite the appeal site is a two storey terrace of residential dwellings. Although there is a wide range of development along Bridle Lane including two storey development, most of the newer development appears to have been carefully planned in relation to adjoining existing development.
- 8. The appeal proposal would introduce a part single and part two storey, 2 bedroom dwelling; two storey fronting Bridle Lane reducing to single storey at the rear with parking and amenity space to the side.
- 9. Along this part of Bridle Lane, the gardens and parking areas at the rear of the properties in Amyand Park Road help to relieve the density of development within the immediate vicinity and to provide a sense of space and openness between the higher buildings on Amyand Park Road and the development within and along Bridle Lane. The introduction of a two storey dwelling in this location would appear visually incongruous in relation to the surrounding pattern of development on this side of Bridle Lane, which is characterised by the taller properties fronting Amyand Park Road and their rear gardens and garages/parking spaces to the rear. Although clearly smaller in scale than the properties fronting Amyand Park Road, it would be an isolated two storey form that would not relate appropriately in scale to the form of development on this side of Bridle Lane.

10. In addition, the proposal would create a narrow and uncomfortable pinch point of two storey development facing each other on both sides of Bridle Lane. The closeness of two storey development would appear cramped and visually obtrusive. Whilst the pattern of development within Bridle Lane is close knit, I consider that the proposed arrangement in relation to existing development would be uncomfortably close and would appear as an overdevelopment within the local area.
11. I therefore conclude that the proposal would harm the character and appearance of the local area. This would conflict with Policies LP1, LP2, LP39 of the Council's adopted Local Plan 2018 (Local Plan) as well as the National Planning Policy Framework (Framework) all of which seek a good quality of design which respects the local context. I have noted that there has been some discussion regarding whether the proposal is properly described as backland development but Policy LP 39 references not just backland but also infill and back garden development and I consider that the policy objectives and criteria listed under this policy are generally applicable in this case.

Issue b) Living Conditions of Neighbours

12. The residential properties fronting the opposite side of Bridle Lane have windows serving habitable rooms at both ground and first floor level. I agree with the Council that were no other matters of concern, and planning permission were to be granted, it would be possible through the imposition of appropriate conditions to restrict the glazing form in the proposed property, in order to ensure that there would be no overlooking and loss of privacy between windows in the appeal proposal and the properties on the other side of Bridle Lane. However, the distance between the front of the proposed and the existing on the opposite side of Bridle Lane would be around 6m. I agree with the Council that the bulk and massing of the proposed over two storeys in such close proximity to habitable windows in the existing dwellings would be overbearing and would harm the outlook for the existing neighbours. This would unacceptably harm their living conditions.
13. I agree with the Council that the reduction to single storey at the rear with no rear facing windows, together with the slope of the roof and the distance from the properties in Amyand Park Road, directly to the rear, would ensure no harm to the living conditions of these residents, with particular regard to overlooking and loss of privacy as well as loss of outlook.
14. The rear garden to No 196 Amyand Park Road is to the immediate south-west of the appeal site. However, given the window arrangement in the proposed property including at first floor level, I do not consider that the limited potential for overlooking and loss of privacy to these neighbours when in their rear garden would justify withholding planning permission on this basis. Furthermore, were there no other matters of concern and planning permission were to be granted, conditions could be imposed to control the fenestration details to protect the living conditions of these neighbours. I also do not consider that there would be any material harm in terms of outlook for these neighbours given the proposed garden area for the new dwelling would be between the proposed property and the neighbouring garden, and the proposed side elevation would not therefore be immediately adjacent the garden to No 196 Amyand Park Road.

15. However, my findings in respect of the living conditions of the immediate neighbours in Amyand Park Road do not outweigh the unacceptable harm I have concluded to the living conditions of the neighbours opposite the appeal site in Bridle Lane through loss of outlook and overbearing development. This harm would conflict with Policies LP8 and LP39 of the Local Plan as well as Paragraph 127 of the Framework, all of which seek to protect the amenities of existing and future occupiers.

Issue c) Parking Provision

16. The proposal would provide one parking space together with a shed/cycle store, which would accord with the Council's parking standards. The Council has raised a concern that it has not been demonstrated that a vehicle could safely turn in and out of the site without endangering pedestrian, cyclist and highway safety. Although this information has not been provided, I am satisfied that there is enough space on the site to ensure that a parking space could be provided to ensure safe access and egress. Were there no other matters of concern and planning permission were to be granted, this matter could in my view be resolved by the imposition of an appropriate condition to reserve out and require further details of the parking layout. Subject to the imposition of such a condition I am satisfied that there would be no harm to issues of highway and pedestrian safety. There would be no conflict with Policy LP45 of the Local Plan which requires developments to provide an appropriate level of parking provision to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.
17. The other access related issues raised by the Council, including rights over Bridle Lane and maintenance of Bridle Lane are not in my view planning issues and would be addressed under other legislation. The Council also did not raise these as matters that would have led to a refusal of permission.

Issue d) Affordable Housing

18. Policy LP36 of the Local Plan requires small sites to contribute towards the provision of affordable housing and further details are set out in the Affordable Housing Supplementary Planning Document. I have also taken into account the Written Ministerial Guidance which sets out the relationship between seeking contributions for affordable housing (and other contributions) on small scale developments because of the potentially disproportionate burden of developer contributions on small scale developers. This statement is subsequently reflected under the Planning Practice Guidance. These issues were considered in detail at the Examination in Public into the Local Plan when the Inspector found, in the particular circumstances of the evidence provided and the housing and affordable situation in the Borough, the policy to be sound. The statutory position is that planning applications have to be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst I am mindful of the weight to be afforded to national policy, given the information before me, I have no reason to take a different view.
19. In this case, the Council has calculated that the affordable housing commuted sum would be £19,222 which the Appellants have accepted at the appeal stage, being a lower sum than initially proposed. However, I have no completed unilateral undertaking committing to such a contribution.

20. The Appellants have referred to a previous signed and dated unilateral undertaking to make a financial contribution in respect of affordable housing relating to a previous application submitted on 23 January 2013, under the reference 08/3078/EXT for an extension of time to an original planning permission granted in February 2010 under the Council's reference 08/3078/FUL. However, that permission for an extension of time was refused. The proposal before me is a new proposal and for a different form of development and would require a new unilateral undertaking (or S106 Agreement) to be in place. Procedural guidance in relation to appeals sets out the timescales for the submission of such undertakings.
21. Whilst I have no doubt that the Appellants are prepared to commit to the financial payment, in the absence of a completed unilateral undertaking to provide a financial contribution towards affordable housing, the proposal would fail to contribute appropriately towards affordable housing provision. This would conflict with Policy LP36 of the Local Plan and the Affordable Housing Supplementary Planning Document in this regard.

Other Considerations

22. The Appellants have emphasised the planning history with permission being granted in 2010 for a development of this site. I have taken this planning history into account and have also noted that an application to renew the permission in 2013 was refused. However, I am required to consider the planning proposal now before me, on its planning merits and with regard to the development planning policies and guidance currently in force. Whilst I note that some of the Supplementary Planning Documents were prepared at the time of the earlier application, the development plan and national policy currently in force date from much more recently, including the adoption of the Local Plan in 2018. I am not persuaded that the grant of permission in 2010 for development of the site overrides the harm I have found from the proposal before me.
23. I am advised that the site is adjacent the Crown Road St Margaret's Conservation Area. However, given the intervening development between the appeal site and the Conservation Area I am satisfied that the proposal would have no impact on the setting of this Conservation Area.
24. The Council has made references to the fact that it would not have raised all of its objections had the proposal been different in form, and the Appellants have responded as to why this could not have been achieved. However, my consideration must relate to the proposal before me and it is not for me to consider potential alternatives which do not form any part of the proposal.

Conclusions

25. I have found that subject to the imposition of conditions, there would be no harm in respect of parking provision and highway safety and to the living conditions of those at the rear of the site. I also agree with the Council that although only one dwelling, it would add to the Borough's overall housing stock and with the Appellant that the accommodation proposed would provide a good standard of accommodation for future residents. However, these findings do not outweigh the harm I have concluded to the character and appearance of the local area, the lack of affordable housing provision and to the living

conditions of those neighbours on the opposite side of Bridle Lane to the appeal site, with particular regard to loss of outlook.

26. For the reasons given above and having regard to all other issues raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR