



Appeal Decision

Site visit made on 19 June 2019

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 14 August 2019

Appeal Ref: APP/L5810/W/19/3226103 738 Hanworth Road, Whitton TW4 5NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr O Sumer of Bion Property Developments Limited against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application Ref: 18/3344/VRC dated 11 October 2018, was refused by notice dated 6 December 2018.
 - The application sought planning permission for demolition of the existing detached bungalow, garage, shed and greenhouse to allow for construction of 2 x storey 4 bedroom semi-detached houses with accommodation in the roof with associated boundary treatment, cycle and car parking and hard and soft landscaping. Creation of new vehicular access from Hanworth Road without complying with a condition attached to planning permission Ref: 16/3247/FUL dated 31 October 2017.
 - The condition in dispute is U26555: which states that: *The development hereby permitted shall be carried out in accordance with the following approved plans and documents where applicable. L2392/LPA, 01, 02 and 03 received on 12th August 2016; L2392/03B, 06C, 07C, 08B, 09B, 10C, 12 received on 2nd February 2017.*
 - The reason given for the condition is: *To accord with the terms of the application, for the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing detached bungalow, garage, shed and greenhouse to allow for construction of 2 x storey 4 bedroom semi-detached houses with accommodation in the roof with associated boundary treatment, cycle and car parking and hard and soft landscaping; creation of new vehicular access from Hanworth Road at 738 Hanworth Road, Whitton TW4 5NT in accordance with the application Ref 18/3344/VRC dated 11 October 2018, without compliance with condition U26555, previously imposed on planning permission Ref: 16/3247/FUL dated 31 October 2017 and subject to the conditions set out in the schedule at the end of this decision letter.

Application for Costs

2. An application for costs was made by Mr O Sumer of Bion Property Developments against the Council of the London Borough of Richmond upon Thames. This application is the subject of a separate Decision.

Preliminary Matters and Main Issue

3. At the time of my site visit and as confirmed in the information before me the development of a pair of semi-detached houses is currently under construction, as permitted by planning permission ref 16/3247/FUL and as subsequently varied. It includes for a garage and parking space for one of the properties, utilising the existing access which served the former property.
4. The scheme amendment now sought is to amend the approved plans in order to make changes to the layout and design of the house nearest to No 740 and in particular to introduce a garage and off-street parking space in front and extend the existing access to no 740 to serve the new property. This would also necessitate a reduction in the width of the grass verge outside the new property. It is my understanding from the information before me, that the Appellants are seeking to vary the original permission (16/3247/FUL) and incorporate the amendments approved to date within this amended proposal. This also appears to be the basis of the determination by the Council.
5. Accordingly, the main issue in this appeal is whether the proposed scheme amendments, to introduce a garage and off-street parking space in front and extend the existing access to no 740 to serve the new property, would harm pedestrian and highway safety and the character and appearance of the local area.

Reasons

6. The appeal site is situated on the south-eastern side of Hanworth Road within a predominantly residential area. Hanworth Road (A314) is a busy road and bus route. Most of the properties in the vicinity of the site and on this side of the road have off street parking in the front driveway; some also have garages. Between the front boundaries and the highway there is a pavement and grass verge, with a number of street trees. The grass verge is punctuated to provide vehicular access to the individual houses. On the opposite side of the road, the houses are set back behind a service road, with a continuous hedge between the main highway and the service road. The set back of the houses with the grass verge and the hedge on the other side of the road with the houses set further away provides the street scene with an attractive and verdant appearance.
7. Policy LP45 of the Council's Local Plan adopted in 2018 seeks for new development to meet its parking requirements but resists the provision of front garden parking unless a number of criteria are satisfied. These include that there would be no material impact on road or pedestrian safety; no harmful impact on the street scene and that the existing on-street demand is less than available capacity. The third criterion relating to on-street demand and capacity is not directly relevant in this location, and neither the Council nor the Appellant has addressed this point.
8. Most of the existing properties in the vicinity of the site on the same side of the road have an existing vehicular access; some of the plot sizes and front garden layouts appear to allow for vehicles to access and egress in forward gear, but it is apparent that a number must access or egress in reverse gear. Paragraph 3.5 of the Council's Supplementary Planning Document: *Front Gardens and Other Off Street Parking Standards 2006* (SPD) advises that in respect of classified roads, a vehicle crossover to a front garden will only normally be

approved if it can be demonstrated that a vehicle can enter and leave the site in forward gear. There is no dispute that the width of the access and the plot would not allow vehicles to enter and leave in a forward gear.

9. The evidence from the Appellant confirms that this is a well trafficked road; there have been some accidents in the vicinity of the site, but these appear to be related to junctions with side roads rather than the individual access points. Visibility in both directions is good; the road at this point is straight and level. Given the number of existing accesses in close vicinity of the site, some of which require vehicles to reverse into or out of their driveway, road users and pedestrians are already aware of the likelihood of these vehicle manoeuvres along this section of Hanworth Road. Whilst the objective to secure road and pedestrian safety is of great importance and fully supported, there is no evidence before me to indicate that this would be materially harmed as a result of this proposal.
10. The proposal would reduce the extent of grass verge in this location outside the appeal property. Paragraph 3.11 of the SPD advises that approval for a vehicle crossover will not normally be given where its construction requires a part of a grass verge to be removed. However, the street scene in this general location includes the grass verge, punctuated by the cross overs, resulting in different widths of grass verge, dependent on the size of the plots which the accesses serve. Although the grass verge in this location would be reduced to accommodate the extended access, it would still leave a grass verge of sufficient width which would continue to make a positive contribution to the street scene.
11. I am therefore satisfied that in the particular circumstances of this case the variation of the condition to allow for revised plans which would include provision for a second access, garage and parking space would neither lead to issues of highway and pedestrian safety nor harm the character and appearance of the local area. There would be no conflict with Policy LP 45 of the Council's Local Plan and in particular Section 2 and criteria a and b as well as the National Planning Policy Framework, both of which seek a high standard of design which respects the local context and does not result in a harmful impact on road or pedestrian safety. The proposal would not fully accord with all the guidance in the SPD, but in this regard, I have found no harm from the proposal before me. In the particular circumstances of this case, I am therefore satisfied that would be justification for an exception to be made to this part of the SPD.

Other Considerations

12. The original permission was accompanied by a Section 106 Agreement, dated 24 October 2017, relating, amongst other things, to an affordable housing contribution and car parking permits. Both the Council and the Appellant have drawn my attention to Clause 4 (k) which specifically sets out that the Deed shall continue to be valid and enforceable following an amendment or variation to the Planning permission achieved through the submission of the Planning Application pursuant to Section 73 of the 1990 Act as if this Deed had been completed pursuant to such an application. I have no reason to take a different view.
13. There would be other consents required to progress the new access, but my consideration relates solely to its planning merits.

Conditions

14. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under Section 73 of the Town and Country Planning Act 1990 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. The Council has advised that a number of the original conditions have already been discharged or are not now relevant and the Appellant has agreed the conditions proposed by the Council. I have no reason to take a different view and shall therefore also use the same list as proposed by the Council.
15. The Council has not requested any additional conditions and I also do not consider that any require to be imposed.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions: (1-12 Inclusive)

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: L2392/03E, 08C, 13C, 21B and 25B.
- 2) The proposed side facing upstairs windows of both houses shall at no time be openable or glazed, otherwise than in obscured glass, below a minimum height of 1.7 metres (5'7") above the relevant floor level.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no external alterations or extensions shall be carried out to the buildings hereby approved.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no building, enclosure or swimming pool falling within Part 1, Class E, shall be erected on any part of the land.
- 5) No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) the parking spaces shall not be altered or used for any purpose other than for the garaging or parking of private motor vehicles used by occupiers or visitors to the premises.

- 7) No dwelling shall be occupied until cycle parking facilities have been provided in accordance with details shown on drawing L2392/25B unless otherwise agreed in writing by the local planning authority.
- 8) All new hard surfacing shall be of a porous or permeable material and be constructed and laid out in accordance with details to be submitted to and agreed in writing by the Local Planning Authority.
- 9) The development hereby approved shall be carried out in accordance with Construction Method Statement Ref L2392/ZH approved by permission ref 16/3247/DD01 dated 30th April 2018 in conjunction with drawing No L2392/25B unless otherwise agreed in writing by the local planning authority.
- 10) The dwellings hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Building Regulations requirements (2013).
- 11) The dwellings hereby approved shall not be occupied other than in accordance with the water consumption targets of 105 litres or less per person per day, and 5 litres or less per head per day for external water use.
- 12) The development hereby approved shall not be constructed other than in accordance with Building Regulation M4(2).