



Appeal Decision

Site visit made on 13 March 2019

by M Seaton DipTP MRTPI

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

Decision date: 20 August 2019

Appeal Ref: APP/L5810/W/18/3218995

17 & 18 Aquarius, Eel Pie Island, Twickenham, TW1 3EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under Section 73A of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Ms Cath Bruzzone against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 17/0262/VRC, dated 20 January 2017, was refused by notice dated 7 September 2018.
 - The application sought planning permission for roof and ground floor extensions to two existing dwellings without complying with a condition attached to planning permission Ref 15/3071/FUL, dated 24 December 2015.
 - The condition in dispute is No 5 which states that:
The development hereby permitted shall be carried out in accordance with the following approved plans and documents, where applicable. All unnumbered, 17 + 18 Aquarius Location Plan, Existing Ground Floor Plan, Proposed Ground Floor Plan, Existing 2nd Floor Plan, Proposed 2nd Floor Plan, Existing Front and Rear Elevation, Proposed Front and Rear Elevation, (Existing West Elevation, East Elevation/Section), (Proposed West Elevation, Proposed East Elevation/Section) all received 15 July 2015.
 - 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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Procedural Matter

1. The condition disputed, whilst not numbered on the original notice of decision dating from 2015, was the fifth condition listed under reference U94421 (Approved Drawings). For ease of reference in the header to the above appeal, I have referred to the condition as No. 5 for identification purposes.

Decision

2. The appeal is allowed and planning permission is granted for roof and ground floor extensions to two existing dwellings at 17 & 18 Aquarius, Eel Pie Island, Twickenham, TW1 3EA in accordance with the application Ref. 17/0262/VRC made on the 20 January 2017 without complying with condition No. 5 set out in planning permission No. 15/3071/FUL granted on 24 December 2015 by the Council of the London Borough of Richmond-upon-Thames, but otherwise subject to the following conditions; to the following conditions:
 - 1) The development hereby approved shall be carried out in accordance with the approved drawing numbers: 610 Rev 01, 612 Rev 03, 613, 614, 615 & 616-1.

- 2) 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 windows or other openings shall be inserted at any time in the north-east facing elevation of the second-floor extensions hereby approved.
- 3) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials to match the existing or as specified on the approved drawings. No external brickwork shall be carried out other than in Eden Hall (diamond white) and Hye Oak (KR20 white).

Background and Main Issues

3. Planning permission (LPA Ref: 15/3071/FUL) was granted for roof and ground floor extensions to the appeal properties on 24 December 2015. The scheme was implemented in early 2016 and the works have now been largely completed, albeit with certain variations from the approved plans. These variations include alterations to the front fenestration and the pattern and height of the rear fenestration on the second floor, alterations to the depth and height of the second-floor extension and the installation of roof lights to the second floor, as well as alterations to the ground floor fenestration.
4. It is indicated that during the course of the planning application, further amendments to the scheme 'as-built' were accepted by the Council including a reversion of the rear fenestration to the second floor to 4 panes as per the original planning permission, the removal of a side parapet adjoining No. 16 Aquarius so that the party wall would be only marginally higher than as originally approved, and as indicated a 0.3 metre recessed setback of the extension adjoining the neighbouring property.
5. I have noted the concerns that what has been built does not appear to accord with what is on the submitted plans, but my determination of the development and the appeal has been made on the basis of the detailed plans which have been submitted to address the variations to the originally approved development.
6. Further to the determination by the Council's Planning Committee to refuse planning permission, the main issues are;
 - whether the proposal to vary the condition would preserve or enhance the character or appearance of the Twickenham Riverside Conservation Area; and,
 - whether the proposal to vary the condition and the proposed development would safeguard the living conditions of the neighbouring occupiers of No. 16 Aquarius, having regard to a sense of enclosure.

Reasons

7. The appeal site is located on Eel Pie Island, which is a private island situated within the River Thames broadly to the south of Twickenham Centre. Access to the island is gained by a footbridge linking to the north bank of the River Thames and The Embankment. The island possesses an eclectic and varied mix

of housing types and designs, as well as retaining commercial activities including a boatyard.

8. The appeal site itself is occupied by a pair of 3-storey dwellings which form part of a larger development known as Aquarius dating from the early 1970's, which was constructed on the site of the former Eel Pie Island Hotel. The development comprises three 2/3 storey terraces of six dwellings set back at varying distances from the river frontage in a staggered arrangement. The appeal properties, Nos. 17 & 18 Aquarius, lie furthest to the west within this development.

Conservation area

9. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. This is also reflected in the approach set out within the National Planning Policy Framework (the Framework), which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The Twickenham Riverside Conservation Area 8 Statement (the CA Statement) highlights Eel Pie Island as having its own distinct character with an eclectic mixture of river-related industry and residential development. Whilst reference is made to single storey purpose-built bungalows dominating parts of the island albeit screened from the Twickenham bank, no specific reference is made within the CA Statement to the existing development of Aquarius. However, the river-related activities on the northern bank of the island and the eclecticism of the architectural design of buildings on the island undoubtedly contributes positively towards the significance of the Conservation Area.
11. The impact of Eel Pie island is also addressed within the Council's document *Twickenham: Village Planning Guidance, Supplementary Planning Document 2018* (the Twickenham SPD). In particular, reference is made to Aquarius as being a coherent and integrated development of significant character, despite certain houses being subject to external alterations, with the overall design heavily influenced by the humanist principles of Swedish architecture at the time of its construction.
12. The above summary contrasts with the view that the existing Aquarius development is not particularly characteristic of the wider form of development on Eel Pie Island. However, in noting the appellant's reference to the non-statutory Thames Landscape Strategy (2012), I would conclude that Aquarius contributes to the overall eclecticism of architecture and design on Eel Pie Island, and therefore the significance of the Conservation Area.
13. I have noted that various extensions and alterations have been undertaken to the wider development of Aquarius over time, with the planning history of the wider development as highlighted by both the Council and the appellant in their submissions. Furthermore, and with a particular focus on Nos. 13-18 Aquarius as the terrace incorporating the appeal site, I have noted that many of the original and distinctive architectural and design features of the wider development remain as prominent elements of the development, including the

curved brick panels and large areas of glazing on the elevation facing towards the river, as well as the mono-pitched roof form.

14. It is evident that the 2015 planning permission was designed to link in to an existing extension at No. 16, which in turn was then subsequently used as further justification (along with the approved extensions on the appeal site) for the approval of an appeal (Ref. APP/L5810/D/16/3146579) for an extension to No. 15. As approved, the extensions provided a cohesiveness in form to the 4 dwellings, albeit accepting that further beyond Nos. 13/14 have not been the subject of development proposals. Nevertheless, in light of the various approvals there is no reasonable basis that I have been made aware to dispute that a third storey addition would in principle be unacceptable.
15. In considering the appeal proposals, I have had careful regard to the extant development as approved in 2015 on the appeal site as a starting point. In this respect, there would be an undoubted visual distinction caused by the various alterations from the original planning permission for the pair of properties when taken comparatively with the neighbouring development at No. 16, and as approved at No. 15.
16. I conclude that the raising of the roof by approximately 0.11 metres as shown on the plans and the other alterations including the increased depth of the extension and fenestration changes would undoubtedly have a differentiating effect when considering the detailed design and architecture of this part of the development. However, based on my observations of the appeal site I am persuaded by the appellant's contention regarding the importance of the '*pairing of dwellings*' in assessing form and design. This conclusion is evidently supported by the design characteristics of the wider development whereby the curved brick panels 'tie' pairs of dwellings together as with Nos. 17 & 18, and the staggering or variations in the footprint of the terraces is based on a paired arrangement.
17. In this regard, the proposed alterations would be inconsistent with the neighbouring and approved extensions at Nos. 16 & 15 respectively. However, I do not consider that the resultant variation in the appearance of the dwellings from the previous approval would appear as either significant or even particularly detectable from the towpath passing the site on the southern side of the river or from elsewhere, with the perspective offered by the staggered position of the appeal dwellings contributing to this conclusion. I am therefore satisfied that despite the variance of design, the proposed development would not have an unacceptable impact in the context of the architecture of the existing wider development or indeed on the significance of the Conservation Area.
18. I have considered the various submissions that have been made regarding the brickwork and mortar used for the extension, and the concerns which have been raised by interested parties regarding the suitability of the bricks due to their colour and texture. I acknowledge that at close quarters there is an almost inevitable variation in the colour and texture of the bricks and mortar given the need to try and match the bricks used on the original development and their age. However, any such variation is slight and does not detract from the overall context when viewing the development from even comparatively short distances. I am satisfied that the brickwork used would not detract from the character of the wider development or the Conservation Area.

19. Interested parties have also raised concerns over the extent of the over-build beyond that of the originally approved development and have made various submissions concerning the accuracy of the increases in the height and depth of the variations as advanced by the appellant. However, whilst the form of development in situ at the time of my visit was clearly visible, my decision ultimately is based on the plans that have been submitted as a means of addressing the variation from the originally approved plans. On this basis, if what has been constructed does not accord with those plans then it will be for the Council to determine whether to seek a further resolution to enforce accordance with the approved plans.
20. Finally, I have also considered the impact of the means of balustrading both in terms of its location and the materials and design approach utilised. Whilst I recognise that the use of glazed panels does not reflect the previous predominance of metal railings used as balustrades, I do not regard glazing to be harmful as a lightweight alternative, as demonstrated in the identification of glazing used at Nos. 11 & 12 Aquarius. Furthermore, although I note the positioning of the balustrading follows the curved brick feature, which I accept is a departure from third storey balconies elsewhere within Aquarius, I am not persuaded that given the lightweight appearance of the glazing used that this would result in the addition of a feature which would be injurious to the design character of the existing development.
21. I am satisfied that the amendments to the originally approved development would not result in a development which would either dominate or appear incongruous or harmful in the context of the character of the development and its setting. For the reasons given, the proposal would therefore preserve the character and appearance of the Conservation Area, in accordance with Section 72 of The Act.
22. There would not be conflict with Policies LP1 and LP3 of the London Borough of Richmond upon Thames Local Plan 2018 (the Local Plan), or the guidance within the CA Statement, the Twickenham SPD, and the Council's House Extensions and External Alterations Supplementary Planning Document 2015 (Householder SPD). These policies and guidance require development to be compatible with local character including the relationship to existing townscape, to give great weight to the conservation of the historic environment of the borough and preserve the character or appearance of Conservation Areas, and respond to the significance and design heritage of the local area.

Living conditions

23. In addition to matters of detailed design, the Council's reason for refusal addresses the impact of the proposed development on the living conditions of the neighbouring occupier of No. 16 Aquarius, with regards an increased sense of enclosure.
24. As I have already reported, there remains some dispute over the actual extent which the depth would be increased to the rear from the approved plans. Nevertheless, whether allowing for the variation to be 0.3 metres as indicated by the appellant, or 0.53 metres as contended by interested parties, there would undoubtedly be an additional adverse impact on the living conditions of the neighbouring occupier because of the increased depth of the proposed extension. However, this has to be considered in the context of what has

already been approved and whether the resultant relationship would have an unacceptable impact on the living conditions of the neighbouring occupier.

25. In this regard, whilst there would be some additional over-shadowing during the afternoon and the latter part of the day due to the generally south facing orientation of the rear of the properties, I am not persuaded that the impact on the living conditions of the neighbouring occupier of No. 16 Aquarius would be so significant in terms of sense of enclosure or additional over-shadowing as to be unacceptable. The existing open outlook to the rear would be maintained and the full height glazed fenestration would continue to allow significant light into the property. Whilst I have noted the proposed corner set-back indicated on the plans showing the variations, it is my view that this would make only a limited difference to the relationship between the properties and has not been a decisive factor in my conclusions related to living conditions.
26. For the reasons set out above, the varied development would not result in an unacceptable impact on the living conditions of the neighbouring occupiers of No. 16 Aquarius, having regard to a sense of enclosure. The development would not therefore conflict with Policy LP8 of the Local Plan or the Householder SPD, which seek to ensure that the living conditions for occupants of existing, adjoining and neighbouring properties are protected, including the creation of a sense of enclosure from balconies.

Conclusion

27. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In this instance, whilst I have no definitive information before me about the status of the other conditions imposed on the original planning permission, a list of recommended conditions was included within the Planning Report presented to the Planning Committee of 29 August 2018. These addressed the removal of permitted development rights for windows and openings in the north-east elevation of the extension, and materials to match the existing or to be as approved.
28. I note that the condition relating to windows and openings featured in the originally approved 2015 planning permission and I have re-imposed it. Whilst samples of materials were previously required, in light of the works already having been undertaken I am satisfied that a condition addressing the need for any future works to use matching or approved materials would be required and necessary to preserve the character and appearance of the Conservation Area.
29. I have concluded that the existing condition related to the development being undertaken in accordance with the approved plans may be replaced with a condition ensuring the development is in accordance with a revised set of plans, and subject to the additional conditions.
30. Therefore, for the reasons given above I conclude that the planning permission should be allowed as varied, and as set out in the formal decision.

M Seaton

INSPECTOR