



Appeal Decision

Site visit made on 25 June 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal Ref: APP/L5810/W/19/3224424

Rear of 61 Acacia Road, Hampton TW12 3DP

- 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 Mr & Mrs Young against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 18/1889/FUL, dated 26 July 2018, was refused by notice dated 29 November 2018.
 - The development proposed is the erection of a pair of semi-detached dwellings.
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Decision

1. The appeal is allowed. Planning permission is granted for the erection of a pair of semi-detached dwellings, at land to the rear of 61 Acacia Road, Hampton TW12 3DP, in accordance with the terms of the application reference 18/1889/FUL dated 26 July 2018, and subject to the attached schedule of conditions and the submitted Unilateral Undertaking.

Procedural Matters

2. A Unilateral Undertaking¹ and associated title documents² have been submitted in support of the appeal. This makes provision for an affordable housing sum of £42,789 to be paid prior to the occupation of either unit.
3. The first-floor layout plan refers to a sectional drawing (reference FE16c). This was recently provided in addition to the originally submitted appeal documents. The appellants have asserted that it was submitted as part of the plans put to the Council. However, the Council has stated that this plan was not part of the original planning application or subject to public scrutiny. I have therefore disregarded consideration of this plan in my assessment of the appeal.
4. The Council's off-street parking guidance³ is referred to as 2015 guidance in reason for refusal No 5. The Council has since confirmed this document was instead adopted in 2006. I have taken this into account in my decision.

¹ Unilateral Undertaking 6 June 2019

² Title documents MX299631 & MX295468

³ Front gardens and other off-street parking – Supplementary Planning Document 2006

Main Issues

5. The main issues are:

- the effect of the proposed dwellings on the character and appearance of the street scene and general area,
- The effect of the proposal on the living conditions of occupiers of surrounding dwellings, with particular regard to the outlook from 12 Buckingham Road,
- The effect of the proposal on highway safety,
- Whether the proposal would make an adequate provision towards affordable housing, and
- Whether the proposal would accord with the Council's renewable energy requirements.

Reasons

Character and appearance

6. The site the subject of this appeal is within a residential area. The character consists of dwellings which are both detached and semi-detached. The site is between a dormer bungalow and a two-storey dwelling with a low eaves line. The site is adjacent to residential boundaries and Acacia Road. It is an L-shaped piece of land which was previously within the demise of 61 Acacia Road (No 61) and 12 Buckingham Road (No 12). The two-storey side elevation of 45 Nightingale Road is close to the highway and 59a Acacia Road (No 59a) is also relatively close and set at an angle to the highway. Therefore, there is no consistent building line on the street frontage and some dwellings are relatively close to the highway. The site is mostly enclosed by a high brick wall with two openings. Lacking substantial tree cover or interest, the site makes a neutral contribution to the character and appearance of the area.
7. Policy LP39 of the Richmond Upon Thames 2018 Local Plan (LP), includes the requirement to retain back gardens to maintain local character. However, the policy also allows for a limited scale of development if it would protect the amenity of neighbours and enhance the street frontage. Therefore, whilst the site is an 'L-shaped' plot, it is not 'back-land' in character. The site has a street frontage and the proposal would follow the conventional pattern of development in the street. The site is not a significantly important open gap in the frontage. Subsequently, the proposal would not result in harm to the spaciousness of the street-scene.
8. The proposed roof design would have less impact on the street due to the inclusion of dormer windows and a half hip roof. Furthermore, the roofline follows the general design themes of No 59a with a reduced first floor area and low set eaves. The proximity of the proposal to the highway follows the established character of nearby properties. Furthermore, the horizontal effect of the proposal would be disaggregated by the projecting front gable and varying eaves heights. Moreover, the proposed dwellings would include the use

of brick and tile, which is a common material in the area. Also, the use of patterned brickwork would add further interest to the facade. In terms of its mass, the front elevation would rest on three planes, a significant portion would be set back into the site with the central section projecting forward. As a result, the relatively wide elevation would not be perceived as one mass. Instead, the frontage would rather be observed in smaller components, lessening its overall effect. Consequently, the proposal would complement the character and appearance of the street-scene and surrounding area.

9. Therefore, the proposal would accord with policies LP39 and LP1 of the LP, which seeks amongst other things for development to reflect the character of the surrounding area and be compatible with the local environment.

Living conditions

10. The proposal would create two semi-detached dwellings. Purely for convenience I shall refer to the plot nearest to the rear of No 61 as Plot One and the other as Plot Two. The dwelling of Plot One would be adjacent to the side and rear of the rear garden of No 12. Although including two-floors, the low set roofline of the proposal would reduce the effect on the neighbour's outlook. Furthermore, the rear garden of No 12 is of a substantial depth. Consequently, although the proposal would be in sight of rear windows of this property, its effect would be reduced due to the distance from the rear elevation and the design that has the effect of reducing the bulk. Therefore, the effect on the outlook of No 12 from habitable windows and the immediate rear garden's patio area would be limited. Surrounding dwellings would be less affected due to their orientation and distance from the proposal. As a result, the proposal would not be overbearing, dominant or visually intrusive to the outlook of neighbouring residents. It would not therefore be harmful to the living conditions of adjacent occupiers, including No 12.
11. As such, the proposal would comply with policies LP8 and LP39 of the LP, which includes seeking development that protects the living conditions of adjoining properties without having an overbearing impact, and for back-land development to protect the living conditions of neighbours. The Council's Small and Medium Housing site SPD (2006) is also satisfied as this requires development to have regard to local character, plot layout and grouping. The proposal would also accord with the Council's Residential Development Standards SPD (2010) which include the requirement for development to not result in an unacceptable sense of enclosure. The proposal would also accord with the National Planning Policy Framework (The Framework) which promotes the creation of a high standard of amenity for existing and future users.

Highway safety

12. The site has two existing vehicle cross overs, both of which within the bus stop bay road markings. The bus stop itself is set at the back of the footway encouraging waiting passengers to stay back from the kerb edge and thus improving visibility for users of the proposed access points. The highway is a straight, wide and level road. The footway is around two metres wide enabling good visibility of the street for emerging vehicles. During my visit, in the late afternoon, I found the road to be lightly trafficked. However, representations indicate that the highway becomes congested during school drop off and collection times and that the footway is heavily used by school children.

13. The Framework states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety. The proposal would utilise the existing vehicle crossovers and include one space per dwelling. The Councils off-street parking guidance requires one space be provided per dwelling and for cars to be parked at a 90-degree angle to the highway. This can be achieved, both plots have adequately sized forecourts to park a car at 90-degrees, irrespective of the space annotated on the layout plan.
14. The site is on a relatively short section of straight road. This meets a junction with Nightingale Road at one end. It also partly meets a junction to Buckingham Road at its other end. As a result, the speed of vehicles would be relatively slow, and this would reduce the opportunity for accidents, irrespective of the proximity of the bus stop. Moreover, the use of the access points would result in only a limited increase in additional car movements. Therefore, although the proposal would result in cars reversing into the highway, this would be similar to the arrangement of local driveways. It would therefore not be demonstrably harmful to highway safety provided that normal care and attention is observed.
15. Consequently, the proposal would comply with policies LP44 and LP45 of the LP, which seeks development that would not have a severe impact on highway safety and have no material impact on road safety. The proposal would also comply with the off-street parking guidance as it would allow for a vehicle to be parked on site at 90 degrees to the highway.

Affordable housing

16. Policy LP36 of the LP, requires all housing development sites to provide affordable housing. However, the Framework states that affordable housing should not be sought for residential development that is for fewer than 10 dwellings. The Richmond Upon Thames Local Plan was adopted in 2018. As such the Examination Inspector was cognizant of the advice of the Framework but found the local evidence to warrant an exceptional need for policy LP36. As such, the appellant has offered a commuted sum of £42,789 as an off-site contribution using annex A of the Council's guidance⁴.
17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Therefore, the commuted sum requirement is reasonable and necessary, despite the advice of the Framework. As such, although the Framework is a significant material consideration it does not outweigh policy LP36 of the development plan in this instance.
18. The contribution is therefore required and meets the statutory tests of Regulation 122⁵ as being necessary and reasonable. The submitted Unilateral Undertaking provides for this contribution. Consequently, the proposal would accord with policy LP36 of the LP which seeks the provision of affordable housing for all residential development.

⁴ Affordable Housing SPD 2014

⁵ Community Infrastructure Levy Regulations 2010

Renewable energy

19. Policy LP22 of the LP, requires all applications for dwellings to include a sustainable construction checklist, it also requires all residential proposals to achieve a 35% reduction in Carbon Dioxide emissions and to incorporate water conservation measures. The requirement to provide information in association with an application only rests with the sustainable construction checklist as stated in section A.1 of this policy. The appellants have produced such a checklist, which scores a total of 35%. This would meet the policy and a condition would therefore be adequate to meet reduce CO₂ and limit water consumption requirements.
20. The submission of an Energy and Sustainability Statement at a pre-decision stage is unnecessary in this case due to the information already submitted and policy LP22 can be addressed by condition. Furthermore, the evidence does not illustrate that there is a clear conflict with this policy. In fact, the Council has identified that the proposal illustrates that it would seek to increase sustainability requirements beyond general compliance. As such, the proposal would accord with the Council's renewable energy requirements.
21. Consequently, the proposal would accord with policy LP22 of the LP, which seeks to ensure that all development meets the highest standards of sustainable design.

Conditions

22. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance. I shall impose most of the Council's suggested conditions with some amendments and adjustments for clarity.
23. I have added the standard condition which requires commencement within three-years. I have also adapted the Council's suggested water consumption and energy management condition and required details to be submitted to the Council. I have adjusted the timing for the requirement for a Construction Method Statement to prior to the commencement of above ground works as initial site setting out could occur with limited effect on the surrounding area. I have also adapted the landscape and materials conditions for clarity. Additionally, I have adapted the landscaping condition to change its trigger date and simplify its requirements.
24. Subsequently, I have attached the following conditions which are necessary in the interests of certainty [1 and 2], would safeguard the character and appearance of the area [3, 5, 6 and 9], would achieve adequate energy management and water consumption levels to satisfy policy LP22 [4], would meet sustainable travel expectations [7], and would protect the living conditions of existing residents [8 and 10].

Other Matters

25. Representations have been made with regard to the impact on boundary fencing. However, this is a private matter between landowners. Any overlooking from the side window of Plot Two towards No 59a, would be prevented by obscure glazing and secured by condition.
26. No 61 is a dormer bungalow with one small first floor window overlooking the garden of Plot One. I do not consider that the extent of overlooking would be

sufficient to warrant substantial harm to the living conditions of future occupiers.

Conclusion

27. For the above reasons, the appeal is allowed, and planning permission is granted.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be constructed in accordance with the following approved plans: FE01d Location Plan, FE02d Proposed Block Plan, FE03b Site Survey, FE04d Proposed Site Plan, FE06e Proposed Ground Floor Plan, FE07d Proposed First Floor Plan, FE08c Proposed Roof Plan, FE11d Proposed Elevations, FE12c Proposed Street Elevation, FE15b Proposed Section A-A, FE201 Existing Plan received, FE203 Existing Street Elevations and FE100b Proposed true to scale Perspective Street View.
- 3) Prior to occupation of either dwelling, details of both hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. These details shall include; proposed and existing utility services above and below ground; Soft landscape planting plan (with written specifications including cultivation and other operations associated with plant and grass establishment) and detailing the quantity, density, size, species, position and the proposed time or programme of planting of all shrubs, hedges, grasses etc, together with an indication of how they integrate with the proposal in the long term with regard to their mature size and anticipated routine maintenance. All hard and soft landscape works shall be carried out in accordance with the approved details and in any event prior to the occupation of any part of the development.
- 4) Prior to the commencement of above ground works an energy statement shall be submitted and approved by the local planning authority. This statement shall indicate how the development will achieve a 35% reduction in Carbon dioxide emissions and water consumption targets of a maximum of 105 litres per person per day, and 5 litres or less per head per day for external water use. The approved dwellings shall be constructed in accordance with the agreed details and maintained hereafter.
- 5) Prior to their first use, detail of all external surfaces of the building (including fenestration) and areas of hard surfacing shall be submitted to and approved in writing by the local planning authority. The development shall only be constructed in accordance with the approved details.
- 6) Prior to occupation of either dwelling, arrangements for the storage and disposal of refuse/waste shall be submitted to and approved in writing by the local planning authority. The agreed details shall then be implemented in accordance with the approved details prior to occupation of each dwelling.
- 7) Prior to occupation of either dwelling, details of cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The details shall show the position, design, materials and finishes of the cycle storage. The approved details shall then be implemented in accordance with the development prior to the first occupation of each dwelling.
- 8) The proposed first floor windows in the south and east elevations of the building hereby approved shall be installed as non-openable windows and

- glazed in obscured glass (of Pilkington level 3 or equivalent) prior to the first occupation of each dwelling and maintained as such in perpetuity.
- 9) Prior to occupation of either dwelling, details of boundary treatment shall be submitted and approved by the Local Planning Authority. The approved details shall then be implemented prior to the first occupation of each dwelling.
- 10) Prior to the commencement of above ground works a Construction Management Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The Statement shall provide for: 1. The size, number, routing and manoeuvring tracking of construction vehicles to and from the site, and holding areas for these on/off site; 2. Site layout plan showing manoeuvring tracks for vehicles accessing the site to allow these to turn and exit in forward gear; 3. Details and location of parking for site operatives and visitor vehicles (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); 4. Details and location where plant and materials will be loaded and unloaded; 5. Details and location where plant and materials used in constructing the development will be stored, and the location of skips on the highway if required; 6. Details of any necessary suspension of pavement, roadscape, bus stops and/or parking bays; 7. Details where security hoardings (including decorative displays and facilities for public viewing) will be installed, and the maintenance of such; 8. Details of any wheel washing facilities; 9. Details of a scheme for recycling/disposing of waste resulting from demolition and construction works (including excavation, location and emptying of skips); 10. Details of measures that will be applied to control the emission of noise, vibration and dust including working hours. This should follow Best Practice detailed within BS5288:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites; 11. Details of any highway licenses and traffic orders that may be required (such as for licences for any structures / materials on the highway or pavement; or suspensions to allow the routing of construction vehicles to the site); 12. Details of the phasing programming and timing of works; 13. Where applicable, the Construction Management Statement should be written in conjunction with the Arboricultural Method Statement, and in accordance with British Statement 5837:2012 'Trees in relation to design, demolition and construction - recommendations', in particular section 5.5, 6.1, 6.2, 6.3 and 7.

End of Schedule