



Appeal Decision

Site visit made on 2 December 2019

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/L5810/W/19/3237304

62 Derby Road, East Sheen, London SW14 7DP

- 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 Tim Cunis against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref DC/KNP/18/3822/FUL, dated 20 November 2018, was refused by notice dated 22 March 2019.
 - The development proposed is demolish existing garage and erect new dwelling to rear of existing property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site has recent appeal history¹. However, it appears that the scheme has undergone significant amendments since the previous appeal was dismissed. Therefore, whilst I have had regard to the previous appeal decision, I have considered this appeal on its own individual merits, based on the evidence before me and my own observations during my site visit.

Main Issues

3. The main issues are:
 - i) the effect of the development on the character and appearance of the area;
 - ii) whether the development would provide its future occupants with acceptable living conditions; and
 - iii) whether the proposal makes appropriate provision for affordable housing.

Reasons

Character and appearance

4. The appeal property is located at the corner of Stanley Road and Derby Road, within an attractive residential area, which is enhanced significantly by mature trees and characterful Victorian properties, although there are some large flatted buildings close by. The properties stand back-to-back, separated by

¹ Appeal Ref: APP/L5810/W/18/3210665

their rear gardens. The separation provided by the gardens is most apparent on Stanley Road and provides a pleasing sense of openness in an otherwise closely-developed linear street scene.

5. The garages to the rear of the appeal property and 71 Stanley Road sit either side of a crenelated wall, and whilst visible from the street, they appear clearly ancillary in scale and function to their respective properties.
6. I acknowledge the appellant's attempts to reduce the scale of the proposed dwelling compared to the previous appeal scheme. However, even though the dwelling would be single storey and set back behind the roadside boundary wall, its height, width and depth would still be apparent from the street and some neighbouring properties. The appreciable scale of the development would be markedly greater than the existing garage and thus, would reduce the sense of openness which currently exists at the site.
7. Furthermore, whilst I recognise some architectural diversity in the surrounding area, the opaque glazing screens and door that would be inserted into the roadside boundary wall would not be in keeping with the character of the existing boundary treatment and surrounding area, and as such, would appear as incongruous features within the street scene. Moreover, they would emphasise the detachment of the development from the rear garden of the appeal property and make the development stand out as an isolated, conspicuous feature that would not respect the existing linear housing layout. As such, it would not relate appropriately to the existing pattern of development and character of the street scene.
8. For all these reasons, I conclude that the development would cause significant harm to the character and appearance of the surrounding area. This is contrary to Policies LP1 and LP39 of the London Borough of Richmond Upon Thames Local Plan 2018 (RUTLP), where they require new development, including infill or backland development, to respect the character and appearance of the surrounding area by, among other things, retaining similar spacing between new buildings to any established spacing, and enhancing the street frontage taking account of the local character. There is also conflict with the general aims of the Council's Supplementary Planning Documents (SPD): Design Quality (2006); Small and Medium Housing Sites (2006); and Residential Development Standards (2010), with regards to respecting local character and context. It would also be contrary to paragraph 127 of the National Planning Policy Framework (the Framework), which seeks to ensure new development is sympathetic to local character, maintains a strong sense of place and adds to the overall quality of the area.

Living conditions of future occupants

9. RUTLP Policy LP35 requires all new housing development to comply with the Nationally Described Space Standards (NDSS), which sets out minimum internal space standards for housing.
10. I note that the appellant has described the proposal as a 1 bed/1 person dwelling (single storey), but because a double bedroom is shown on the drawings, the proposal has the potential to accommodate two people. Thus, it has to be assessed as a 1 bed/2 person dwelling over one storey, even if this is not the appellant's intended level of occupation. This is because any consent would run with the land, rather than the individual.

11. From the information before me, the dwelling would have a gross internal floor area (GIA) of 42m², which is 8m² under the minimum standard for this size of dwelling unit. This is a significant shortfall and would result in the living conditions of future occupants of the dwelling being compromised through insufficient space.
12. I acknowledge that the supporting text of Policy LP35 recognises the need for a mix of housing sizes. Nevertheless, the residential space standards exist to ensure an appropriate standard of accommodation for all occupiers, including in options for downsizing. The standards are expressed as minimum requirements and there is no compelling evidence before me as to why a standard less than that should be accepted in this particular case.
13. I have also considered the effect on the living conditions of future occupants with regards to availability of light and outlook. Due to the combination of windows and rooflights, I am satisfied that there would be a sufficient level of natural light available to the whole accommodation. However, whilst the living room would have a dual aspect, the outlook in both directions would be dominated by the close proximity of the boundary treatment. This would be oppressive in terms of outlook, and therefore harmful. The opaque glass panels within the front boundary wall may improve the levels of light, but not outlook, so would not overcome this harm.
14. I conclude, that the development would not provide its future occupants with acceptable living conditions in terms of living space and outlook. This is contrary to RUTLP Policy LP35 as set out above, and to the related guidance of the Residential Development Standards SPD (2010), as well as paragraph 127(f) of the Framework in terms of ensuring a high standard of amenity for future occupiers.

Affordable housing

15. RUTLP Policy LP36 requires a financial contribution towards affordable housing on all housing sites. On sites below the threshold of ten units gross, a financial contribution to the Affordable Housing Fund is required, commensurate with the size of development in line with a sliding scale set out in the policy and within the Affordable Housing Supplementary Planning Document (2014). A contribution of 5% of the open market valuation applies to the creation of a single unit.
16. For the same reasons that my Colleague set out in the previous appeal decision, I find that an affordable housing contribution is necessary. There is no evidence before me to suggest that the contribution would render the proposed development unviable, and the appellant has indicated willingness to pay the appropriate sum. However, a completed obligation has not been provided.
17. The appellant contends that a condition requiring completion of an obligation would be a more appropriate means to secure the affordable housing contribution. However, the Planning Practice Guidance (PPG)² states that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability. The PPG adds that a negatively worded condition limiting the development taking place until a

² Paragraph: 010 Reference ID: 21a-010-20190723

planning obligation is entered into is only appropriate in exceptional circumstances, citing more complex and strategically important development, which the proposal would not constitute. The use of such conditions would therefore be unreasonable.

18. Accordingly, in the absence of an appropriate mechanism to secure the required affordable housing contribution, I conclude that the development is contrary to RUTLP Policy LP36, as set out above.

Other Matters

19. It is noted that interested parties raised a number of concerns that have not already been encapsulated above. This includes loss of light, overlooking, overbearing, lack of parking, garden space, effect on trees and damage to the crenelated wall. These matters were before the Council when it determined the appeal planning application and did not feature in the reasons for refusal. Given my findings above, it is not necessary for me to consider these matters any further as it would not alter my decision.
20. I have had regard to the Framework in respect of making effective use of land and adding to the supply and choice of housing in the area, including the release of a family home to the market. However, these objectives and the modest benefits of the proposal in these respects do not outweigh the harm identified and the proposal's failure to comply with the policies of the adopted development plan.
21. Although the appellant may be willing to make amendments and is open to accepting conditions on this, the appeal process should not be used to evolve a scheme. I have considered the appeal based on the scheme that is before me, and as considered by the Council following public consultation.

Conclusion

22. For the reasons given and having taken into consideration all matters raised, I conclude that the appeal should be dismissed.

Adrian Caines

INSPECTOR