



Appeal Decision

Site visit made on 2 January 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/L5810/W/19/3237851
63 Sandycombe Road, Richmond TW9 2EP

- 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 Taylor (Smith Bros) against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref DC/LUS/19/0637/FUL, dated 19 February 2019, was refused by notice dated 8 August 2019.
 - The development proposed is the demolition of the existing buildings and the erection of a mixed use residential and commercial development (8 residential units and 248.6m² of B1 space).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings and the erection of a mixed use residential and commercial development (8 residential units and 248.6m² of B1 space) at 63 Sandycombe Road, Richmond TW9 2EP in accordance with the terms of the application, Ref DC/LUS/19/0637/FUL, dated 19 February 2019, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Taylor (Smith Bros) against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate Decision.

Procedural Matter

3. Both the appellant and the Council have made reference to a previous appeal (APP/L5810/W/17/3183088) where the appointed Inspector concluded that no harm would arise to either the character and appearance of the area or to the living conditions of the occupiers of adjacent properties as a result of the construction of the proposed southern block. This block has remained unchanged in the current submission and does not form part of the Council's reasons for refusing the planning application which is subject to this appeal.
4. Having considered the impact that would arise from the proposed southern block, I too find that no harm would result from this element of the proposed development. Accordingly, there is no justification for taking a view contrary to that of the previous Inspector or the Council. My determination of this appeal is therefore based solely on the impact that would arise from the proposed northern block, which has been amended from previous applications, and whose impact the Council refers to in its reasons for refusal.

Main Issues

5. The main issues are the impact of the proposed northern block upon (i) the character and appearance of the area and (ii) the living conditions of the occupiers of the dwellings adjacent to the site and (iii) whether the planning obligation submitted meets with the relevant statutory tests.

Reasons

Character and appearance

6. The area immediately surrounding the appeal site has a varied character and appearance which is formed by three main elements. This is comprised of the continuous row of two-storey dwellings which front onto Sandycombe Road, the railway line, and the more recent modern development which sits on backland sites located between the dwellings and the railway. As a result of the recent developments, the area has become more densely developed, both in terms of the built footprint and the height and general scale of development.
7. Whilst the proposed northern block would have a larger footprint than the recent development immediately adjacent to it, its footprint would nonetheless sit well within the part of the site on which it would be located. The lift shaft, which forms the highest point of the proposed northern block is only of the size necessary to perform its function and it occupies a relatively small part of the roof. Furthermore, there is existing three storey development close to the site which has a much more substantial bulk than that which would result from the proposed lift shaft. Overall, the design and scale of the northern block would be appropriate for the part of the site on which it would be located.
8. The presence of roof terrace screening would add height to the building but would not appear as an additional storey and at its maximum height it would sit lower than the proposed southern block. Furthermore, the terrace would be fully screened from the properties on Sandycombe Road and to its side elevations by the presence of a 1.7 metre high screen and by a 1.1 metre high screen elsewhere. It would be separated from views taken along North Road by the railway line, with further screening being provided by the existing mature vegetation which is located alongside that road.
9. For these reasons, I conclude that the siting, mass, height and design of the proposed northern block would be appropriate in the context of the site and in terms of the relationship that it would have to the proposed southern block and to the existing buildings and dwellings adjacent to the site. Accordingly, there would be no harm to the character and appearance of the area and no conflict with the design aims of Policies LP 1, LP 2 and LP 39 of the London Borough of Richmond Upon Thames Local Plan 2018 (LP), the Kew Village Supplementary Planning Document 2014 and the Small and Medium Housing Sites Supplementary Planning Document 2006, all of which seek to safeguard the character and appearance of the area.

Living conditions

10. The dwellings on Sandycombe Road generally have gardens of a relatively substantial length, although I noted during my site visit that many of the properties have been extended to the rear, some by a significant amount. Nonetheless, the positioning of the northern block in relation to the existing dwellings would provide an adequate separation distance and this together with

its two storey height would mean that it would not cause harm to the outlook of the occupiers of these properties. The proposed roof terrace screen would be set back from the edge of the elevation closest to the properties on Sandycombe Road. This would mean that the terrace would not add any substantial bulk to the building when viewed from the rear of the dwellings on Sandycombe Road.

11. Representations have been submitted by the occupiers of adjacent properties which extend the concerns relating to the impact of the development on living conditions beyond those which formed the Council's reasons for refusal. With regard to overlooking, the buildings have been designed to ensure that the elevations facing the existing dwellings on Sandycombe Road would be obscurely glazed, with the exception of small splayed windows. This would ensure that there would be no harm to living conditions from overlooking.
12. Concern is also raised that the proposal would result in a loss of light to the properties on Sandycombe Road. However, the height, positioning and orientation of the northern block would ensure that there would be an acceptable relationship between the proposed dwellings on Sandycombe Road and the proposed development, and that there would not be a harmful impact upon living conditions from a loss of light. The accuracy of the plans submitted has been queried, as a number of dwellings have been extended at ground and first floor level. However, I was able to note this during my site visit and their presence does not alter my conclusion that there would not be a harmful reduction in light levels.
13. For these reasons, I conclude that the proposed development would not cause harm to the living conditions of the occupiers of the dwellings adjacent to the site due to its bulk, siting, height and design. Accordingly, there would be no conflict with Policy LP 8 of the LP which seeks to protect living conditions.

Planning Obligation

14. A signed unilateral undertaking (UU) has been submitted with the appeal and the Council has advised that they have no comments to make on this. The UU provides for all of the contributions set out in the Committee Report and therefore on this basis it satisfies the requirements that were set out by the Council and in principle overcomes their third reason for refusal. However, as I am allowing the appeal, it is necessary to consider whether the UU meets with the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010.
15. With regard to the affordable housing contribution, the Council has drawn attention to the findings of the Inspector's Report on the LP which concluded that the requirement set out by Policy 36 to provide affordable housing on small sites is warranted. A financial contribution of £95,000 has been agreed by the parties to meet the affordable housing obligations on the site and I have no reason to challenge this amount or the need to provide affordable housing, given the requirement of the relevant development plan policy.
16. The Council has provided evidence that there is substantial over demand for on-street permit parking in the area immediately surrounding the site. As the proposed development would provide an under provision of car parking spaces it is reasonable to place a restriction on permits being issued to future residents of the proposed units. The UU submitted includes reference to

Section 16 of the Greater London Council (General Powers) Act 1974 and therefore the deed can secure its intended outcome in this respect.

17. It is also necessary to ensure that works to the highway are undertaken at the proposed access point and there is provision within the UU for this to occur. This includes the widening of a dropped kerb and a reduction in the extent of existing on-street parking bays.
18. In conclusion, the requirements with respect to affordable housing, permit parking and highway works are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Accordingly, the UU meets the three tests set out in Regulation 122 of the Community Infrastructure Regulations 2010.

Other Matters

19. Concern has been raised with regard to dangerous substances and contamination on the site, highway safety and parking, bin storage, security, air pollution, odours, damage to property and the impact on the water table. However, based upon the responses from the relevant consultees and upon the information available to me, there is no substantive evidence that harm would arise with respect to these matters. Furthermore, I am satisfied that, where necessary, any additional measures required could be adequately secured by planning conditions.
20. Whilst the construction of the development is likely to cause a degree of noise and disturbance, this would only be a temporary occurrence, and does not justify the withholding of planning permission. Given that the buildings would be in a mixed B1 and domestic use, the noise levels generated from them would be appropriate in a residential area. In order to provide the widened access to the site, it would be necessary to demolish 63 Sandycombe Road, resulting in a gap in the street scene. However, the social and economic benefits of providing dwellings and business space would outweigh the limited visual harm that would arise in this respect.
21. Reference has been made to the size of the flats however the Council's Committee Report confirms that the internal sizes meet with the requirements of Policy LP 35 of the LP and the Residential Development Standards SPD. The Council has advised that Network Rail were consulted but did not provide a response. There is therefore no evidence that the proposed development would cause harm to the railway network which is located adjacent to the appeal site.

Conditions

22. The Council has requested that a number of conditions be imposed in the event that the appeal is allowed. Of these, conditions relating to the time period for commencing development and the approved plans are required to provide certainty. Conditions relating to land contamination are required to ensure that the development is undertaken in a safe manner, whilst conditions relating to refuse arrangements, the access road, parking spaces, drainage, cycle parking, a construction management plan and noise attenuation are necessary to ensure that the development puts adequate safeguards in place and meets the required standards of construction. The materials to be used and the

landscaping of the site require control in the interests of securing an appropriate visual appearance.

23. There are a number of conditions suggested by the Council regarding the construction of the development in an environmentally sustainable manner. As these relate to policies in the development plan, their inclusion is both reasonable and necessary. Conditions requiring details of obscure glazing to the windows of the proposed buildings facing Sandycombe Road and the roof terrace privacy screen, together with a restriction of the commercial units to a B1 use and the hours of working at these units are necessary to protect the living conditions of the occupiers of adjacent dwellings. For the same reason, it is necessary to restrict the use of roof areas, to remove permitted development rights to further alter or extend the buildings and to require details of any proposed external illumination to be approved by the Council. A condition requiring that the B1 units be made available prior to the occupation of the residential units is required to ensure that the development retains an element of commercial use on the site, as is a development plan requirement.
24. The Council has suggested a condition requiring a scheme of ecological enhancements, however the ecology appraisal finds there to be only limited ecological interests on the site at the present time. Therefore, the ecological benefits that would arise from introducing landscaping to the site would suffice in this instance. The Council has requested a condition restricting where refuse and waste can be placed on the site, however such a condition would be difficult to enforce and a separate condition would ensure that adequate provision would be made for bin storage. The Council has requested that details of the type of foundations to be used be provided, however such a condition is not reasonably required to make the development acceptable in planning terms.

Conclusion

25. For the reasons given above, I conclude that the appeal, subject to conditions should be allowed.

Graham Wraight

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 0184-S001
 - 0184-P301 Revision B
 - 0184-P302 Revision C
 - 0184-P303 Revision B
 - 0184-P304 Revision C
 - 0184-P305 Revision C

- 0184-P306 Revision C
 - 0184-P307 Revision C
- 3) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of noise, vibration, dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No above ground construction of the buildings hereby permitted shall take place until details of all external facing materials to be used in their construction have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved materials.
- 8) Prior to the demolition of 63 Sandycombe Road, details of the external finish of the exposed flank walls of 61 and 65 Sandycombe Road shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the occupation of the buildings hereby permitted.
- 9) No development, other than demolition, shall take place until a scheme to provide the building envelopes with sound attenuation against external noise has been submitted to and approved in writing by the local planning authority. The approved sound attenuation scheme shall thereafter be implemented prior to the first occupation of the buildings.
- 10) Prior to the first occupation of the buildings hereby permitted details of hard and soft landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:
- i) boundary treatments;
 - ii) hard surfacing materials;
 - iii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities.
 - iv) an implementation programme.

The approved landscaping works shall be carried out in accordance with the agreed implementation programme. Any trees or plants which within a period of 5 years from the completion of the development die, are

- removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) The buildings hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 12) The buildings hereby permitted shall not be occupied until the parking areas have been provided with electric vehicle charging points, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 13) The buildings hereby permitted shall not be occupied until arrangements for the storage and disposal of refuse/waste have been provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 14) The buildings hereby permitted shall not be occupied until cycle parking facilities have been provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 15) The buildings hereby permitted shall achieve a BREEAM Level Excellent in accordance with the requirements of the relevant BREEAM scheme. No building shall be occupied until a Final BREEAM Certificate has been issued for it and produced to the local planning authority certifying that BREEAM Level Excellent has been achieved.
 - 16) The buildings hereby permitted shall achieve a 35% reduction in Carbon Dioxide emissions beyond Building Regulations requirements. This reduction is expressed as a percentage improvement over the target emission rate (TER) based on Part L of the 2013 Building Regulations.
 - 17) The development shall not be constructed other than in accordance with Building Regulation M4(2).
 - 18) The dwellings shall not be occupied other than in accordance with 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.
 - 19) The PV Array shown on approved plan 0184-P303 Revision B shall be installed prior to the occupation of the buildings, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 20) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the buildings are occupied. Development shall be carried out in accordance with the approved details.
 - 21) The car parking layout shown on approved plan 0184-P302 Revision C shall be implemented in full and spaces shall be clearly marked out on site prior to the first occupation of any of the buildings hereby approved. The car parking spaces shall not be used for any purpose other than for the garaging or parking of private motor vehicles used by residential or commercial occupiers or visitors to the development. Five of the residential units shall be allocated one of the parking spaces each and these spaces shall thereafter be used by that residential unit only.

- 22) No building shall be occupied until the access road indicated on approved plans 0184-P301 Revision B and 0184-P302 Revision C has been constructed and made available for use.
- 23) The B1 units shown on approved plan 0184-P302 Revision C shall be used for B1 use only as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 24) The B1 use hereby permitted shall only take place between the following hours:
 - 0700 – 2000 Mondays – Saturdays, excluding bank holidays
- 25) No residential units approved as part of this application shall be occupied until the B1 units hereby approved are structurally completed and ready for occupation.
- 26) 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.
- 27) Other than the areas identified as communal roof terraces on approved plan 0184-P303 Revision B, the roof areas of the buildings hereby permitted shall not be used as a balcony, roof terrace, roof garden or similar amenity area.
- 28) The buildings hereby permitted shall not be occupied until the first and second floor windows on their western elevations (excluding the splayed southerly facing windows) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing and the windows which are to be obscurely glazed shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 29) Prior to the erection of the privacy screening to the communal roof terrace areas, details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority. The privacy screening shall be installed in accordance with the approved details prior to the roof terraces first being brought into use and shall be retained thereafter.