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## Appeal Decision

Site visit made on 27 January 2020

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 February 2020**

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**Appeal Ref: APP/L5810/W/19/3241175**

**48 Cedars Road, Hampton Wick, Kingston-Upon-Thames, Surrey KT1 4BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Dr Andreas Virnik (Estates Finance Ltd) against the decision of the Council of the London Borough of Richmond-upon-Thames.
  - The application Ref 19/2198/OUT, dated 9 July 2019, was refused by notice dated 5 September 2019.
  - The development proposed is described as "one unit comprising a 2 bedroomed house with access off Cedars Road."
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with landscaping, layout and scale to be determined at this stage. I have determined the appeal on this basis.
3. One of the reasons for refusal related to the lack of a legal agreement to secure the necessary affordable housing contribution. A Unilateral Undertaking to this end has now been supplied by the appellant and the Council has agreed that this is acceptable to them. I have considered this legal agreement later in my decision.

### Main Issues

4. The main issues in the appeal are the effect of the proposal on:
  - the character and appearance of the host property and the surrounding area;
  - ecology and biodiversity;
  - the living conditions of the occupiers of No 46 Cedars Road with particular regard to outlook and light; and
  - highway and pedestrian safety;

### Reasons

#### *Character and Appearance*

5. The appeal property is a 3 storey detached house that has been converted into flats. It is located on a residential street that comprises largely semi-detached

houses on relatively narrow plots. It is proposed to build a 2 storey extension to the side of the building which would be utilised as a separate house. Located on a bend in the road, No 48 has a wider and more open plot than most, which provides an element of relief to the street scene. Nevertheless, the gable ended building has a moderate width and a quite steep pitched roof, giving it a strong vertical emphasis – a feature it shares with many of the other houses in the area, despite it having a unique design in the street.

6. Although the proposal would be a separate dwelling, it would be seen as a side extension to the host property. Detailed guidance on extensions to residential properties is found in the *House Extensions and External Alterations Supplementary Planning Document (adopted May 2015)*.
7. Contrary to this guidance the proposal would be more than half the width of the front elevation of the host property. Moreover, it would not be set back from the front elevation by at least 1m. Thus, whilst the ridge line may be lower than the main building, these other attributes mean that the proposal overall would not be a subservient feature, even if it is proposed to use materials to match the host property. In particular, its width would detract from the strong vertical emphasis which is a characteristic feature of the original building and the surrounding houses. Whilst appearance is not to be determined at this stage, the plans show the extension would have a hipped roof, which would be out of keeping with the pitched roof on the main building.
8. Overall, I consider that the proposal would adversely affect the character and appearance of the host property and the surrounding area. As such it would be contrary to Policy LP39 of the *Richmond Local Plan (adopted July 2018)* (RLP) which requires that infill developments should, amongst other things, reflect the character of the surrounding area.

#### *Ecology and Biodiversity*

9. At present the appeal site contains a number of trees and shrubs around the boundary of the site. Although landscaping is to be determined at this stage, there are no detailed plans showing what trees and other vegetation would be retained or what hard and soft landscaping would be provided. Neither has an Arboricultural Method Statement been submitted in relation to the trees that would be retained. In the absence of such information, it cannot be ascertained that the proposed landscaping would adequately mitigate what would be lost, or that the proposal would enhance the ecological and biodiversity value of the site. I note that the appellant has suggested this could be dealt with by conditions but as landscaping is to be determined at this stage, I consider that such details should have been provided to enable an adequate assessment to be undertaken.
10. As a result, in the absence of any detailed landscaping plans, I consider that it has not been demonstrated that the proposal would not have an adverse impact on ecology and biodiversity. Accordingly, it would be contrary to Policies LP15 and LP16 of the RLP which require that development proposals protect, respect, contribute to and enhance trees, landscapes and biodiversity.

#### *Living Conditions*

11. The neighbouring property (No 46) is set at a slight angle to the appeal site due to the location of both properties on a bend in the road. No 46 has a 2

storey side extension which is set back some distance from the front of the house. The front of this is located quite close to the common boundary and has habitable room windows at both ground floor and first floor level. In addition, the original side elevation immediately to the front of the extension also has windows at ground and first floor that face the appeal site.

12. The proposed extension to No 48 would largely be set in front of the extension at No 46. Although it would maintain a distance of 3m to the common boundary, the Council have indicated it would not meet the 45 degree rule for the ground floor window on the neighbouring extension. This has not been disputed by the appellant. Irrespective of whether other windows may enjoy a pleasant outlook to the front or rear of the property, given the scale, mass and position of the proposal I consider it would have an overbearing impact on, and dominate the outlook from, these nearby windows. Moreover, and notwithstanding the current boundary fence, the proposal would create an unneighbourly sense of enclosure which would have a detrimental impact on the light received by the windows.
13. Consequently, I consider that the proposal would have a detrimental impact on the living conditions of the occupiers of No 46 with particular regard to outlook and light. Therefore, it would conflict with Policies LP8 and LP39 of the RLP which require that developments protect the amenity and living conditions of neighbours.

#### *Highway and Pedestrian Safety*

14. The area to the side of the appeal property is currently hard-surfaced, and although not formally laid out as such, I observed that it is used for parking. The plans indicate that the proposal would include a parking space created to the front of the dwelling and 4 spaces at the rear with an area for vehicles to turn on part of what is currently a grassed area.
15. Cedars Road is a lightly trafficked residential road and from the appeal site there is reasonable visibility in both directions. I observed that many of the houses along the road have created parking spaces within the front garden area and the majority of these do not have sufficient space to turn within the site. As such, vehicles must have to reverse into or out of these spaces.
16. I note the Council's concerns that there is no evidence that the turning area would be of a sufficient size to enable vehicles to easily manoeuvre and so be able to enter and exit the site in forward gear. Nevertheless, given the area is already used for parking and there is no turning space available at present, this would be no different to the current situation, especially as there is potential for 5 cars to park on the site at present. There is no evidence to show that such movements, or similar movements from other houses along the road cause any issues with regard to highway or pedestrian safety.
17. Therefore, even if the proposed turning space was not an adequate size, I am satisfied that the proposal would not unacceptably harm highway or pedestrian safety. As such, it would accord with Policy LP45 of the RLP which requires developments to make adequate provision for the accommodation of vehicles.

#### *Unilateral Undertaking*

18. The appellant has submitted a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990. I have considered this in the light of the

statutory tests contained in Regulation 122 of the *Community Infrastructure Levy (CIL) regulations* and the *National Planning Policy Framework* (the Framework).

19. The Unilateral Undertaking makes provision for an affordable Housing Contribution of £6,686. RLP Policy LP36 requires schemes of less than 10 dwellings to make a financial contribution towards off-site affordable housing. This is supported by the Affordable Housing Supplementary Planning Document (adopted March 2014) (AHSPD).
20. Nevertheless, the Framework indicates that the provision of affordable housing should not be sought for residential developments of less than 10 dwellings. As the most recent Framework was published in February 2019, this is a very recent expression of government policy and is a material consideration of significant weight.
21. The Council's evidence sets out the acute need for affordable housing in the area and the importance of small sites in contribution to the provision of such housing. They also highlighted a large number of recent appeal decisions for small residential schemes where it has been considered that the exceptional local need should outweigh government policy set out in the Framework.
22. Taking into account the evidence before me, I consider that there is a pressing need for affordable housing in the area and that small sites play a key role in ensuring this provision. As such, in this case, I am satisfied that although considerable weight should be given to the Framework, it does not outweigh development plan policy.
23. Although formerly disputing such an approach, the appellant has now accepted the need for an affordable housing contribution and the Unilateral Undertaking makes provision for this. The AHSPD sets out how the contribution is to be calculated and it is agreed by the parties that £6,686 is the appropriate amount in this case. All in all, I am satisfied that the Unilateral Undertaking passes the statutory tests, and this would be a benefit of the proposal.

#### *Other Matters*

24. In order to ensure that proposals for new dwellings reduce their total carbon dioxide emission, Policy LP22 of the RLP requires the submission of a Sustainable Construction Checklist and a BREEAM report showing it would meet the 'Excellent' standard. No such evidence has been provided. Nevertheless, the application is in outline, with the appearance of the dwelling to be determined at reserved matters. As such, the final design of the dwelling is yet to be determined. Any submission at this stage could therefore be subject to change. As a result, if I were minded to approve the appeal, I consider it would be more appropriate for these matters to be provided as part of the reserved matters submission for appearance. In addition, a condition could be used to ensure that this formed part of any such submission.
25. The appellant has highlighted that a similar scheme at the property was approved in 2007. However, this approval predates the adoption of the RLP and many of the relevant Supplementary Planning Documents that have changed the basis on which development proposals are to be assessed. In addition, the side extension at No 46 has been constructed since 2007. This also alters the circumstances for assessing this proposal.

## **Planning Balance and Conclusion**

26. In the scheme's favour it would create a new dwelling in an accessible location, making efficient use of the site and a contribution to affordable housing. Whilst I have found it would not harm highway and pedestrian safety, an absence of harm in this regard is a neutral matter. However, the scheme would not respect the character and appearance of the host property or the area and would unacceptably harm the living conditions of the occupiers of No 46 Cedars Road. In addition, it has not been demonstrated that it would provide adequate mitigation measures to enhance the ecology and biodiversity of the site. Whilst I have given weight to the benefits of the scheme in my decision, I conclude that they would not outweigh the harm it would cause.
27. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR