



Appeal Decision

Site visit made on 28 January 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2020

Appeal Ref: APP/L5810/W/19/3240090

13-17 White Hart Lane, London SW13 0PX

- 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 White Hart Property Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 18/3238/FUL, dated 1 October 2018, was refused by notice dated 30 April 2019.
 - The development proposed is a rear extension at first and second floor level to provide 2x1-bedroom units including private amenity space; parking within undercroft and associated cycle parking and refuse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed extension on the character and appearance of the Thorne Passage Mortlake Conservation Area;
 - The effect of the proposed extension on the living conditions of the occupiers of surrounding properties, having particular regard to privacy and outlook; and
 - Whether or not the proposal would make adequate provision for affordable housing.

Reasons

Character and appearance

3. The appeal site is within the Thorne Passage Mortlake Conservation Area (the TPMCA). I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).

4. The special interest of the TPMCA derives in part from the consistency of design and layout of its modest housing, which is typical of the late Victorian 'model village' approach to town planning, and the retention of its ancient routes including Thorne Passage itself. The TPMCA was expanded in 2018 to incorporate the area which includes the appeal site, and in this part of the area the buildings tend to get larger and more ornate towards White Hart Lane.
5. The appeal site itself is a block of self-contained flats, converted from offices in 2015, and an area of land to their rear. The space at the rear is predominantly used as a car park for the flats, but it also contains a bin store building, amenity space for some of the flats, and a separate one-storey dwelling (15B White Hart Lane). The site sits within a mixed-use area, next to a cluster of shops and other commercial uses where White Hart Lane meets Mortlake High Street. The wider area is predominantly residential, although to the south White Hart Lane itself has many buildings with commercial uses on the ground floor.
6. The proposal is to erect a first and second floor extension to the rear of 13-17 White Hart Lane, which would be elevated on stilts above the car park to provide two additional one-bedroom flats. Some modifications would be made to the existing flats to facilitate this, notably the removal of the windows and a balcony on the east-facing gable wall, and the creation of a small terrace inset within the building for the existing ground floor Flat 1.
7. The proposed extension would continue the building line of the host property facing Thorne Passage using the same design features and palette of materials as the existing building. Above ground floor level when seen from White Hart Lane it would therefore largely continue the appearance of and complement the host building, and in these regards it would therefore not be detrimental to the character and appearance of the area. While the new inset terrace provided for the existing ground floor flat on this frontage would appear slightly unusual in the context of the existing building's street-facing elevations, this on its own would not amount to significant harm.
8. However, when seen from within the appeal site, or through the gates from Thorne Passage, the elevation of the extension on stilts above the car park would be at odds with the otherwise traditional styling which the host building and the upper floors of the extension would present to the street. It would therefore appear incongruous in its setting and inauthentic in appearance. Although the extension would maintain the scale of the northern wing of the existing building, when seen from within the existing car park, from No 15B, from the rear gardens of neighbouring properties, or to a lesser extent when approaching along Thorne Passage from the east, the extension would tend to loom over its surroundings. This impression would be exacerbated from within the site and when viewed from the houses to the south on Charles Street or from No 15B by the way the site narrows towards the rear. Because of the way the extension would be angled towards the nearest houses on Charles Street it would be somewhat overbearing when seen from those houses and their gardens. A similar effect would be seen from Charles Street itself through the gap between No 1 and the properties at 19-25 White Hart Lane.
9. The combined effect of these factors would be a development which would appear to dominate the nearby buildings and gardens at the rear, and which would be somewhat cramped on its site. The bulky appearance when seen from

the surrounding properties and the alien appearance of the elevated building would be at odds with the generally harmonious and traditional appearance of the surrounding area. For these reasons I consider that the proposal would fail to conserve the character and appearance of the TPMCA.

10. In terms of the Framework the harm to the significance of the Conservation Area as a designated heritage asset is less than substantial. The appeal site is in an accessible location, close to shops and other services, and the creation of two new flats would add to the housing supply in the borough. However, this represents only a modest public benefit, which would not outweigh the harm to the heritage asset and to which I must attribute great weight.
11. I therefore conclude that the proposal would conflict with Policies LP1, LP3 and LP39 of the 2018 Richmond upon Thames Local Plan (the RTLP) which together seek, among other things, to ensure that development proposals are compatible with local character, including by respecting established spacing, density and form, and to preserve or enhance Conservation Areas. The proposal also conflicts with the provisions of the Framework which seek to conserve and enhance the historic environment.

Living conditions

12. The eastern elevation of the proposed extension would have habitable room windows, as well as a balcony, at first floor level, and a further balcony at second floor level. While the appellant proposes that the balconies should have 1.7m high obscure glazed privacy screens, from the drawings provided these appear only to be on the ends of the balconies facing the houses on Charles Street. The balconies and windows would overlook the small front garden and front windows of No 15B White Hart Lane and would lead to a loss of privacy for the occupiers of that property.
13. The parties agree that the distance from the to the front windows of No 15B is around 18m, which falls short of the 20m standard described in RTLP Policy LP8 and its supporting text. The surrounding area is one where there is generally a dense pattern of development, and I accept that in such circumstances it is not always appropriate or even possible to apply separation standards such as this rigorously. Nonetheless, in my view the fact that the proposed extension is in an elevated position above No 15B would increase rather than reduce the incidence of overlooking, with a consequential loss of privacy for the occupiers of No 15B. For the same reason, when seen from 15B the relatively greater height of the proposed extension would be likely to lead to a sense of enclosure which would represent a detrimental loss of their main outlook.
14. The southern elevation would have balconies at first and second floor level. These would be very close to the rear gardens of 19-25 White Hart Lane. Again, it is proposed that these balconies should have 1.7m high obscure glazed privacy screens. While this would reduce the potential for actual overlooking, given how close the balconies are to the neighbouring gardens, and their elevated position, I consider that there would nonetheless be a perceived loss of privacy for neighbouring residents using their rear gardens.
15. For the same reasons there would be a similar effect for the occupiers of the existing first and second floor flats within the host property, for whom the proposal would result in there being new balconies where previously they opened out onto the rear of the appeal site. As well as the perceived loss of

privacy which would arise from this, it would also result in their having a diminished outlook.

16. I consider therefore that the proposed development would be harmful to the living conditions of the occupiers of 15B White Hart Lane and the existing flats within the appeal property in respect of an actual or perceived loss of privacy, and in respect of a loss of outlook. I also consider that it would be harmful to the living conditions of the occupiers of 19-25 White Hart Lane in respect of an actual or perceived loss of privacy.
17. The proposed extension is close to the rear of the dwellings on the north side of Charles Street, as I have already described when addressing the character and appearance of the proposal. The extension's position and bulk would consequently lead to some loss of outlook from the rear rooms of those properties, in particular for the occupiers of No 1 Charles Street. However, given the angle between the proposed extension and the rear windows of those properties, such a loss would be small. I therefore consider that the proposal would not be significantly detrimental to living conditions for the occupiers of those properties in terms of reduced outlook. I also acknowledge that the two proposed new flats would provide adequate living space and outdoor amenity space for future occupiers. However, a lack of harm in these regards does not mitigate the other harm I have identified.
18. I therefore conclude that the proposed development would conflict with RTLP Policies LP1, LP8 and LP39, which together seek to ensure that development protects the amenity and living conditions for occupants of new and existing, properties.

Affordable housing provision

19. Policy LP36 of the RLP requires schemes of less than 10 dwellings to make a financial contribution towards off-site affordable housing. Paragraph 63 of the Framework, on the other hand, indicates that the provision of affordable housing should not be sought for residential developments of less than 10 dwellings. In the light of this, the appellant considers that no affordable housing contribution whatsoever should be payable. 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.
20. Nonetheless, the explanatory text to Policy LP36 sets out the acute need for affordable housing and the deficit in the provision of such housing within the borough, as well as the importance of small sites in contributing to the provision of such housing. On the basis of the information before me, I consider that there is a considerable need for affordable housing provision in the area, and that therefore although considerable weight should be given to the Framework, it does not outweigh development plan policy in this case.
21. Notwithstanding the appellant's initial position, their statement indicated their agreement to make a contribution of £16,229 towards affordable housing provision. The Council's evidence indicates that that figure was based on a miscalculation, and has subsequently indicated that the appellant has submitted to them a draft Unilateral Undertaking (UU) to the sum of £36,794, which it considers addresses the third reason for refusal in respect of affordable housing provision.

22. The requirement for an affordable housing contribution as set out in Policy LP36 is necessary to the acceptability of the development, is directly related to it, and is fairly related in scale and kind. As such it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010, and the tests for planning obligations set out in the Framework. Annexe N of the Procedural Guidance - Planning Appeals – England (January 2020) is clear that any form of planning obligation should be submitted with the appeal documentation. However, no such UU has been received and, without any mechanism before me which would secure the payment of this contribution, I am not satisfied that the proposed development would make adequate provision for affordable housing. The proposal therefore fails to comply with RTLP Policy LP36 in this regard.

Conclusion

23. For the reasons given above the appeal is dismissed.

M Cryan

Inspector