



Appeal Decision

Site visit made on 11 March 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/L5810/W/19/3242548
63 Sandycombe Road, Richmond, TW9 2EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Charles Taylor against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/2753/FUL, is dated 7 September 2019.
 - The development proposed is described as "Demolition of the existing buildings and the erection of a mixed use residential and commercial development (8 residential units and 248.6sqm of B1 space)".
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing buildings and the erection of a mixed use residential and commercial development (8 residential units and 248.6sqm of B1 space) at 63 Sandycombe Road, Richmond, TW9 2EP in accordance with the terms of the application, Ref 19/2753/FUL, dated 7 September 2019, subject to the conditions set out in the schedule attached to this decision.

Procedural Matter

2. Since the submission of this appeal, planning permission for substantially the same proposal as the one before me was granted at appeal on 6 February 2020¹. As a result, the Council did not wish to provide a statement in relation to this appeal. The appellant did not wish to withdraw this appeal. All parties are aware of the preceding decision and have made reference to it. As such, my main issues have been taken from a comparison of this proposal with that recently approved, the appeal file and observations on my site visit.

Main Issues

3. The main issues are i) the effect of the proposed northern block on the living conditions of the occupiers of adjoining properties with specific regard to their privacy, and ii) whether the planning obligation submitted meets the relevant statutory tests.

Reasons

Living conditions

4. The appeal proposal before me is the same as that recently approved in terms of its site layout, scale, elevational treatment and fenestration. The current

¹ APP/L5810/W/19/3237851

appeal differs only insofar as the roof-top terrace and its associated screening, access stair and lift overrun have been removed from the northern block. The southern block remains the same as previously approved.

5. I have had regard to the importance of consistency in appeal decisions and note that previous decisions are capable of being material considerations, particularly where they are closely related to the issues in the current appeal. The previous appeal decision found that the effect of the proposed northern block on the living conditions of adjoining occupiers with specific regard to their privacy would be acceptable. I have been given no evidence that would contradict this and indeed note that the current proposal offers a significant reduction in the opportunity for overlooking in comparison to that already approved.
6. The proposal would therefore comply with Policy LP8 of the London Borough of Richmond Local Plan July 2018 (the Local Plan) which seeks, amongst other things to ensure that new development protects the living conditions of existing properties, particularly with regard to balconies and their effects.

Planning obligation

7. A signed unilateral undertaking (UU) has been submitted, which provides for the payment of a sum towards affordable housing, restricts the issuing of parking permits and ensures necessary highway works are able to be carried out. The Council has provided no comments on this UU, but it substantially replicates that which accompanied the previous appeal.
8. I have considered whether the UU meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010. On the basis of the evidence of the appellant and the similarities between this and the previous appeal, I am satisfied that the UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind to the development.

Conditions

9. The Council has suggested conditions slightly modified from those attached to the previous appeal, and the appellant has agreed to their imposition. The differences relate to plan numbers and a restriction on the use of the roof areas as amenity spaces. This is necessary to ensure the changes made to this proposal over that previously approved have the intended effect. It is necessary for conditions 3, 4 and 6 to be pre-commencement as they relate to matters which could neither satisfactorily nor properly be addressed after the commencement of the development. I am satisfied that all of the conditions meet the requirements of, and tests in the National Planning Policy Framework and the Planning Practice Guidance.

Conclusion

10. For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and reports:
 - Drawings 0184-S001, 0184-P401, 0184-P402, 0184-P403, 0184-P404, 0184-P405, 0184-P406, 0184-P407, 0184-P408, 0184-P409, 0184-P412 and 0184-P413
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-P403 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-P402 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-P402 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 or changes of use shall be carried out to the buildings hereby approved.
27. 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.