



Appeal Decision

Site visit made on 6 October 2020

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Appeal Ref: APP/L5810/W/20/3249335

Land to side of 36 Park Road, Hampton Hill, TW12 1HQ

- 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 and Mrs Kendle against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/2949/FUL, is dated 5 September 2019.
 - The development proposed is new detached house.
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Decision

1. The appeal is dismissed and planning permission for a new detached house is refused.

Main Issues

2. The Council clarify that had it had the opportunity to determine the application, planning permission would have been refused on grounds of character and appearance including the effect of the proposal on trees; the effect on the living conditions of existing and future occupiers; the effect on biodiversity; and that the proposal would prejudice the delivery of affordable housing in the Borough.
3. Taking into account the above, I consider that the main issues in this case are:
 - The effect of the proposal on the character and appearance of the area and the locally listed 36 Park Road, including the effect of the proposal on adjacent trees;
 - The effect of the proposal on the living conditions of the existing occupiers of No 1 Seymour Road and No 38 Park Road with specific reference to privacy, outlook and daylight and sunlight;
 - The effect of the proposal on the living conditions of future occupiers with specific reference to amenity space;
 - The effect of the proposal on biodiversity; and
 - Whether or not the development should make a financial contribution towards the provision of affordable housing.

Reasons

Character and appearance

4. The appeal site is situated within the large garden of number 36 Park Road (No. 36), a locally listed 'Building of Townscape Merit'. The site falls within the St

James's Character Area 2 as defined in the Hampton Hill Village Planning Guidance Draft Supplementary Planning Document (HHVPG) (2017)

5. The area is comprised of large 19th and early 20th Century, largely Edwardian and interwar houses set in large plots, set well back from the road on a broadly consistent building line behind low brick walls and front gardens. Houses are characterised by red brick front and side elevations and rendered upper storeys, some with mock Tudor detailing. Roofs are hipped or half-hipped covered in clay tiles with projecting front gable features or gablets. A short terrace of properties with integral garages lies to the west of the appeal site. The terrace is set well back from the road with hardstanding for parking and mature trees to the front boundary. Whilst there are a variety of house styles in the area there is characteristic consistency in terms of layout, form and detail. The mature front gardens and tree lined Park Road contributes to the spacious and verdant character of the area.
6. The host property occupies a prominent position on the corner of Park Road and Seymour Road and is a substantial detached two storey house constructed of red face brickwork to the lower half and pebbledash render to the upper floor. It has a hipped roof with hipped projections and a dormer to the front. The ornate porch, attractive window detailing and chimneys add to the character of this substantial building. The host property, therefore, makes a significant contribution to the character and appearance of Park Road.
7. The proposed dwelling would be situated within the mature garden of No 36 which extends along the Park Road frontage and adjacent to No 38 Park Road (No. 38) and associated terrace. It would have a sunken lower ground floor with two storeys above and a fourth contained in a mansard roof. The materials would be broadly consistent with those of the surrounding area and the windows would have white rendered surrounds consistent with the windows at no 36. However, the proposed dwelling would be situated in front of the adjacent terrace by around 2m and would, therefore, be inconsistent with the established building line.
8. Due to the set down of the building it would have an overall height consistent with that of the existing building and adjoining terrace. Nevertheless, due to the design and squarer profile of the mansard roof, it would have greater mass and bulk than a traditional gable or hipped roof. Due to the projection of the building in front of the established building line, the bulky profile of the roof would be highly visible in the street scene. Furthermore, the mansard roof would be in stark contrast with predominant roof types in the area which are mainly hipped, although some gable roofs were also present.
9. Consequently, as a result of the projection in front of the building line and bulky mansard roof, the proposal would represent an incongruous addition at odds with the character and appearance of the area. Moreover, due to the high level of inter-visibility, the incongruous mansard roof would harm the setting of the locally listed host property.
10. Attention is drawn to the presence of a mansard roof at numbers 52-54 Park Road; however, I note that the building is set well back from the road and that there is limited inter-visibility between this mansard roof and the appeal site. Furthermore, no details are provided and so I cannot be certain that this case is directly comparable to the appeal proposal or that it was granted permission within the same planning policy context. In any event, mansard roofs are not a regular or characteristic feature of the area.

11. A London Plane (T3) is situated on the public highway adjacent to the proposed access. The Arboricultural Implications Assessment (2019) (the Assessment) which accompanied the application identifies the tree as having a category rating of B1 (moderate quality and value) in good condition with a life expectancy of more than 20 years with good structure, form and vitality. I agree with this assessment and consider that the tree makes a significant contribution to the linear avenue of London Planes along Park Road.
12. A purple leaved Beech tree (T4) is situated to the front of the adjacent 38 Park Road. The Assessment identifies the tree as having a category rating of A1 (high quality and value) and in fair condition with good structure, form and vitality. I consider that the mature Beech makes a significant contribution to the verdant character and appearance of the area.
13. The Tree Constraints Plan in the Assessment shows the Root Protection Area (RPA) of both trees as falling within the proposed development area but also shows an alternative RPA adjusted to take account of hard landscaping and as T3 is set within a dedicated planting pit. However, the boundary between the Beech Tree and the appeal site is a wooden fence which would not necessarily prevent the extension of roots underneath. The RPA of T3 is shown entirely within the pavement suggesting that the existing boundary wall provides a barrier. However, there is no evidence before me to support the alternate RPAs such as a trial hole. In the absence of evidence to support the alternative RPA, I must consider the appeal on the basis that the development would fall within the RPA of the T3 and T4.
14. Furthermore, T3 is identified as an early mature tree and so the circumference of the tree would grow over time and may affect the sight line of vehicles emerging from the site. Moreover, there are elements of the design which have not been taken into account such as the proposed basement, boundary alterations and turntable. I acknowledge that a condition could be attached to any planning permission requiring a full arboricultural method statement to show how the trees would be retained and protected throughout the construction. However, in the absence of evidence to support the alternate RPA, I would not be prepared to leave the acceptability of this matter to a condition. Consequently, I consider that the proposal would have a harmful effect on the health and appearance of T3 and T4, to the detriment of the character and appearance of the area.
15. Overall, I consider that the proposal would have a harmful effect on the character and appearance of the area and the setting of the locally listed 36 Park Road. Paragraph 197 of the National Planning Policy Framework (the Framework) states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the asset. The proposal would make a contribution, albeit limited, to the provision of housing. It would also have some economic benefits during the construction phase. However, I consider that the adverse impacts of the proposal would outweigh these benefits.
16. The proposal would, therefore, be contrary to Policies LP 1 and LP 39 of the Council's Local Plan (2018) (Local Plan) and also the Council's Supplementary Planning Documents 'Design Quality' (2006) (DQ SPD) and 'Small and Medium Housing Sites' (2006) (SMHS SPD) which collectively seek to ensure that new and infill development respects, contributes to and enhances the character of the surrounding area.

17. Conflict also arises with Policy LP 16 of the Local Plan which seeks to resist development which results in the damage or loss of trees that are considered to be of townscape or amenity value. Furthermore, conflict arises with paragraph 127 of the Framework which requires development to be visually attractive and sympathetic to local character and history.

Living Conditions-Existing Occupiers

18. The rear elevation of the proposed dwelling would be only around 4.5m from the rear garden of No 1 Seymour Road (No. 1). The rear facing upper floor windows would directly overlook the garden resulting in some loss of privacy to the detriment of the living conditions of existing occupiers. There would be some loss of outlook from the lower part of the garden; however, due to the length of the garden of No. 1, I consider that overall, existing occupiers would retain an acceptable level of outlook from their garden.
19. Due to the position of the property to the south of the garden there would be some loss of sunlight to the lower part of the garden in the afternoon, although the upper part of the garden would remain unaffected. I acknowledge the presence of existing trees and shrubs in close proximity to the garden of No 1 which would restrict sunlight to a degree at present. However, the trees would allow some light to filter through to the garden, particularly in winter months whilst the proposal would present a solid barrier.
20. Furthermore, the proposal would be situated forward of the adjoining terrace and specifically No 38 Park Road. Due to the orientation of the proposed development to the east of No 38 the proposal would result in some loss of early morning sunlight to the windows in the front elevation of No 38. Whilst there are trees on the boundary a degree of sunlight would filter through the branches and leaves, whereas the flank wall of the proposal would present a solid barrier.
21. For the reasons stated, the proposal would have a harmful effect on the living conditions of the existing occupiers of No 1 Seymour Road and No 38 Park Road with specific reference to privacy and sunlight and daylight. It would, therefore, be contrary to Policies LP 8 and LP 39 of the Local Plan and the DQ SPD and SMHS SPD which collectively seek to ensure that new and infill development does not have an adverse impact on neighbouring properties. Furthermore, the proposal would be contrary to paragraph 127 of the Framework which requires development to provide a high standard of amenity for existing and future users.

Living conditions of future occupiers

22. Policy LP 35 of the Local Plan requires that amenity space for all new dwellings should be, amongst other things, private, usable, functional and safe and of a sufficient size to meet the needs of the likely occupiers. The Council has not provided details of any standards for the provision of private amenity space for residential development. The proposal would have three bedrooms and would, therefore, be capable of accommodating a family. It would provide around 50m² of amenity space in the form of a courtyard. The space would be private and would be easily accessed from the kitchen/dining area. It would be situated to the north of the proposed dwelling; however, due to the presence of the garden of the host property, I consider that it would receive sufficient light. Whilst smaller than gardens of surrounding properties, I consider that it would provide sufficient space for the usual range of activities such as sitting out, playing, and drying clothes etc.

23. For the reasons stated, the proposal would not harm the living conditions of future occupants with specific reference to amenity space. It would, therefore, not be contrary to Policies LP35 and LP8 of the Local Plan which together require new development to protect the amenity and living conditions for occupants of new development and provide amenity space for all new dwellings. Neither would conflict arise with paragraph 127 of the Framework.

Biodiversity

24. The appeal site contains a formal garden area which is surrounded by mature trees and landscaping. There is no evidence before me relating to the existing biodiversity of the site; however, it is likely that the mature trees and shrubs would support some local wildlife typically found in suburban gardens. Although there is not a detailed plan before me showing which trees and shrubs are to be retained/felled, there would clearly be some loss of existing vegetation to enable the development.
25. Nevertheless, I consider that details of vegetation which would be retained or lost could be provided by way of a condition. Furthermore, details of proposed landscaping could also be secured by condition to demonstrate how garden habitat could be re-provided on the appeal site.
26. Consequently, subject to conditions, I consider that the proposal would not have a harmful effect on biodiversity. It would not, therefore, be contrary to Policies LP 15 and LP 16 of the Local Plan which together seek to protect and enhance the Borough's diversity.

Affordable Housing

27. Policy LP 36 of the Local Plan requires small developments to make a financial contribution to the Affordable Housing Fund commensurate with the scale of the development on sites capable of accommodating between one to nine units. Whilst the appellants have indicated their willingness to enter into a legal obligation to pay a financial contribution, no such obligation is before me and so the proposal would be in conflict with Policy LP 36.
28. The Local Plan post-dates the Written Ministerial Statement (WMS) 2014 relating to small-scale developers. Nonetheless, the WMS has been incorporated into paragraph 63 of the Framework which states that the provision of affordable housing should not be sought for residential developments that are not major developments. The Framework is a material consideration of considerable weight.
29. Paragraph 213 of the Framework states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. In seeking financial contributions for affordable housing on residential developments that are not major developments, criterion B.c of Policy LP 36 is inconsistent with paragraph 63 of the Framework.
30. Although the lack of a financial contribution towards affordable housing was a reason for refusal, the Council has not provided any evidence with the appeal that one is justified. I have no evidence of how the contribution would be used or any up-to-date evidence as to whether the collection of contributions from small developments has been effective in delivering affordable housing in the borough.

31. Therefore, notwithstanding the appellant's willingness to enter into a legal obligation to pay a financial contribution, I am not satisfied that such a contribution would be justified on the evidence before me in this particular case.
32. Consequently, whilst the proposal would conflict with criterion B.c of Policy LP 36 of the Local Plan, due to the inconsistency with the Framework, I only attach limited weight to this conflict.
33. I, therefore, conclude that a financial contribution towards the provision of affordable housing would not be necessary in this case.

Other matters

34. The proposal would make a contribution to housing provision in the area, albeit limited. The proposal would also bring modest economic benefits in the short-term during the construction phase and in the longer term due to increased local spend in the area.
35. There is no evidence before me as to whether the Council can demonstrate a five-year supply of housing land. I have concluded that the proposal would not have a harmful effect on biodiversity; the living conditions of future occupiers and should not make a financial contribution towards the provision of affordable housing. Nevertheless, I have concluded that the proposal would harm the character and appearance of the area and harm the living conditions of existing occupiers. The proposal would, therefore, be contrary to the Local Plan as a whole.
36. Consequently, even if the Council could not demonstrate a five year supply of housing and that as a result paragraph 11d of the Framework is engaged, I consider that these adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
37. Furthermore, the benefits of the proposal would not be sufficient to overcome the significant harm which I have identified or the statutory presumption in favour of the development plan.

Conclusion

38. For the reasons stated and taking all other considerations into account, the appeal is dismissed.

Caroline Mulloy

Inspector