



Appeal Decision

Site visit made on 29 October 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Appeal Ref: APP/L5810/W/20/3249651

The Garden Flat, 90 Church Road, Richmond, TW10 6LW

- 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 Konstantinos Tzortzis against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 19/3608/FUL dated 27 November 2019, was refused by notice dated 23 January 2020.
 - The development proposed is a part two storey rear extension including roof terrace and external stair access to garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the proposal as per the decision notice as I feel it more concisely describes the development.

Main Issues

3. The main issues are i) the impact of the proposal upon the setting, appearance and character of the host building and nearby Buildings of Townscape Merit (BTM) and the St. Matthias Conservation Area (CA) and ii) the impact of the proposal upon neighbouring residential amenity in relation to loss of privacy.

Reasons

Impact of the proposal upon the setting, appearance and character of the host building and the St. Matthias Conservation Area

4. The appeal proposal seeks to construct a two-storey extension at both lower and upper ground floor levels as outlined in the heading of this decision. It is noted that the Council do not find issue with the proposed lower ground floor. For the avoidance of doubt, I have no evidence before me to conclude differently on this element. The Council's reasons for refusal are based upon the remaining elements of the proposal before me.
5. The appeal site is a maisonette within one half of a semi-detached pair and stands within the CA. The appeal building itself is a BTM along with the properties to the North, South and West and it stands within an immediate setting of a row of five uniform buildings. It is stressed that character is concerned with what a place is like, including historical associations, and this is separate from appearance, i.e. what a place looks like (the visual effects).

6. At the time of my site visit I did walk around the immediate area and this, combined with the evidence before me, demonstrates that whilst many of the buildings along the row, within which the appeal site stands, have been extended at lower ground floor level the alterations at upper ground floor are limited. I find that the immediate character is as a result of the relative uniformity found in the row of buildings within which the appeal site is located. This is especially so with the front elevations but also that of the rear elevations. Whilst there is evidence of lower ground floor extensions there is nothing like the cumulative effect of the proposals before me. As a part of a semi-detached building the existing symmetry is noticeable.
7. Whilst no. 94 has been substantially extended, it has been extended for the full height of the building with the fenestration generally replicating that of the neighbouring properties. The substantial alterations for no.94 I find means it no longer presents as having a strong a relationship with the remaining five properties in the row which do continue to maintain uniformity from upper ground level which contributes to their setting. The Council do acknowledge varying other alterations within the area and provide robust commentary as to the timings and circumstances behind those.
8. Within the submitted Heritage Statement both figure 1 and figure 2 appear to incorrectly identify the location of the appeal site in the context of the CA. This would appear to be an administrative error given the rest of the statement contains correct photographs of the appeal site. In discussing the scheme I find that the Heritage Statement downplays the proposal in paragraphs 31 – 34 inclusive. It makes reference to a lower ground floor extension, a small extension to the left of the upper ground floor and an alternative means of escape. The proposed use of the flat roof as a terrace and the proposed screening appears to be missing within the assessment.
9. The proposed upper ground floor combined with the terrace, the required screening to protect neighbouring amenity (discussed in the second reason for refusal) and the inevitable associated domestication of the terrace I find would read as occupying the full width of the host building. The proposal would impact upon the character of the host building which is currently historically associated with a group of five buildings which only have extensions at lower ground floor level. There would be loss of architectural unity to the rear elevation and this would result in an unsympathetic and incongruous addition when taking into account the uniformity outlined. The scale of the proposal I find would cause harm to the character of the non-designated heritage asset and nearby BTMs in terms of setting and appearance, which is enough, I find, to be considered as material within this decision.
10. Despite this the views of the rear elevation are very limited from the public realm with the main contribution of the appeal site, to the appearance of the CA, being the front elevation. That is not to say, of course, that limited views means the detailing of proposals should be considered more leniently but that the impact upon the appearance of an area is generally more limited.
11. The Council do not state, within their refusal reasons, conflict with the House Extensions and External Alterations Supplementary Planning Document (SPD) and I do not have a copy of this before me. Whether or not the proposal is consistent with the SPD in relation to being subservient and general design principles it is still the case that I find that the alterations above lower ground

floor would cause harm to the character of the host building and its setting. This, in turn, combined with the limited impact on visual amenity of the CA (mainly in private views within the CA) I find would cause less than substantial harm to the CA as a designated heritage asset.

12. In accordance with paragraph 196 of the National Planning Policy Framework 2019 (the Framework) great weight should be attributed to the asset's conservation irrespective of whether the harm identified amounts to less than substantial harm. The proposal would provide additional living accommodation however, this does not provide any public benefit to outweigh the less than substantial harm identified.
13. The proposal would be contrary to London Borough of Richmond Upon Thames Local Plan 2018 (LP) Policy LP1 which requires proposals to be compatible with local character, LP Policy LP3 which requires all proposals in CAs to preserve, and where possible enhance, the character of the CA and LP Policy LP4 which seeks to preserve the character and setting of non-designated heritage assets. The proposal would also be contrary to the aims of the St Matthias Conservation Area Statement which seeks to preserve architectural quality and unity and paragraph 196 of the Framework which requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Impact of the proposal upon neighbouring residential amenity in relation to loss of privacy

14. The appeal site is adjoined by no. 88 and no. 92 Church Road, respectively. The Council's report concludes that the physical presence of the lower and upper ground floor extension would not have a significant impact on the amenities of either neighbouring property when taking into account scale, massing, proximity to boundaries, window locations and the 45-degree code. I have no evidence before me to conclude differently.
15. The second reason for refusal is concerned with the proposed terraced area of the lower ground floor roof along with the access stairs. I note that there is some separation, as a result of the access road and a fence between the two properties but the proposed terrace would offer prolonged, elevated views into the amenity space of no. 88 which would result in unreasonable overlooking and a loss of privacy. It is stated that overlooking of rear gardens such as this is commonplace, however, the Local Plan policies are clear in their intention to protect neighbouring amenity.
16. I do not find such views comparable to generally acceptable overlooking from windows which, as a result of natural use, is fleeting by comparison. A lack of objection from neighbours is a neutral consideration in relation to such matters. The appellant makes reference to there being roof terraces in the vicinity, however, I have limited evidence before me to support this statement and I do not find they are clear within the photographs in the appeal statement as claimed.
17. Whilst the proposed screening/use of the roof could be conditioned as part of any consent granted, I find that the nature of the screening which would be required to overcome concerns relating to neighbouring residential amenity, as

discussed above, adds to the overall bulk of development (appearing overly dominant and obtrusive) at upper ground floor level. This further supports the Council's first reason for refusal.

18. The proposal would be contrary to LP Policy LP8 which seeks to ensure there is no unacceptable overlooking to nearby occupiers.

Other Matters

19. I note the inclusion of the approval at 94A (10/1981/FUL) but the Council are clear as to the timings for approval pre-dating the current Local Plan as well it replacing a conservatory. I do not find that this sets a clear precedent of development as stated especially given that it is stated to have replaced a previous structure. Each case is to be considered on its own merits. The comparison therefore carries little weight within this appeal.
20. In 12/4070/HOT only part of the proposal sits higher than the rest of the lower ground floor extension which I do not find is the case for the combined proposals within this appeal, again allowing it to be afforded little weight.
21. Application 18/1698/FUL approved a side extension with a lower ground floor extension. It was on the opposite side of the road in a differing site context and the Council's submissions show limited comparisons between that and the cumulative proposals within this appeal. For this reason I attribute very little weight to this comparison.
22. Whilst the appellant submits that there are examples of terraces within the area those stated are a notable distance away and thus not within the same character of the appeal site meaning limited weight can be attributed to such examples within the consideration of this appeal. There are stated to be examples of external staircases in the surrounding area but I have no evidence of these before me.
23. The appellant makes reference to an ability to utilise permitted development rights if the site was not flatted development, however, given that the appeal site is flatted development there is no fallback or weight which could be applied such a statement within the determination of this appeal.
24. It is noted that observations have been made in relation to parking, access and waste storage facilities. The Council have raised no objection on these grounds and, given that it is an extension and not a new unit, I have no evidence before me to conclude differently. Matters relating to damage to the adjoining driveway are private matters which are afforded very limited weight within this appeal.

Conclusion

25. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR