

Appeal Decisions

Hearing Held on 24 November 2020

Site visit made on 27 November 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2020

Appeal A Ref: APP/L5810/W/19/3242694

4 & 6 Manor Road, Richmond upon Thames, Teddington TW11 8BG

- 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 4 Manor Road Ltd and Lulworth Homes Ltd against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/2352/FUL, is dated 13 June 2016.
 - The development proposed is demolition of 6 Manor Road and erection of three storey building to create 12 additional two bedroom apartments, car parking spaces, bicycle storage, amenity space and related ancillary works. Erection of additional storey on 4 Manor Road for three two bedroom apartments and related ancillary works.
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Appeal B Ref: APP/L5810/W/19/3242696

4 and 6 Manor Road, Teddington TW11 8BG

- 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 4 Manor Road Ltd and Lulworth Homes Ltd against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 18/4156/FUL, is dated 11 December 2018.
 - The development proposed is demolition of 6 Manor Road and erection of three storey building with basement level to create 12 x 2 bed (2B4P) flats. Erection of a 5 storey front/side extension and 2 storey roof extension to 4 Manor Road to facilitate the provision of 9 additional residential apartments (1 x 1 bed and 8 x 2 bed). Associated hard and soft landscaping, cycle and refuse stores and new basement parking.
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Decisions

1. Appeal A and Appeal B are dismissed, and planning permission is refused.

Procedural Matters

2. As set out above there are two appeals on this site. They differ primarily by Appeal B proposing an extension of a greater height and forward of the existing building at 4 Manor Road. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
 3. The description of development for Appeal B is taken from the appeal form. Although different to that on the application form, it was the one used for consultation and agreed by the main parties in the statement of common ground.
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4. The National Planning Policy Framework (Framework) states that the weight given to relevant policies in emerging plans should be according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the plan with the Framework.
5. The London Plan – Intend to Publish Version (LPIPv) has reached an advanced stage. Policies relating to the main issues below are consistent with the Framework. No policies from the LPIPv are included in the putative reasons for refusal. However, other than in relation to the housing requirement figures, the main parties both indicated that significant weight should be given to the relevant policies of the LPIPv. I have reached the same finding.
6. The Council advised that had it determined the applications within the prescribed period they would have refused them. During the appeal process the appellant provided additional supporting documents and plans in response to issues raised by the Council and third parties. There were also minor alterations to the schemes, including the position of bin stores.
7. The wording of draft planning obligations was agreed by the main parties prior to the Hearing with completed ones subsequently submitted. These make provision for securing potential contributions towards affordable housing via review mechanisms, carbon off setting contributions, voids management and parking permit controls.
8. The main elements of the proposals have not altered from that originally submitted and upon which consultation took place. Parties also had the opportunity to raise any points during the Hearing itself. Against this backdrop, no injustice would be caused to any appeal party or third party by my taking the additional details, plans and obligations into account. I have determined the appeals on this basis.
9. The Council confirmed in their submissions and at the hearing that they considered putative refusal reasons relating to affordable housing, carbon offsetting, biodiversity, health impact assessment, flooding and highway safety have been addressed.

Main Issues

10. The main issues of the appeals are:
 - Whether the proposed developments would preserve or enhance the character or appearance of the Teddington Lock Conservation Area (CA);
 - The effect of the proposed developments on the living conditions of occupiers of 4 Manor Road and nearby properties, with particular regard to outlook and privacy, daylight and sunlight;
 - Whether the proposed developments make appropriate provision for affordable housing; and
 - The effect of the proposed development on biodiversity.

Reasons

Character and Appearance

11. The appeal site is located within the CA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance.
12. From my observations on site, and the evidence presented to me, the significance of the CA lies, in part in its riverside setting and links to development associated with improvements to transportation such as the lock and weir, footbridge and railway. In addition, despite the varied scale and appearance of the built form, away from High Street much of the CA has a spacious feel. This is created in part from the frequent green spaces, views between blocks of development and verdant appearance to many of the streets.
13. Although there are modern large-scale blocks of flats in the CA, historic buildings remain including some associated with riverside activities and traditional residential buildings. Modern larger blocks of built form are often broken up by frequent landscaping, parks and gardens. Where they have less greenery, gaps serve a functional purpose, such as at Teddington Wharf and Teddington Studios. The separation allows views through to more historic parts of the CA and gives some breathing space between the built form.
14. The differing style of 4 and 6 Manor Road (No 4 and No 6) reflects the site's position as an area of transition between the blocks of flats adjacent and the traditional properties along Ferry Road. The curve of Manor Road, scale of No 4 and its setback from the road behind mature landscaping results in the building being relatively discrete in the streetscene. No 4 currently makes a neutral contribution to the significance of the CA.
15. No 6 represents an example of the more historic development in the area. Due to the position and size of it and nearby vegetation, No 6 is largely screened from Manor Road as are its parking areas. Where it is seen, it is viewed with mature landscaping. This gap, as with the separation between the adjacent blocks of flats gives an openness to this part of the CA. The building at No 6, along with the space around it and mature landscaping, make a positive contribution to the significance of the CA.
16. There is no consistent height or proportions to the buildings in the area. Both Appeal A and Appeal B would create a building of a comparable height to existing blocks of flats in the CA. The linear form of No 4 would be extended back into the site and there is limited garden space around No 4 now.
17. Nonetheless, while the stepping down in height and varied width of the building would prevent it appearing as a monolithic block, the new No 6 building would considerably increase the spread and mass of built form at the appeal site. Despite being set in from the boundary with Quay West, the increased height, bulk and plot coverage at the site would result in an abrupt and imposing building.
18. The new consolidated building would not be seen as a whole in many public views including from the river and would be partly obscured by existing and proposed trees. However, the schemes would reduce the feeling of space at the site with the loss of separation between buildings. This, and its overall bulk that

would cover much of the plot, would be obvious from the Recreation Ground as well as being readily apparent from the adjacent properties and gardens, along with glimpsed views between Ferry Road properties.

19. The space within the site and around the adjacent blocks of flats may not represent the most efficient use of land. The basement parking proposed increases the developable area and removes the visual effects of parking. Nonetheless, existing ground level parking at the site is screened by boundary treatments and is not prominent. The feeling of space between buildings and their boundaries such as that currently experienced between No 4 and No 6 contributes positively to the CA. This would be eroded by both proposed schemes.
20. The increased bulk of the consolidated appeal building would result in it becoming a more dominant feature in this part of Manor Road. It would be prominent over and above retained and proposed landscape features, more so when trees were not in leaf. It would challenge the more traditional building at the corner of Ferry Road and Manor Road in views along the street. The dominance would be greater for Appeal B where, as well as increasing the height of the building more than Appeal A, would also extend it forward, close to the road.
21. Teddington Wharf, further along Manor Road, has taller and larger blocks with limited landscaping and is sited close to the pavement. However, there is a wider road and greater set back of properties opposite in that part of the street than at the appeal site. Cloister Close is a modern block of flats adjacent to the pavement that is not screened by street trees. In contrast though, along the part of Manor Road leading from the Recreation Ground past the junction with Ferry Road, there is a more verdant streetscene where buildings are set back and as a result do not visually dominate. The appeal proposals would be discordant with this.
22. The materials, fenestration and overall appearance of the proposals would largely replicate that of No 4. Furthermore, there are a variety of external finishes at nearby buildings. As such, in this regard the schemes would not harm the CA. However, this is a neutral factor that does not compensate for the harm identified above as a result of the scale and position of the new built form.
23. The Framework sets out how the scale of harm to designated heritage assets should be measured. The proposals in this instance would lead to less than substantial harm to the significance of the CA. The Framework also indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.
24. Both proposals would contribute towards the housing supply and mix in the area. Taking account of the scale of the schemes, even if I were to use the appellant's figures for the level of housing supply (approximately 4.58 years) and their position that various designations in the borough limit opportunities for development, this attracts moderate weight.
25. There would be benefits relating to construction and servicing jobs, tax and CIL revenue and the new homes bonus. In addition, the schemes would give support to local services. Some of these benefits would be temporary and given the scale of the proposals I give this limited weight.

26. Both schemes would increase flood storage volume and decrease water run-off from the site reducing the risk and consequences of flooding. As this would benefit existing occupiers at the appeal site and those in the surrounding area, I afford this moderate weight. The introduction of electric car charging points and enhanced biodiversity measures would not represent significant benefits in this instance due to the extent of the proposal. This is also the case for additional or improved outdoor space, cycling and parking facilities for occupiers of No 4. Therefore, I give these matters little weight.
27. In this instance the public benefits would not outweigh the harm to the designated heritage asset. Consequently, both Appeal A and Appeal B would unacceptably harm the character and appearance and the significance of the CA. They would conflict with the design and conservation aims of Policies LP1, LP3 and LP39 of the London Borough of Richmond Upon Thames Local Plan (Local Plan).
28. Furthermore, the development would not meet the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the Framework in relation to heritage assets.

Living Conditions

Outlook

29. The proposed building at No 6 would extend across more of the boundary with Quay West than the existing one and the roof would not taper in as it does at present. Notwithstanding this, it would be of a comparable maximum height and would be set further from the boundary with Quay West than the current No 6.
30. There are also mature trees within the boundary, and therefore control of, Quay West. These are tall and would screen parts of the proposed building and already largely enclose the Quay West boundary. Furthermore, these would soften the appearance of the development from the communal gardens and properties of Quay West. Moreover, views from the balconies and rooms are slightly angled away from, rather than directly towards the appeal site. There would be alternative directions of outlook from the communal gardens.
31. The proposed new part of the building at No 6 would be a more solid feature than the existing trees that feature in the outlook from the existing flats at No 4. Additionally, privacy screens at the proposed flats would do little to soften the outlook of the proposals given their scale. Nevertheless, the main direction of view from the main windows and outdoor area would be towards the Braemar House and Ferry Road boundaries rather than towards the proposal. The existing privacy screens limit the more angled views towards the proposals. Furthermore, the new rear building in both schemes and the proposed front extension in Appeal B would not project significantly beyond the existing No 4 building.
32. The new building at No 6 would be closer to 15 and 17 Ferry Road than the existing one. However, there would be sufficient separation between the buildings. Landscaping on the boundary would partly screen the new elements and would ensure that the impact of the proposals on the outlook from those properties and their gardens would be acceptable.

33. The orientation of Bowater House and Duncombe House would prevent unacceptable impacts on the outlook of occupiers of those properties. Occupiers of Braemar House already experience No 4 in their outlook towards the site. This and the separation between buildings would ensure that the additional height and footprint at No 4 and construction of No 6 would not have an unacceptable effect on the outlook of those occupiers.
34. In light of the above, the proposals would not lead to unacceptable effects on the outlook of nearby occupiers.

Privacy

35. Some mutual overlooking is inevitable and tolerable in residential areas and already occurs at the site and nearby properties. The proposals would increase the number of balconies and windows facing Braemar House and the properties along Ferry Road. Nonetheless, while these would be closer than at present for some properties, the separation distances would be comparable to the existing ones from No 4. Mutual overlooking would continue in much the same manner as it does now.
36. Views from windows and balconies at the new building towards existing flats at No 4 would be at an acute angle. Existing and proposed landscaping would help to screen views towards Ferry Road properties from the proposed No 6 building. Conditions could be imposed to secure the provision of louvres to direct views away from these properties at balconies with views over the boundary trees.
37. Privacy screens and obscure glazing would serve to reduce the potential and extent of overlooking towards existing flats at No 4. This would be a similar arrangement to the site at present. There would be some increased comings and goings. However, there are views from the access lane now into balconies and windows at No 4.
38. Balconies at the proposed No 6 building would be close to the boundary with Quay West and at a higher level than the existing window. Nevertheless, there is currently a clear glazed bedroom window that affords direct views into the communal garden, balconies and windows at Quay West.
39. Privacy screens to the balconies nearest to Quay West would prevent the closest views into the communal garden and properties. Remaining views would be angled due to the orientation of the existing and proposed buildings. Although there would be some overlooking above the mature landscaping, the presence of these features would help to filter and obscure many views. Windows in the end elevation of No 6 would have obscure glazing. This and the privacy screens could be secured by condition if the appeal were allowed.
40. The parking area to the front elevation of Bowater House means the area is not secluded. The separation distances and angle of views towards Bowater House would reduce the effects of overlooking from the appeal schemes. Mature landscaping would help screen views from the appeal building towards Duncombe House which opens on to the parking area. Therefore, again there is already a high degree of overlooking to these areas.
41. Therefore, taking the above matters into account it is my judgement that there would be no unacceptable effects on privacy from overlooking.

Daylight and Sunlight

42. The appellant's Updated Daylight/Sunlight Assessment shows that there would be a reduction in daylight and sunlight at some windows at existing properties.
43. The proposed building would be a solid structure while mature trees near to existing windows would allow a degree of light through them, potentially more so when they are not in leaf. However, I saw that evergreen trees were close to the existing windows most affected at No 4 and would reduce the light reaching them. These trees, the existing privacy screens at No 4 and the rooflights at 11 Ferry Road, were not included in the assessment. Their presence would affect the level of light reaching these rooms at present. Moreover, all windows assessed would comply with the average daylight factor criteria set out in the Building Research Establishment guidelines.
44. In light of the above, and as where any windows shown to fall below Building Research Establishment guidelines would only marginally do so, the effects of both schemes on daylight and sunlight would be acceptable.

Living Conditions Conclusion

45. Therefore, the proposed developments would not result in unacceptable harm to living conditions of the occupiers of No 4 and nearby properties with regard to outlook, privacy and daylight and sunlight. They would accord with Policy LP8 of the Local Plan which, amongst other things, seeks to protect amenity and living conditions for occupants of existing, adjoining and neighbouring properties.
46. It would also accord with the Small and Medium Housing Sites Supplementary Planning Document where it states new development should not infringe on the privacy of adjoining properties.
47. While Policy LP1 of the Local Plan has been referred to regarding living conditions, the evidence presented indicates to me that it is not applicable to this issue as it relates to character and appearance.

Affordable Housing

48. The Council's assessment of viability differed in terms of build costs and developer profit from the Updated Viability Assessment provided by the appellant during the appeal. Notwithstanding this, both concluded that the appeal schemes are not capable of providing a contribution towards affordable housing at this time.
49. The inclusion of review mechanisms in the completed planning obligations would require up to date evidence in regard to all elements of the scheme. The mechanisms include the potential for on site provision if viable and there is a registered provider to take on the units. Alternatively, a financial contribution would be made if viable. The obligations would ensure that if there was any value or uplift from the schemes that this would be captured and avoid the concerns regarding viability.
50. Consequently, the proposal would accord with Policy LP36 of the Local Plan where it seeks to secure the maximum reasonable amount of affordable housing.

Biodiversity

51. An ecological appraisal and subsequent survey work for bats were provided during the appeal. Internal surveys were not carried out on No 6 due to the COVID-19 restrictions. Nonetheless, thermal imaging techniques and ultrasound detectors were used, and the survey was carried out during the optimal season. This resulted in a low classification of the building. In this instance sufficient evidence has been provided to demonstrate that there is not a reasonable likelihood of a protected species being present at the site.
52. The appellant has undertaken recent surveys for protected species. Therefore, a condition requiring a further survey as a final check prior to the demolition of No 6, to make sure that no species have colonised the development site, would be appropriate in this case.
53. Decay detection tests demonstrated that the removal of tree T26 was justified. The replacement and protection of landscape features at the site could be secure by condition were the appeal to be allowed. This would also be the case for enhancements to ensure a net biodiversity gain based on the details already provided.
54. As such, the proposed developments would not adversely effect biodiversity. They would accord with Policies LP15 and LP16 of the Local Plan. These, in part, seek to protect and enhance the borough's biodiversity including landscape features, species and their habitats.

Other Matters

55. The proposal would align with the aims of the Framework to significantly boost the supply of housing and that small and medium-scale developments can make an important contribution to meeting the housing requirement. The Framework likewise supports the use of airspace above existing residential premises and, along with LPIP, encourages development that makes efficient and optimal use of land. Even if I were to conclude that there is a shortfall in the five-year housing land supply, and on the scale suggested by the appellant, the contribution towards housing supply and mix attracts moderate weight.
56. The site is located in a Flood Zone 3. Additional surface water attenuation information satisfied the Council's concerns over drainage at the site. Updated evidence concerning the sequential and exception tests identified constraints for development at other locations and provided justification for the schemes, which are located on a site with existing residential use. The increased flood storage volume and decrease in water run-off from the developments would be beneficial for future and existing occupiers at the site and in the area. As such, I afford this moderate weight.
57. There would be benefits arising from the construction period, tax revenues and future spend of occupants that would give support to local services and facilities. As construction benefits would be short term, and given the number of units proposed, these factors attract limited weight.
58. The proposed electric car charging points and biodiversity measures would be limited due to the scale of the proposals. For the same reason additional or improved facilities for occupiers of No 4 would also have limited benefit and carry little weight.

59. The planning obligations include affordable housing review mechanisms. As it is not known whether there would be any provision of, or contribution towards, affordable housing I give this limited weight. A carbon offsetting contribution, calculated in line with the Planning Obligations SPD, is secured in the planning obligations, addressing that putative reason for refusal. As I am dismissing the appeals, it is not necessary for me to consider other parts of the obligations in any further detail.
60. The absence of a Health Impact Assessment was addressed by one being submitted during the appeal. Onsite parking is within maximum standards. Were the appeal to be allowed, bin storage and refuse arrangements could be controlled by condition. Similarly, conditions and the obligations could deal with the retention and management of parking areas at the site and restrict on street parking by occupiers. These controls satisfied the Council's concerns over highway safety. I have reached the same finding.
61. I have identified that both schemes would result in harm to the character and appearance of the CA that is not outweighed by the public benefits of the scheme. Therefore, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the developments proposed. In accordance with paragraph 11d)i of the Framework, even if I were to find that the Council did not have a 5 year supply of housing land, the tilted balance in paragraph 11d)ii is not engaged.

Conclusion

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
63. I have found that both appeal schemes would conflict with policies in the development plan, and the Framework. Even when taken cumulatively, the other material considerations do not lead to a decision other than in accordance with the development plan.
64. For the reasons given above and having regard to all matters raised, I conclude that Appeal A and Appeal B should be dismissed, and planning permission refused.

Stuart Willis

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mary Cook	Town Legal
Mary Power	PowerHaus Consultancy Ltd
Ian Felgate	Brookes Architects
Guy Laister	Water Environment
Richard Bailey	Bailey Venning Associates Ltd
Richard Graves	Richard Graves Associates Ltd
Amy Fender	Town Legal
Kim Symes	Representing Appellant
Harriet Young	PowerhHaus Consultancy Ltd
Dominik Wierzbowski	BLDA Architects

FOR THE LOCAL PLANNING AUTHORITY:

Fiona Dyson	London Borough of Richmond-upon-Thames Council
Marc Wolfe-Cowan	London Borough of Richmond-upon-Thames Council

INTERESTED PARTIES:

Phil Mundy	Local Resident
Janet Lowe	Local Resident
Fiona Jones	Cameron Jones Planning
Nina Stallwood	Local Resident