
Appeal Decision

Site visit made on 7 September 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2021

Appeal Ref: APP/L5810/W/20/3254945

11, 12, 13 King Street, Richmond TW9 1ND

- 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 Paradise Valley Farms against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/3421/FUL, dated 8 November 2019, was refused by notice dated 9 January 2020.
 - The development proposed is a rear extension to the first and second floors of number 11 King Street, roof extension to 11, 12 and 13 King Street, and improvements to the front façade including replacement windows and shop front to number 11.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted amended plans with the appeal for a revised extractor flue.¹ Amended plans seeking to overcome the Council's reasons for refusal should normally be the subject of a fresh planning application and the appeal process should not be used to evolve a scheme. The appellant considers these plans to be a minor change and to have some benefit, but at appeal stage interested parties are not 'consulted' on, or notified about, amended plans. Consequently, and having regard to the 'Wheatcroft Principles',² the amended plans would materially alter the application and potentially prejudice the interests of those who should have been consulted on the changed development. I have therefore dealt with the appeal on the basis of the plans considered by the Council.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Richmond Green Conservation Area, its effect on the setting of the Central Richmond Conservation Area and listed buildings and its effect on a non-designated heritage asset; and
 - Its effect on the living conditions of the existing occupiers of 10 King Street having particular regard to outlook, and on the existing and future occupiers of 11, 12 and 13 King Street and adjoining buildings, having particular regard to noise, vibration, odour and fumes.

¹ Appellant's statement of case, Appendix J.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37].

Reasons

Conservation Areas, Listed Buildings and Non-Designated Heritage Asset

4. The appeal site (Nos 11-13) is part of a terrace of buildings in King Street. It is in the Richmond Green Conservation Area (RGCA) and adjacent to the Central Richmond Conservation Area (CRCA). King Street and Paved Court (a narrow pedestrian alley opposite the appeal site) include some Grade II listed buildings. Most of the terrace is three storeys tall, including Nos 11-13 which are identified individually by the Council as a 'Building of Townscape Merit' (BTM). Most of the buildings in the terrace have pitched roofs behind parapet walls, including some mansard types, though No 11 has a flat roof. Some ridges are parallel to the street so that the long side roof slope occupies the full width of the building. Most roofs are fully hipped with ridges perpendicular to the street and individual narrow hipped ends facing front and rear (including Nos 12-13). These roofs differ in pitch, height and distance to each other.
5. There is therefore a varied arrangement of built form at roof level in this terrace of buildings. Most notable is the fluctuating sequence and rhythm of narrow hipped end roofs and gaps between which alleviate the overall height, width, depth, scale, massing and bulk of most of these buildings at roof level and as such make a significant positive contribution to the character, appearance, history and distinctiveness of the area.
6. I note that in the Council's 'Conservation Area Study', January 2001, the RGCA includes broken ridge lines and that the overall pattern of rooflines changes in views on the approach towards buildings, that Paved Court is 'one of the most picturesque alleys in the town centre' and that development that may harm views and skylines is a particular problem. In addition, in the CRCA signs and traffic lights 'disrupt [*ie do not prevent*] views of the buildings' at the main road junction at the southern end of George Street (*ie* including with King Street) and that this is a 'distinctly identifiable urban space'. This study is dated but nonetheless its findings are consistent with what I saw at my site visit.
7. The appeal proposal includes a roof extension to provide a fourth floor of useable space. At the front, in Nos 12-13 the existing roofs would be replaced by two new hipped roofs connected by a sloping roof set further back. A concealed flat roof behind would have a gabled rear elevation. The flat roof would extend sideways over part of No 11 including a sloping roof at the front (also set back) and at the side, and a gable at the rear to match Nos 12-13. The parapet walls along the front elevation of Nos 11-13 would be retained or rebuilt with similar height and design.
8. The appeal proposal seeks to echo the twin hipped front roof form at Nos 12-13. However, the new roofs would be appreciably wider, more steeply pitched and taller and these larger structures would be closer together. In addition, although set back and sloped the linking roof would fill the gap between. Furthermore, while the roof over No 11 would broadly match the flat roofed part over Nos 12-13, including a sloping part set back at the front, it would nonetheless project significantly upwards above the existing flat roof.
9. While there are some rear gables in this terrace, the proposed gable would obliterate the flat roof form at No 11 and the sloping twin hipped roof form at Nos 12-13. The vertical projection of this part of the roof would be extensive and an alien intervention in this case. Cumulatively, the appeal proposal would

- amalgamate Nos 11-13 under a raised, unified roofline with a commensurate substantial reduction in openness and an undue built-up horizontal emphasis, particularly in the front elevation. The most important and individual elements of the existing roof form at Nos 11-13 would therefore be lost.
10. The appeal proposal would improve the size and arrangement of living accommodation at No 11, would provide additional office floorspace and employment and would enhance the appearance of the façades of Nos 11-13 below roof level. The appeal proposal is relatively small-scale and accordingly these would be modest benefits. King Street is relatively narrow, Paved Court is narrow with a perpendicular alignment to King Street and the reasonably tall buildings in this area are in close juxtaposition to each other. Consequently, there are few public views of the upper part of the buildings and roofs at Nos 11-13, including none from the rear, and most other buildings do not directly face or address the appeal site in a meaningful way.
 11. As I saw at my site visit, in most of the public viewpoints identified by the appellant the roof extension would not be seen above or behind the parapet wall. However, part would be seen from within the RGCA at the far end of Paved Court (viewpoint 02) and from the edge of The Green, along Paved Court (viewpoint 03). A smaller part would also be visible from within the CRCA from the corner of King Street and George Street (viewpoint 04). Though these are limited parts of the proposed development, they are nonetheless significant changes to roof form for the reasons explained above and the absence of greater public visibility does not mean absence of intrinsic harm. Consequently, the appeal proposal would have an unacceptable negative impact on the significance of the RGCA at this point and would not therefore preserve or enhance its overall character and appearance. For the same reasons it would have an unacceptable negative impact on the setting of the CRCA.
 12. The relatively tight arrangement and orientation of buildings in the vicinity of the appeal site means that the settings of individual listed buildings are reasonably immediate and discrete. In addition, the roof extension includes design elements that individually are not inconsistent per se with some parts of the roofs and overall form of the listed buildings. Accordingly, the appeal proposal would have a neutral impact on the significance of the setting of the listed buildings in this regard.
 13. I appreciate that the appellant considers that Nos 11-13 are not worthy of BTM status, including because these buildings have been altered or lack intrinsic historic provenance. However, I note that the Council may designate a BTM including for reasons of 'visual interest', 'siting', 'significance to the... character of the environment' and where it 'forms part of a distinctive and cohesive group of buildings' that 'make a... positive contribution to the quality of the townscape'. In addition, 'buildings... of any age, even those of a recent date, can be included'.³ Nos 11-13 fulfil these criteria. The appeal proposal would therefore unduly erode the positive contribution of Nos 11-13 in these regards and result in a negative impact.
 14. Considering the above, the siting and design of the roof extension would add substantially to the height, width, scale, bulk and mass of the roof of Nos 11-13. It would as a result be an unduly dominant and prominent roof form that would fundamentally alter and substantially diminish the distinctive

³ Council's 'Buildings of Townscape Merit', May 2015 supplementary planning document - paragraphs 1.1 and 3.2.

roof design and form of these buildings and be at odds with the prevailing roof form of the buildings in this terrace. There is no clear and convincing justification for the development and as the development would affect only a small part of the terrace, it would cause less than substantial harm to the significance of both conservation areas. This harm would not be outweighed by the public benefits of the appeal proposal and it would also cause moderate harm to Nos 11-13 as a BTM.

15. The proposed development would not accord with Policies LP1, LP3 and LP4 of the Richmond-upon-Thames Local Plan, July 2018 (the LP). These include that development should be compatible with local character, townscape, pattern of development, the public realm and heritage assets, and that the historic environment of the borough will be conserved and enhanced. It would also conflict with Framework paragraphs 124, 127 and 192. These include that development should create high quality buildings and places, add to the overall quality of the area, be sympathetic to local history, maintain a strong sense of place, sustain and enhance the significance of heritage assets and make a positive contribution to local character and distinctiveness.

Living Conditions

16. The rear elevation of No 10 King Street is about level with No 11 and, on the evidence before me, includes a kitchen window and a bedroom window. Outlook is slightly restricted by the rear projection in depth of the building on the other side of No 10. The proposed rear extension to No 11 would be reasonably long at just over 3 metres and its two storey high side elevation would run along the common property boundary and face No 10. Its height, proximity and, in particular, depth would therefore unduly restrict views from both windows in the direction of No 11.
17. The appeal site is in a reasonably tight built-up urban area and while there would still be perpendicular views from these windows, the siting and size of the extension would nonetheless be an inordinately noticeable feature in sideways views. While this view towards No 11 from the kitchen window is already partly obstructed by a raised staircase cover, it makes the angled upward view, towards the sky, that is still available all the more important but which would be seriously restricted by the siting and size of the extension.
18. The proposed exhaust flue would extract odour and fumes from the fish and chip restaurant and takeaway on the ground floor of No 11. It would be a reasonably substantial structure next to a bedroom window, a dining room window and an office window, with the vent close to office rooflights. It would also be in relatively close proximity to nearby commercial and residential uses in both directions. The appellant has submitted no details of the specification of the flue or any associated equipment or machinery.
19. A new flue may be a technical improvement on the existing flue but there is no objective evidence before me in this regard, including that even if it were that it would nonetheless not adversely affect existing or future occupiers of any of these buildings. Furthermore, even if the specification was the same or similar to a flue approved by the Council at No 13, that flue does not have the same relationship to uses and windows, or to adjoining buildings, as would the proposed flue. The flue is an integral part of the appeal proposal, the Council has relevant development plan policies in this regard and there is uncertainty about suitable mitigation. These are important material considerations relevant

to an 'in principle' decision to grant planning permission and accordingly, technical details of the flue cannot be relegated to a planning condition as the appellant otherwise suggests.

20. Considering the above, the rear extension would be unduly visually intrusive and overbearing. It would therefore cause significant harm to the living conditions of the existing occupiers of No 10, having particular regard to outlook. The appellant has not substantiated that the flue would have no adverse effect on the amenity and health of occupiers of Nos 11-13 or of adjoining buildings. There is therefore a realistic possibility that it would cause significant harm to the living conditions of existing and future occupiers, having particular regard to noise, vibration, odour and fumes.
21. The proposed development would not accord with LP Policies LP8 and LP10. These include that development should protect the amenity and living conditions of occupants of new or existing properties against overbearing impact, noise, vibration, odour and fumes. It would also be contrary to the Council's 'Development Control for Noise Generating and Noise Sensitive Development' supplementary planning document, September 2018. It would also conflict with Framework paragraphs 127 and 170. These include that development should have a high standard of amenity for existing and future users and that use of buildings should not be at unacceptable risk of adverse effect due to unacceptable levels of air or noise pollution.

Other Matters

22. The appeal proposal would not be at risk of flooding or place any 'strain' on existing infrastructure, including that it would be in a sustainable transport location. It would not have any adverse effect on daylight and sunlight received by the occupiers of any buildings. The absence of harm in these regards is a neutral factor in my decision. A local resident objects to an existing flue at No 13 but it is not part of the proposed development. There would likely be some disruption to the occupiers of Nos 11-13 during construction but it would be temporary and an inevitable consequence of new development, so a private matter. There is no substantive evidence before me of already 'adequate' provision of offices in the area and the Council did not object for this reason.

Planning Balance and Conclusion

23. As explained in the main issues above, the appeal proposal would cause harm to the significance of designated and non-designated heritage assets. I give substantial weight to this harm. It would also cause harm to the living conditions of existing and future occupiers of buildings. I give substantial weight to this harm. It would increase living accommodation, provide new commercial use and would improve the appearance of part of Nos 11-13 King Street. I give moderate weight to these benefits. Accordingly, the appeal proposal would not accord with the development plan overall.
24. There are no material considerations to indicate that my decision should be taken otherwise in accordance with the development plan. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR