



Appeal Decision

Site visit made on 21 January 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/F5540/W/20/3260265

The Land to the rear of 2 Thorney Hedge Road, Chiswick, London W4 5SD

- 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 Richard Buss (Mirrorstoke Limited) against the decision of Council of London Borough of Hounslow.
 - The application Ref 01121/R/02/P4 dated 11 November 2019, was refused by notice dated 14 April 2020.
 - The development proposed is erection of a two bedroom detached house with associated bike and bin storage area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. The appellant has provided additional information within this appeal (such as a heritage statement and a daylight/sunlight assessment) in order to try and overcome the stated refusal reasons. Given that they do not result in any material changes to the proposal itself and the Council, and other interested parties, have had the chance to view and/or comment upon them I have on this occasion taken them into account within the determination of this appeal.
4. Since the determination of this application, and submission of this appeal, the Government has published the 2020 Housing Delivery Test (HDT) results. Both parties have been given the opportunity to comment as to whether or not these impact upon this appeal proposal. These comments have been noted.

Main Issues

5. The main issues are i) the impact of the proposal upon the character of the area, ii) the impact of the proposal upon the amenity of neighbouring occupants, iii) whether the proposal provides adequate living accommodation for future occupiers and iv) whether the proposal provides an appropriate Energy Strategy to meet carbon reduction requirements.

Reasons

Character of the Area

6. The appeal site is located to the rear of 2 Thorney Hedge Road which is an extended semi-detached property occupied as flats. It is located within (on the

- edge of) the Thorney Hedge Conservation Area (CA) adjacent to a car park which serves the neighbouring commercial building. The first reason for refusal does not make specific reference to the impact upon the CA, however, it is evident from the submissions that both parties are specifically discussing the impact of the proposal upon the CA as an issue.
7. The Heritage Statement which has been submitted appears to be heavily reliant upon the proposal providing an enhancement to the setting of the CA as a result of its currently overgrown condition i.e. the appearance. It provides limited assessment as to the character of the area and no assessment as to the development pattern in terms of the CA. I do not find that the overgrown nature of the site should provide leverage to claim an enhancement to the site as a result of the proposal.
 8. At the time of my visit I viewed the site from the neighbouring car park and noted the generally long, relatively uniform, curtilages to the residential dwellings within the vicinity. This is also notable on the submitted location plan in terms of the prevailing development pattern which forms the character of the area. As a part subterranean structure (1.66m below adjoining ground level) I do not find the proposal would have an impact upon the appearance of the CA, however, I find that the proposal would be at wholly at odds with the prevailing development pattern which is part of the character of the area.
 9. The site was originally a garden to a residential dwelling. Sites and places do evolve but the immediately adjoining use of 2 Thorney Hedge Road as four flats combined with the proposal, which would occupy much of the land to the rear of 2 Thorney Hedge Road, I find would result in intensification and overdevelopment of the site. The optimum capacity for a site does not mean the maximum capacity. I find the proposal would cause less than substantial harm to the CA as a designated heritage asset as a result of its being at odds with the prevailing development pattern and character of the area.
 10. The proposal would fail to preserve or enhance the character of the CA. 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. Paragraph 196 of the Framework requires, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, it should be assessed against the public benefits of the proposal. The proposal would provide an additional residential dwelling, however, the public benefits of a single dwelling to overall housing supply is limited. I do not find the limited public benefits sufficient to outweigh the less than substantial harm identified in this case.
 11. The proposal would be contrary to London Plan 2016 Policy 7.4 which requires buildings to have regard for the pattern and grain of existing spaces and streets and make a positive contribution to the character of a place and Policy 7.6 which requires architecture to make a position contribution to a coherent wider cityscape. The proposal would also be contrary to London Borough of Hounslow Local Plan 2015 (LP) Policy CC1 which requires development to respond to the wider context and history of the area, LP Policy CC2 which requires development to respond meaningfully and sensitively to the site and LP Policy CC4 which expects development to conserve and take opportunities to

enhance any heritage asset and its setting in a manner appropriate to its significance.

12. The proposal would also be contrary to draft (now publication version) London Plan Policy D3 which requires development proposals to determine the most appropriate form of development that responds to a site's context and capacity for growth and respond to the existing character of a place.

Amenity of neighbouring occupiers

13. Access to the proposal is via an existing footway which is currently in use by the basement flat. It is noteworthy that the appeal site is located in relatively close proximity to a road junction, adjacent to the car park of a commercial building and close to a hotel. The appeal proposal would increase the use of this access but I do not find that the use, which could reasonably be associated with to comings and goings of a two-bedroom, dwelling would result in noise and disturbance at such a level to warrant refusal. Similarly future occupants would take refuse and recycling to the public highway on collection days and, had the proposal been found acceptable in other regards, a refuse storage and management plan could have been secured by condition to overcome concern and control this specific matter. I am satisfied that the proposal would not cause material harm upon neighbours from noise and disturbance.
14. Overall it is not considered that the proposal would create increased noise and disturbance which would be to the detriment of the living conditions of neighbouring properties or cause serious or adverse effect. I therefore conclude that the development would be consistent with LP Policy CC2 which requires proposals to function well in themselves and in their effect on surrounding areas and have a positive impact on the amenity of current and future occupiers.

Living accommodation for future occupiers

15. The appellant has submitted a sunlight/daylight report¹ which confirms that all habitable rooms will be adequately lit. The Council contends the submission is basic, however, I do not have any evidence to the contrary to support this assertion. The evidence before me, whether basic or not, supports sufficient sunlight and daylight for the proposal. Outlook is, however, a separate matter.
16. The Council confirms that the proposal meets the requirements of the Nationally Described Space Standards (NDSS). Despite this the proposal would be partially subterranean (in that it is below the surrounding ground levels) and the height of the dwelling would not be higher than the existing boundary fence. Windows for bedroom 1 and the kitchen/dining/living would be facing each other with a 2.2m separation distance into a courtyard which is 1.6m below ground level. Similarly the window for bedroom 2 would face a wall only 1.8m away. The private courtyards would be sunk into the ground, hemmed in by boundary treatment, and be highly enclosed.
17. As a result of this I find that the proposal would result in future occupiers having absolutely no outlook from the proposal which I find would fail to provide a good standard of living accommodation for future residents with specific regard to outlook regardless of any proposed landscaping.

¹ CHP Surveyors Ltd 24th August 2020

18. The supporting text to LP Policy SC5 is noted to acknowledge the London Plan (2016) and the Mayor's Housing Supplementary Planning Guidance (2016) (SPG) as material considerations. The objective of LP Policy SC5, London Plan Policy 3.5 and the SPG is shared – to provide good quality private amenity space which is usable and proportionate.
19. The SPG, in relation to private open space (standard 26), does clearly state a space requirement of 5 sq./m of private outdoor space for 1-2 person dwellings and an extra 1 sq./m for each additional occupant. The proposal provides 26 sq./m across the three courtyards. Surplus internal amenity space is acknowledged, however, the use of such space as a contribution to private open space is noted in the London Plan as being an approach in exceptional circumstances. I do not find this is the case for this appeal site.
20. S38(5) of the Planning and Compulsory Purchase Act 2004 does confirm that policy conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In this case this is London Plan and SPG adopted in 2016 after the LP in 2015. Notwithstanding this 2.3.32 of the London Plan does specifically state that provision for outdoor gardens should be set in the context of local standards. In this case LP Policy SC5 emphasises that additional outdoor space is an essential characteristic of suburbia and the borough and sets those local standards. LP Policy SC5 (figure SC5.2) requires, for dwellings with three habitable rooms, 50 sq./m.
21. Despite the above it is clear that aim of LP Policy SC5 is to provide good quality, useable, outdoor private amenity space for new dwellings. Even if I had accepted the proposal as adequate in providing 26 sq./m of outdoor space it would provide outdoor space in three smaller separate courtyards which are, as outlined above, sunk into the round. Regardless, therefore, of whether the required square meterage is theoretically met on paper I do not find that the proposal provides good quality useable private amenity space in line with the broad objectives of the Local Plan or good amenity as required by the London Plan.
22. Overall I find that the proposal would provide insufficient and unusable external amenity space and insufficient outlook for future occupiers. The proposal would be contrary to current London Plan Policy 3.5 which requires housing developments to be of the highest quality externally and Policy 7.6 which requires development to provide high quality outdoor spaces. The proposal would also be contrary to LP Policy CC2 which requires proposals to have a positive impact upon the amenity of future residents and LP Policy SC5 which requires proposals to demonstrate through clear design rationale how benchmark external space standards have been considered.
23. I do not find London Plan Policy 7.1 of direct relevance to this issue given that it relates to lifetime neighbourhoods and is more targeted at larger development with wider space considerations. Similarly, Policy 7.2 I do not find of direct relevance given no issues relating to accessible and inclusive design are raised within the reasons for refusal. Compliance with London Plan Policy 7.4 (local character) is best dealt with in relation to the first issue.

Energy Strategy

24. LP Policy EQ1 requires that all developments meet the carbon emission reduction requirements set out in the London Plan. The overall approach is to

secure carbon reductions where development comes forward and to encourage developments to utilise renewable and low carbon technologies. The Council have referred to a draft Climate Emergency Action Plan, however, I do not have a copy of this before me. Based on the evidence before me I can see no policy justification to require 0% carbon emissions or the other targets stated in the Council's statement.

25. London Plan Policy 5.2 (A) requires that all proposals make the fullest contribution to minimising emissions. Read as a whole, Policy 5.2 (C) of the London Plan has a requirement for a detailed energy assessment for major development proposals. The appeal proposal before me does not fall within the definition of major development – I do not find 5.2 (C) applicable in this case. The submissions before me demonstrate attempts to reduce emissions and the submitted energy reduction feasibility study shows combined savings of 40.67% from Part L 2013 Building Regulations.
26. Should the proposal be required to utilise/consider technology such as photovoltaic solar energy panels or air source heat pumps I find that further details of this nature could, if required, have been secured by condition.
27. The proposal would be consistent with LP Policy EQ1 which seeks to minimise demand for energy and meet carbon emission reduction requirements set out in the London Plan and LP Policy EQ2 which expects development to incorporate established principles for sustainable design and construction as set out in the London Plan. The proposal would be consistent with London Plan Policy 5.2 which requires proposals to make the fullest contribution to minimising emissions.

Planning Balance

28. On 29 January 2021, the Secretary of State confirmed that the Publication London Plan may be published with no further changes. It is not yet operative but great weight can now be given to this version which will soon become part of the development plan. In the case of this appeal I acknowledge that the Council's housing target will be increased as a result of the new London Plan. At the point of determination, however, the Council has notably exceeded its current housing delivery target (confirmed by the 2020 HDT) by 1,304 homes.
29. It is acknowledged that the Framework seeks to deliver the Government's objective of boosting housing supply. Despite this there is still a strong emphasis on good design and delivery of housing should not be to the detriment of good design or living conditions.
30. Even if considered in the context of a planning balance, the proposal would provide a two-bedroom dwelling which would undoubtedly be a positive contribution to housing supply, however, the benefits (social, economic and environmental) from a single dwelling of this nature would be very limited.
31. Furthermore the policy conflict I have identified within this decision letter (in relation to the Local Plan, current London Plan and Publication Local Plan), as well as the impact upon the CA, means that I find that the adverse impacts of granting consent would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Other Matters

32. I note a number of objections to this proposal. The Council have not raised issue with matters such as privacy and I find no reason to conclude differently. I have already dealt with noise and disturbance within this decision. Matters relating to construction, had the proposal been acceptable in other regards, could have been controlled through the conditioning of a Construction Management Plan. Fear of a precedent is not a sufficient reason for refusal as each case must be considered on its own merits.
33. Matters relating to values of properties are not a planning consideration. I note that the proposal is a car free development and I do not find that the pedestrian access is of such a poor standard sufficient enough to warrant refusal. I have dealt with the remaining matters raised within varying objections within this decision letter.

Conclusion

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

Eleni Randle

INSPECTOR