



Appeal Decision

Site visit made on 16 March 2021

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2021

Appeal Ref: APP/L5810/W/20/3258675

Garages adjacent to 72-75 Sontan Court, Churchview Road, Twickenham TW2 5BT

- 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 UK & European Property Developments Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1647/FUL, dated 22 May 2019, was refused by notice dated 3 March 2020.
 - The development proposed is demolition of an existing garage block and the erection of a mews development, consisting of 2x2-bedroom dwellings, together with associated car parking and landscaping improvements.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing garage block and the erection of a mews development, consisting of 2 x 2-bedroom dwellings, together with associated car parking and landscaping improvements at the garages adjacent to 72-75 Sontan Court, Churchview Road, Twickenham TW2 5BT in accordance with the terms of the application, Ref 19/1647/FUL, dated 22 May 2019, and the plans submitted with it, subject to the conditions at the end of this decision.

Main Issues

2. The main issues are the effect of the proposed development on:
 - retained trees, in particular trees T1, T2, T3 and T4;
 - the living conditions of surrounding occupiers, with particular regard to outlook and privacy at 16-20 Campbell Close;
 - the character and appearance of the area of Metropolitan Open Land (MOL) and Public Open Space (POS), its setting, and views into and out of it; and,
 - protected species and local biodiversity connected with the area of Other Site of Nature Importance (OSNI).
-

Reasons

Retained trees, in particular T1, T2, T3 and T4

3. Trees T1, T2, T3 and T4 are classified by the appellant as being in category C1¹ i.e. they are unremarkable and of very limited merit. Notwithstanding their lack of landscape and arboricultural qualities, they provide some screening between the flats in Sontan Court and the houses at 16-20 Campbell Close. Save for a small incursion at tree T3, their root protection areas and all of their canopies would be shielded by protective fencing during construction, and the parking spaces and bin store beside them would be formed on a raised cellular surface to avoid the need to dig in their root protection areas. On the basis that the erection and striking of the protective fencing, and the method of laying and the materials for the new surfacing and bin store foundations beside the trees can be conditioned, I see no threat from this development to the health or condition of the retained trees T1, T2, T3 and T4.
4. Similarly, the canopies and root protection areas of other retained trees would be protected by temporary fencing. I could not identify the Ash tree T10. Nonetheless, the small bicycle store under the Oak tree T8 would be built with hand-dug timber posts or similar, without the need to alter the ground level. Given the limited area of the ground surface where the bicycle store would stand, and the amount of unsurfaced area in the remainder of the root protection area of the tree, its health would not be threatened by the development.
5. The development would not conflict with Local Plan 2018 policies LP1 and LP16 which protect natural features and resist the loss of trees unless the tree has little or no amenity value, and which require trees to be adequately protected during development, nor with LP policy LP39 which seeks to retain features important to wildlife.

The living conditions of surrounding occupiers

6. I have concluded above that the development would not harm the health of the trees that form a screen on the site boundary between Sontan Court and Campbell Close. There would therefore be no change in any overlooking that may presently exist between Sontan Court and Campbell Close.
7. I acknowledge that the four car parking spaces proposed beside the back fence of 16 and 17 Campbell Close may introduce some noise from manoeuvring and door closing. However, in the context of the parking already around Sontan Court, as well as the extensions into the gardens of these houses and the planting on the common boundary, the proposed parking beside the boundary would not exacerbate any existing noise or disturbance by any significant degree towards 16 and 17 Campbell Close.
8. The openings in the proposed houses would be at such an oblique angle to 16-20 Campbell Close that there would be no material risk of harmful overlooking into those houses or their gardens. The outlook from 16-20 Campbell Close would change, particularly the outlook from 19 and 20. However, it would be the short or end elevation of the proposed houses which would stand opposite 19 and 20 Campbell Close, and at a distance of around 19m, wall to wall. Given the height of the proposed houses, their orientation in

¹ BS5837:2012 Trees in relation to design, demolition and construction - Recommendations

relation to Campbell Close, and the location of the site in the built-up area where such a spatial relationship is not uncommon, the change in outlook would not be a harmful one. Moreover, a landscape buffer is proposed between the proposed houses and 19 and 20 Campbell Close which could soften any impact in the outlook of Nos 19 and 20. This could be secured by a planning condition.

9. I conclude that there would be no harm to the living conditions of surrounding occupiers with particular regard to outlook and privacy at 16-20 Campbell Close, and no conflict with LP policies LP8 and LP39 which protect the living conditions of neighbouring properties.

MOL & POS: character, appearance, setting, and views into and out

10. The Inspector in the last appeal considered that though the three mews houses in that case would be visible in glimpsed views of the site through the trees from the area of MOL & POS to the north-west of the site, they would be seen within the context and background of surrounding buildings such that their presence would not materially affect the area's character and appearance. Given that this proposal is for two mews houses, I cannot see how their visual effect on the area of MOL & POS, including its setting, and views out of it, could not be anything other than less.
11. Similarly, though the previous appeal decision identified no harm to views across the appeal site, towards the adjoining land, the removal of the third house in this proposal would increase the opportunity for views towards the MOL & POS from Churchview Road.
12. I conclude that there would be no harm from the proposed development to the character and appearance of the area of MOL & POS, its setting, and views into and out of it. There would be no conflict with LP policies LP12, LP13 and LP39 which protect Green Infrastructure and MOL from visual impacts on its character and openness, and which require infill development to respect the local context.

OSNI: protected species and local biodiversity

13. It is recognised that the hedge G6 and the boundary trees on the north-east boundary are important to reptiles, birds and are likely to be used as dark corridors by light-tolerant species of bats. These features, which would be retained and protected during construction, also connect the river Crane to the surrounding area. Though small areas of ruderal species would be lost, the present areas of grassland would be replaced, and native species planted.
14. The Preliminary Ecological Appraisal recommends lighting controls to retain a relatively dark corridor for foraging and commuting bats using these features, as well as measures to protect wildlife and enhance opportunities for feeding, shelter, and movement. While the most recent Ecological Assessment does not recommend an isolux plan to ensure the trees and hedgerow remain suitably dark, to be effective, the lighting measures need enforceable control. These measures and enhancements could be secured by planning conditions.
15. The Council is concerned that the hedge, which is proposed to be retained, could be reduced, or removed, which would lessen its wildlife value. However, the stems of the hedge appeared to me to be growing on the opposite side of

the chain-link fence enclosing the land, and it did not extend significantly beyond the fence into the site.

16. Nonetheless, the hedge marks a shift between domesticity and the more natural character of the land to the north-west. Enclosing the hedge with a solid fence on the side of the development would tend to sterilise one side of it and reduce its amenity and ecological value. However, a planning condition to ensure any replacement or new fence did not damage the hedge and to allow it to continue to grow would retain its ecological value.
17. Subject to these conditions, I can identify no harm to protected species and local biodiversity connected with the area of OSNI, and no conflict with LP policies LP12 and LP15 which protect the integrity of features that are part of the wider green infrastructure network and which require development to avoid, mitigate or compensate for harm to species or habitats.

Other Matters

18. The appellant submitted a unilateral undertaking during the course of the appeal. It would secure £63,515 as a contribution towards affordable housing in accordance with the sliding scale in LP policy LP36 which seeks contributions from all housing development. I consider that the affordable housing contribution is necessary to make the development acceptable in planning terms, directly related to it, and fairly and reasonably related to it in scale and kind. As such it would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. I therefore take the obligation into account.
19. The Inspector in the last appeal concluded that additional pressure on parking from the development could lead to inconvenience to other road users and could affect highway safety. He took into account an obligation to prevent future occupiers from being eligible to receive parking permits, should the area be designated as a Controlled Parking Zone. I have no reason to disagree with his findings in this regard and conclude that the obligation passes the same tests as above.

Conditions

20. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance (PPG), and adjusted their wording and timing to reduce the burden of unnecessary submissions and processing of further applications where sufficient information has already been provided or is covered by other conditions.
21. In addition to the statutory time condition (1), a condition listing the approved drawings (2) is needed to ensure clarity on what has been permitted. To protect the amenity of surrounding occupiers, to safeguard highway safety, and to protect wildlife and the amenity and ecological value of trees and hedges, pre-start conditions for tree protection (3), store construction (4), and a construction method statement (5) are necessary. The quality and arrangement of materials is critical to the appearance of the building. I have therefore applied a condition for their details of materials (6). Because of their place in the construction programme, these should be resolved before work on the superstructure begins.

22. To prevent harm to highway safety, a condition requiring the parking spaces (7) to be provided prior to occupation is required. To achieve the sustainable design objectives of the development plan, conditions to control the water consumption of the occupiers (8) and the details of drainage (9) are necessary. To safeguard the appearance of the area and the ecological value of the existing boundary planting, in particular the hedge on the north-west boundary, a landscaping condition (10) is necessary. To protect wildlife and to enhance biodiversity, conditions for the details of external lighting (11) and the implementation of ecological enhancements (12) are necessary. These conditions do not need to bite before the occupation of the development.
23. Performance conditions for the accessibility standards of the houses (13) and their environmental performance (14) are necessary to meet the social and environmental objectives of the development plan and the Framework. Finally, and given the size of the proposed houses and the proximity and scale of the surrounding houses and flats, the potential to enlarge the houses further without adversely affecting the living conditions of surrounding occupiers, the ecological balance of the surrounding area, wildlife, and the appearance of the area is limited. While the PPG advises that conditions limiting permitted development rights may not pass the tests of reasonableness or necessity, I agree that a condition (15) to withdraw permitted development rights under Class A (restricting only enlargements), Class B, Class D and Class E is necessary. A restrictive condition would not prevent development but bring it under planning control.
24. Bin store and bicycle store appearance and volume details have been provided. Save for details of their foundations and drainage within the root protection areas of trees there is no need for further detail. Given the present conditions of the trees and hedge, there is no necessity for further arboricultural reporting or pruning control. There is no necessity to provide boundary fencing given the enclosures around the site, though any new fencing will require details to be approved to protect the health of trees and hedges. Given the ecological surveys and conclusions accompanying the appeal, I see no need to require further ecological analysis while the latest recommendations for protection and enhancement are clear and covered by other conditions.

Conclusion

25. I have found no conflict from the proposed development with the development plan. It would not harm retained trees, or the living conditions of surrounding occupiers with particular regard to outlook and privacy at 16-20 Campbell Close. It would cause no harm to the character and appearance of the area of MOL & POS, its setting, and views into and out of it. Nor would it threaten protected species and local biodiversity connected with the OSNI. It would provide two additional homes as well as a contribution to affordable housing, and it would not exacerbate parking pressure or reduce road safety.
26. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR

Schedule of conditions

1) Start:

The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) Plans:

The development hereby permitted shall be carried out in accordance with the following approved plans:

(L)001 rev C	Location Plan
(PL)010 rev A	Existing: Site Plan
(PL)100	Existing Garage Plans and Elevations
(PL)600	Proposed: Ground & First Floor Plans
(PL)601	Proposed: Second Floor & Roof Plans
(PL)700 rev A	Proposed: Front & Rear Elevations
(PL)701	Proposed: End Elevation
(PL)702	Proposed: Section
(PL)900 rev C	Proposed: Landscape Plan
(PL)910 rev A	Existing: Site Plan with Parking
(PL)911 rev B	Diagram Showing Proximity to Campbell Close
(PL)912 rev A	Landscape Plan - Trees on West Boundary Hatched Retained
(PL)913 rev A	Diagram Showing Head Height and Bedroom Area
PR121193-03C	Tree Protection Plan

3) Tree protection:

All the trees and hedges shown on the tree protection plan PR121193-03C as being protected by tree protection barriers shall be protected by strong fencing, the location and type as specified on the tree protection plan and as in the Arboricultural Impact Statement and Method Statement by ACD Environmental dated 30/05/2017 revision A: 14/02/2019.

The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site or to build cycle and bin stores and parking spaces as approved and in accordance with other conditions.

Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, save to build cycle and bin stores and parking spaces as approved and in accordance with other conditions, without the prior written consent of the local planning authority.

4) Bin and cycle stores:

No construction or any excavation for posts or foundations of the bin and bicycle stores shall begin until full details of the foundations, ground surfaces and any drainage of the stores have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) Construction management statement:

No development shall take place, including any works of demolition, until a construction management statement (to include any demolition works) has been submitted to and approved in writing by the local planning authority. The statement shall provide details of:

- i) measures to ensure that excavations are fitted with mammal ramps to allow animals that enter to safely escape; and that open pipework greater than 120mm in diameter is capped overnight to prevent animals entering or becoming trapped;
- ii) the size, number, routing, and manoeuvring tracking of construction vehicles to and from the site, and holding areas for these on/off site;
- iii) the site layout plan showing manoeuvring tracks for vehicles accessing the site to allow these to turn and exit in forward gear;
- iv) the location of parking for site operatives and visitor vehicles (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- v) where plant and materials will be stored, loaded, and unloaded;
- vi) where security hoardings will be installed, and their maintenance;
- vii) wheel-washing
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works (including excavation, location and emptying of skips);
- ix) measures that will be applied to control the emission of noise, vibration and dust including working hours. This should follow Best Practice detailed within BS5288:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites;
- x) any highway licenses and traffic orders that may be required (such as for licences for any structures / materials on the highway or pavement; or suspensions to allow the routing of construction vehicles to the site);

The approved construction management statement shall be adhered to throughout the demolition and construction period for the development.

6) Materials:

Before the commencement of the superstructure of the development, details of the materials to be used in the construction of the external surfaces of the development shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

7) Car parking:

The dwellings shall not be occupied until the car parking spaces shown on drawing (PL)900 rev C Proposed: Landscape Plan have been laid out and provided in accordance with the approved drawings. The spaces shall thereafter be kept available at all times for the parking of vehicles.

8) Water Consumption:

The dwellings shall not be occupied until the optional requirement for water efficiency of 110 litres per person per day as set out in regulations 36 and 37 of the Building Regulations 2010 as amended, shall have been complied with.

9) Drainage:

The dwellings shall not be occupied until works for the disposal of sewage and surface water shall have been provided on the site to serve the development, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

10) Landscaping:

The dwellings shall not be occupied until the details of both hard and soft landscape works as indicated on the drawing (PL)900 rev C Proposed: Landscape Plan have been submitted to and approved in writing by the local planning authority. These details shall include

- i) The height, location and method of support and construction of any boundary treatments, including any new or replacement fencing on the north-west site boundary of the site;
- ii) The levels of the 4no. vehicle parking spaces beside the boundary of the houses in Campbell Close and details and levels of any ramping required to them and making good/cutting in works to Churchview Road;
- iii) the location, type, and method of drainage of all hard surfacing;
- iv) planting plans, including, with reference to the proposed ecological enhancements, planting to improve the foraging potential of the site for bats and night-flowering blossoms, highly fragrant species and pale coloured species that will enhance the site for flying insects;
- v) written specifications (including cultivation and other operations associated with plant and grass establishment);
- vi) schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

The hard-landscaping works shall be carried out in accordance with the approved details before any part of the development is occupied. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11) External lighting:

The dwellings shall not be occupied until details of all external lighting - including locations, technical specifications, horizontal lux plan for each 'floor' shall be submitted to and agreed in writing by the local planning authority (there should be a lux level of 0.0 at the boundary line and perimeter of site) and thereafter constructed in accordance with these details. The details should accord with CIBSE guide LG6 and ILP/BCT Bat guidance note 8; there should be no upward lighting or lighting onto the open sky, buildings, trees and vegetation, or potential roost features.

12) Ecological enhancements:

The dwellings shall not be occupied until the ecological enhancements identified in paragraph 8.1 of the Ecological Impact Assessment (EcIA) Ref PRI21193 by ACD Environmental dated 01/09/2020 have been implemented.

13) Accessible & adaptable dwellings:

The development hereby approved shall be constructed in accordance with optional requirement M4(2) of the Building Regulations 2010 as amended.

14) Energy reduction:

The dwellings hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Building Regulations requirements 2013.

15) Permitted development:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements as provided for within Schedule 2, Part 1, Class A, no additions to the roof as provided for in Class B, no porches as provided for in Class D, and no buildings etc. as provided for in Class E of that Order shall be constructed.

END OF SCHEDULE OF CONDITIONS