

Appeal Decision

Site Visit made on 24 May 2021

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/L5810/W/20/3265851

8 Isabel Hill Close, Hampton TW12 2FE

- 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 Michael Wilsdon against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 20/2628/FUL, dated 22 September 2020, was refused by notice dated 19 November 2020.
 - The development proposed is two new houses 1x2 Bed, 1x3 Bed.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development would preserve or enhance the character or appearance of the Hampton Village Conservation Area;
 - its effect on the living conditions of the existing occupiers of No 8 Isabel Hill Close, with regard to outlook and daylight;
 - its effect on the living conditions of future occupiers, with regard to internal floor area, layout, privacy and natural ventilation;
 - whether it would make provision for affordable housing;
 - whether it would make provision for car parking; and
 - whether it would make adequate provision for storage of refuse and recycling.

Reasons

Character and appearance of the Conservation Area

3. The appeal site is a detached two-storey house (No 8) and its garden, including a double garage. It is located on higher ground to one side of a modern terrace of houses at Nos 1-7 Isabel Hill Close and a car parking courtyard. It is within a mainly residential area on the north side of the A308 Upper Sunbury Road, opposite the Hampton Waterworks. The Council has identified No 8 as a 'Building of Townscape Merit' (BTM). The garden contains some trees, and a row of trees between the house and the road are protected by a group Tree

Preservation Order¹ (TPO). The TPO trees are within land identified by the Council as 'Other Open Land of Townscape Importance' (OOLTI). The appeal site is within the Hampton Village Conservation Area (CA).

4. Part of the garden on one side of No 8, including the garage, would be redeveloped to provide 2 two-storey detached houses. House B would be sited nearest to No 8 at the same level. House A would be next to House B with the lower floor at the parking courtyard level and the split-level upper floor at the same level as No 8 and House B.
5. No 8 is a Victorian building of distinctive design, formerly in non-residential use as part of the waterworks and surrounding filter beds. Despite later residential development to its rear, and the screening effect of trees in some public views, it remains freestanding in its landscaped garden setting, with four elevations of equal quality meant to be observed from all sides. Its elevated position above the road and robust late 19th century utilitarian aesthetic and materials maintain a legible association to the larger scale Victorian waterworks buildings on the south side of the road set within a patchwork of reservoirs. The landscaped OOLTI, including the TPO trees, provide a verdant setting to the front of the house and link the appeal site as part of a larger vista with land next to the A308 road to the west at Rosehill, including its distinctive main building (Richmond Public Library) and gate house which are observed in a spacious, landscaped open setting as part of the OOLTI.
6. At my site visit I saw that this sequence and pattern of buildings along both sides of the A308 road, set within green landscaped open spaces and trees is locally noteworthy and makes a significant positive contribution to the distinctiveness of the local environment. It can as a result be readily distinguished from the more commonplace nature of other development nearby and it is therefore important to the significance of the CA.
7. House B would have a similar eaves and ridge height as No 8 and House A would have a gabled roof, as does No 8. However, No 8 has a narrow, long rectangular floorplan and built form, with a principal elevation facing the road containing narrow arched windows. While House B would face the road, its floorplan and form would be closer to square, with a fully hipped roof and wide rectangular windows. Despite a more rectangular floorplan and form, House A would taper at one end to be irregular in shape, with a blank side elevation facing the road and a principal elevation facing sideways containing similar windows to House B. The gap between House B and the side elevation of No 8 would be narrow and House B would be set substantially forward of the front elevation of No 8. House A would be lower in height, scale and massing than No 8 and House B, but the upper part would be close to House B and even closer to the road and would extend slightly in depth behind House B.
8. The development would therefore be incongruous with the essence of the design of the BTM and accordingly would not 'compliment the existing architecture' in these regards, as the appellant suggests. It would also erode a significant part and proportion of the garden, dominating the appearance of the BTM on one side and partly to the front and severely compromising its open landscaped setting. Furthermore, it would prevent public observation and appreciation of the BTM in views from both sides of the A308 road to the east,

¹ Council's reference T0968.

including in the vicinity of the junction with Lower Sunbury Road to the south. In addition, the substantially more built-up appearance of the appeal site, including development of appreciable height, scale and massing sited relatively close together with limited gaps between, including with No 8 and towards the OOLTI, would unduly detract from the appreciation of the OOLTI against this part of its immediate setting.

9. The National Planning Policy Framework (Framework) indicates that in weighing the effect of development on the significance of a non-designated heritage asset a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset². In my judgement, the development would therefore have a substantial negative direct affect on the significance of the BTM and a substantial negative indirect affect on the significance of the OOLTI.
10. The Council is concerned about the impact of the development on three trees (T1, T2 and T3) and the TPO trees. The appellant's Tree Survey³ states that tree T3 is dead and there is no substantive evidence to the contrary before me. While the arboricultural quality of tree T2 is relatively low Category C, it nonetheless has a useful life expectancy of over 20 years. Moreover, tree T1 is relatively high quality Category B with a useful life expectancy of over 40 years. The Tree Survey did not assess the TPO trees or consider the potential impact of the development on these trees. I saw that all of these trees, especially the height, extent of canopy and linear arrangement of the TPO trees forward of No 8 on elevated land, are visible in public views along the A308 and from Hill House Drive to the rear. These trees therefore make an appreciable positive contribution to the verdant setting of the BTM, as part of the OOLTI and to the high calibre of the CA. Consequently, all of these trees have significant amenity value.
11. Previous excavations to construct the garage mean that House A would cause no harm to any trees below ground. However, above ground the proposed removal of tree T2 and substantial crown reduction to tree T1 would be necessary due to the proximity of both houses. This would result in an unacceptable negative affect on the amenity value of these trees in circumstances of limited space to plant new trees as mitigation or compensation. Furthermore, in the absence of any objective evidence, the appellant has not demonstrated that foundations for House B and the proximity of both houses above ground to the TPO trees would not have a negative affect on the amenity value of any TPO tree due to impact on roots or canopies. The TPO trees are protected as a group and harm to even one of these trees would also likely seriously erode the integrity of their collective amenity value.
12. Considering the above, the appeal proposal would unduly alter the existing sequence and pattern of buildings, green landscaped open spaces and rows, groups or individual trees along this side of the A308 road. It would therefore have a substantial negative affect on the intrinsic quality of the CA for these reasons and not 'blend in', as the appellant suggests, and accordingly would not preserve or enhance the character or appearance of the CA⁴. The CA is a

² Framework paragraph 197.

³ 'Tree Survey, Arboricultural Impact Assessment and Method Statement' prepared by Chalice Consulting Ltd, August 2020.

⁴ The Planning (Listed Buildings and Conservation Areas) Act 1990, section 72(1).

designated heritage asset and great weight should be given to its conservation⁵. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification⁶. The harm to and loss of the significance of the CA in this appeal would be limited to a small part of the CA and as a result would cause less than substantial harm to the CA overall. This harm should be weighed against the public benefits of the proposal⁷.

13. The appellant considers that the development would 'make a valuable contribution to meeting the Council's housing land supply'. The Council states that it has a 5-year housing land supply and in the absence of any objective or substantive evidence to the contrary, I have no reason to disagree. Nonetheless, the delivery of new family sized housing would be aligned with the government's objective to 'significantly boost' the supply of homes⁸. Considering the relatively limited scale of the proposed development, the appeal proposal for two dwellings would make a modest contribution to housing delivery and would therefore be a moderate public benefit.
14. Accordingly, I find that the combined siting, massing, scale, bulk and proposed design of the appeal proposal would be an unsympathetic, dominant and visually obtrusive form of development. It would cause significant harm to the character and appearance of the CA, including with regard to the BTM, the OOLTI and trees, including the TPO trees, and would not therefore preserve or enhance the CA. There is no clear and convincing justification for the development and this harm would not be outweighed by the public benefits of the appeal proposal.
15. It would not accord with Policies LP1, LP3, LP4, LP5 and LP39 of the Richmond Local Plan, July 2018 (the LP). These policies seek to maintain and enhance the high quality character and heritage of the Borough, including designated and non-designated heritage assets, and require infill development to be compatible with local character, including townscape, development patterns, views, scale, height, massing, landscaping, proportions, form, layout, siting, space between buildings and its relationship to the public realm, heritage assets and natural features. Nor would it accord with the Council's 'Small and Medium Housing Sites' Supplementary Planning Document (SPD) February 2006, the 'Buildings of Townscape Merit' SPD May 2015, the 'Hampton Village Planning Guidance' SPD 2017, or the 'Hampton Village Study Conservation Area no.12' January 1991, in these regards.
16. It would also conflict with Framework paragraphs 124, 127(a), (b), (c) and (d) 170, 190 and 192 which include that development should enhance the natural and local environment by protecting valued landscapes and recognise the intrinsic character and beauty of trees, avoid or minimise conflict with and sustain and enhance the conservation and significance of heritage assets, create high quality buildings and places, add to the overall quality of the area, be visually attractive as a result of good architecture and layout, be sympathetic to local character and history, including the surrounding built environment and landscape setting, maintain a strong sense of place, and make a positive contribution to local character and distinctiveness.

⁵ Framework paragraph 193

⁶ Framework paragraph 194

⁷ Framework paragraph 196.

⁸ Framework paragraphs 59 and 61.

Living conditions of existing occupiers

17. No 8 includes a ground floor living room and a first floor bedroom above, each with a window in the side elevation and, in the front elevation, three living room windows and two bedroom windows. The alignment of the rear elevation of House B would not overlap with any part of the side elevation windows and it would have a hipped roof slope angled away from No 8. However, according to the appellant's plans, both side windows would be bricked up. This would therefore prevent any views from, and light into, these rooms by this means and would unduly detract from the enjoyment of these habitable rooms.
18. Furthermore, House B would be in close proximity to the side elevation of No 8 and would project significantly forward of its front elevation. A substantial part of the two storey height and vertical scale and massing of House B would therefore be unduly dominant, overbearing and overly oppressive in relation to the position and facing of the living room and bedroom front windows in No 8, particularly those closest to House B. This would as a result unduly enclose and restrict views from, and light into, these rooms in this direction. Due to the resulting juxtaposition and orientation of the two buildings, the effect on light would be most acute during the early morning, though still appreciable during other times of the day.
19. These rooms would achieve some views and light in a perpendicular axis and angled to the other side. However, the close proximity and depth of foliage in the lines of trees in front of No 8 significantly diminishes the extent of such views and light and would not therefore provide satisfactory recompense.
20. Accordingly, I find that the combined siting, scale and projection of House B would be visually intrusive and an unneighbourly form of development. It would cause significant harm to the living conditions of existing occupiers of No 8 with regard to outlook and daylight. It would not accord with LP Policies LP1, LP8 and LP39. These policies include that development should respect the local environment and protect the amenity and living conditions of occupants of existing properties, ensure good standards of daylight and sunlight and not be visually intrusive or have an overbearing impact as a result of height, massing or siting, including through creating a sense of enclosure. Nor would it accord with the Council's 'Small and Medium Housing Sites' SPD February 2006, in these regards.
21. It would also conflict with Framework paragraphs 117, 122(e), 124 and 127(a) and (f) which seek to create high quality places that function well and sustain an appropriate amount of development, have a high standard of amenity for existing users and provide healthy, acceptable living conditions.

Living conditions of future occupiers

22. The Council has adopted the Nationally Described Space Standard (NDSS) through LP Policy 35(B). This policy requires all new housing development to comply with the NDSS. In the appellant's plans, House B shows two bedrooms but House A is not annotated with a third bedroom. The Council has assumed that an unmarked ground floor room next to the kitchen/living room would be a third bedroom and calculates⁹ its floor area to be 12.1m², so under the NDSS a

⁹ All areas are Gross Internal Area.

- double bedroom. I note that the appellant has not disputed this. Although the appellant has referred to 7m² as a minimum NDSS for the floor area of a single bedroom, on the evidence before me, all of the proposed bedrooms would exceed 7.5m² and comply with the NDSS in this regard.
23. However, the Council considers that, by virtue of two double bedrooms and one single bedroom, House A would be a 3 bedroom, 5 person house with a floor area of 88m². While the appellant suggests that House A is a 3 bedroom, 4 person house, this is not borne out by the appellant's plans and room sizes. On this basis, the NDSS requires the floor area of this two-storey house to be at least 93m². House A would not therefore comply with the NDSS. Furthermore, in House B the Council considers that one double bedroom would be 2.4m wide. I note that the appellant has not disputed this. On this basis, the NDSS requires this bedroom to be at least 2.55m wide. House B would not therefore comply with the NDSS.
24. In House A, ground floor living room and bedroom windows would abut the edge of a row of parking spaces and a courtyard used for vehicle circulation. A sash window design, which doesn't arc outwards or over-hang, would allow these windows to be opened without obstruction due to a car parked in the closest parking space. However, engine fumes and noise in such close proximity would not be conducive to the use of these windows and would therefore unduly restrict natural ventilation. Moreover, the close proximity of people parking cars and using the courtyard, and who were not occupiers of House A, would result in direct and extensive views into these rooms. This would therefore cause unacceptable overlooking and significantly detract from normal domestic use of these rooms. Consequently, such conditions would fall below usual or reasonable expectations for residential accommodation.
25. While Nos 1-7 also face towards some parking spaces and a courtyard, these do not abut any of these houses, which are also set back behind a pathway to provide some physical separation. This does not therefore give rise to the same concerns that I refer to above.
26. Accordingly, I find that the accommodation provided in House A and House B would be sub-standard, being constrained in size and shape, and in House A would also have an unsatisfactory relationship to the car parking spaces and courtyard. The development would cause significant harm to the living conditions of future occupiers with regard to internal floor area, layout, privacy and natural ventilation. It would not accord with LP Policies LP1, LP8 and LP35. These policies include that development should respect the local environment having regard to layout and siting, protect the amenity and living conditions of occupants of new properties, ensure no harm to the reasonable enjoyment of buildings due to parking, noise or air pollution and comply with the NDSS. Nor would it accord with the Council's 'Residential Development Standards' SPD, March 2010, in these regards.
27. It would also conflict with Framework paragraphs 117, 122(e), 124 and 127(a) and (f) which seek to create high quality places that function well and sustain an appropriate amount of development, have a high standard of amenity for future users and provide healthy, acceptable living conditions.

Affordable housing

28. The LP indicates that the Borough has one of the highest average house prices in the UK and a continuing need for affordable housing given a net deficit approaching 1,000 affordable homes per annum in the period to 2033. In this context, I agree with the Council that the affordable housing need is therefore 'substantial'¹⁰. It is common ground between the main parties that a financial contribution is required towards the provision of affordable housing off-site elsewhere. On the evidence before me, I agree.
29. The main parties are in dispute about the amount of financial contribution required in this appeal. Notwithstanding this, there is however no suitable executed planning obligation¹¹ before me to secure any financial contribution for affordable housing, as is otherwise required by the Council¹². Moreover, the appellant has not suggested that the development could not proceed with a contribution, subject to agreement on the amount.
30. Accordingly, I find that the development would not make provision for affordable housing. It would therefore be at odds with the Council's adopted housing and planning strategy in circumstances of existing and future acute unmet affordable housing need. It would not accord with LP Policy LP36 which in this case seeks to ensure that a requisite financial contribution is made to the Council's Affordable Housing Fund. Nor would it accord with the Council's Affordable Housing SPD March 2014, in these regards.
31. It would also conflict with Framework paragraphs 59, 61 and 62 which include that development should address the needs of groups with specific housing requirements, including those who require affordable housing, and be met off-site by an appropriate financial contribution.

Car parking

32. The appellant states that No 8 has '4 existing parking spots (two in the garage & two adjacent spaces)'. As defined by the red line in the appellant's plans, and as I saw at my site visit, the appeal site contains a double garage. It currently serves No 8 and could be used to park 2 cars. The garage would be redeveloped and these spaces lost.
33. While there is no dispute between the main parties that car parking is required to serve the development and No 8 (and on the evidence before me I have no reason to differ in this regard), there is disagreement about the number of off-street car parking spaces required, including whether all of those that are relied on by the appellant would be useable. The Council considers that up to 3 spaces would be needed for the two new dwellings and 2 spaces for No 8. Whereas, the appellant proposes 'no additional parking'¹³, including on the appeal site, relying instead on there being enough spaces elsewhere in Isabel Hill Close.
34. However, in this appeal the appellant has not substantiated that any of these other spaces are within the appellant's ownership or control or would be.

¹⁰ LP Paragraph 9.3.1.

¹¹ Town and Country Planning Act 1990 - section 106.

¹² LP paragraph 9.3.10.

¹³ Highways Technical Note, July 2020 (HTN) prepared by Paul Mew Associates - paragraph 1.5.

Accordingly, it has not been demonstrated that these spaces would be available as parking to serve the two new houses and No 8, or that the balance of parking would be satisfactory to serve Nos 1-7. Consequently, there is no certainty, or any appropriate mechanism before me, to ensure that any of these car parking spaces would be 'sufficient to provide for both the existing local dwellings, in addition to the two proposed dwellings' or therefore that this 'internal parking capacity will suffice', as the appellant otherwise suggests¹⁴.

35. I note that the appeal site has a relatively low PTAL¹⁵ score of 2 and on that basis, it is not a location supported by the Council for car free housing¹⁶. Moreover, I also note that the applicability of the appellant's 2011 Census car ownership data in this appeal is disputed by the Council and it is also concerned about the effects of on-street overspill parking elsewhere in the absence of parking surveys by the appellant, given that the surrounding area is not a controlled parking zone.
36. While the appellant refers to a nearby train station and bus stops and to some destinations served by these modes of travel, there is no evidence before me about the times or frequency of services. Moreover, the appellant has not justified that these alternative modes of travel would mitigate or compensate for providing no parking on the appeal site, or for the parking provision that is proposed next to the appeal site were it able to deliver it.
37. Accordingly, I find that the development would not make provision for car parking. It would not accord with LP Policy LP45 which seeks to ensure the accommodation of vehicles in order to provide for the needs of development and the provision of car parking in accordance with the Council's standards. Nor would it accord with the Council's Transport SPD June 2020, in these regards.
38. It would also conflict with Framework paragraphs 102(e), 124 and 127(a) which indicate that parking considerations should be integral to the design of schemes and contribute to making high quality places that function well.

Refuse and recycling

39. In House B the collection of refuse and recycling would require the use of an external flight of steps. This would not be ideal, but a practical reality of the elevated nature of this part of the appeal site and not dissimilar to the circumstances that apply to No 8. The bin store for House A would be at a lower level. However, access to it would be seriously impeded by a car parked in a space directly in front of it. This would therefore result in unacceptable conflict with the use of the bin store, including for the movement and collection of refuse and recycling. Even if this parking space was assigned to the future occupiers of this house, a parked car would need to be moved or possibly parked inconsiderately into the courtyard in order to access the bin store. It would therefore nonetheless be inconvenient and not conducive to its use.
40. Accordingly, I find that the development would not incorporate practical, functional or accessible arrangements for a bin store for House A. It would not make adequate provision for storage of refuse and recycling. It would not

¹⁴ HTN paragraphs 1.7 and 2.11 respectively.

¹⁵ Public Transport Accessibility Level.

¹⁶ LP Policy LP45(3).

accord with LP Policy LP24 which seeks to ensure ease of collection and easy access by residents. Nor would it accord with the Council's Refuse and Recycling Storage SPD 2015, in these regards.

41. It would also conflict with the Framework paragraphs 124 and 127 which stress the importance of high quality places that function well, sustain an appropriate amount of development and have a high standard of amenity for future users.

Other Matters

42. The appeal site is in active beneficial use so it is not 'under-utilised'¹⁷ and land in built-up areas such as residential gardens is by definition¹⁸ not previously developed 'brownfield' land. Furthermore, for the reasons explained in the main issues above, the appeal proposal would not safeguard or improve the environment or ensure safe and healthy living conditions, nor would it be well-designed or maintain the area's prevailing character. Accordingly, the development would not be an 'effective'¹⁹ or 'efficient'²⁰ use of land or make 'best use of the site', as the appellant otherwise suggests.
43. The external materials are proposed to match No 8. The development would incorporate renewable and low carbon energy and heat technologies and provide cycle stores. Were I minded to allow the appeal planning conditions could secure the approval of suitable details in these regards and for their implementation thereafter. The development would have no adverse affect on the living conditions of the occupiers of nearby dwellings and the proposed garden sizes would be adequate. The absence of harm in these respects is a neutral factor in my decision.
44. The development would have a split-level arrangement which the appellant intends to reflect the difference in height of development and land levels between No 8 and Nos 1-7. However, for the reasons explained in the first main issue above, there is no compelling reason or need to seek to 'integrate' these houses including to replicate elements of the design and appearance of the houses at Nos 1-7, as the appellant suggests. In any event, the proposed transition in height, scale and massing of built-form would not alleviate or outweigh the harm that I have identified in the first main issue above and the absence of greater public visibility in these regards does not mean the absence of intrinsic material planning harm.
45. The Council considers that some trees on the appeal site are important for the movement of bats commuting to feed over the nearby reservoirs. I accept that this is at least a possibility. However, the Council has provided no substantive evidence in this regard and the appellant has not addressed this matter at all. On the very limited evidence before me, I am therefore unable to reach any sound conclusions either way with regard to the effect of the development on ecology, with particular regard to bats.
46. Some interested parties also objected due to a restrictive covenant that is alleged would prohibit the proposed development. Irrespective of the outcome of this appeal, restrictive covenants are a private matter between the

¹⁷ Framework paragraph 118(d).

¹⁸ Framework glossary.

¹⁹ Framework paragraph 117.

²⁰ Framework paragraph 122.

respective parties and I have, in any event, determined the appeal on its planning merits.

Planning Balance and Conclusion

47. Section 38(6)²¹ states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
48. As explained in the main issues above, the appeal proposal would cause significant harm to the character and appearance of the CA, to the living conditions of existing and future occupiers and would not make provision for affordable housing. I attach substantial weight to each of these considerations. It would not make provision for car parking or for the storage of refuse and recycling. I give moderate weight to these considerations. The proposed development would not therefore accord with the development plan overall. The appeal proposal would make a modest contribution to housing delivery, including for families. I attach appreciable weight to this benefit. There are no material considerations to indicate that my decision should be taken otherwise in accordance with the development plan.
49. For the reasons given above, I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR

²¹ Planning and Compulsory Purchase Act 2004, as amended