
Appeal Decision

Site visit made on 31 August 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th September 2021

Appeal Ref: APP/L5810/W/21/3268468

26a Hounslow Road, Twickenham TW2 7EX

- 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 Sol Khan against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 20/2016/FUL, dated 21 February 2020, was refused by notice dated 18 December 2020.
 - The development proposed is the demolition of the existing property and the erection of 6 terraced houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - Whether there would be an unacceptable loss of employment land
 - Whether the proposal should contribute to affordable housing
 - The effects of the proposal on the character of the area
 - The effects on biodiversity
 - The effects in relation to resource sustainability.

Reasons

Loss of Employment Land

3. The appeal relates to this irregularly shaped site which is situated to the rear of residential properties. At the time of my site visit it accommodated a part single and part 2 storey building and the larger open part of the site contained a number of vehicles. There was no activity on the site when I visited and it was not obvious whether the vehicles were being scrapped or just stored on the site, although some car parts were evident.
4. There is considerable discussion in the submission in relation to the use of the site and its lawful use. Firstly, I cannot determine its lawful use as part of this appeal and no such Certificate seems to exist. The Council contends that its use is likely to be (former Classes B1/B8) Class E and the appellant's statement indicates that it is as a car breakers and so a sui generis use; however,

elsewhere within the documents, the appellant refers to the current use as both B1 and B1/B8. Almost regardless of this disagreement or lack of certainty, the use of the site for any of these purposes would be as 'industrial land', as defined in the supporting text of Policy LP 42 of the Council's Local Plan.

Having taken account of the appellant's evidence, I conclude on this point that the Council are correct in viewing the site as 'industrial land' for the purposes of Policy LP 42. Due to the very limited supply of industrial land in the Borough, Policy LP 42 sets out a presumption against its loss to other uses and will only accept such a loss where: i) a thorough analysis showing that there is no demand for industrial use, including evidence of a full and proper marketing exercise, and; ii) a sequential approach to redevelopment or change of use for offices or alternative employment use, or mixed use including employment, community use along with some residential use.

5. The appellant has undertaken no such assessment nor marketing exercise and indicates that the lawful use of the site could involve disturbance to neighbours. In my view, that would not necessarily be the case and it need not preclude the requirements of the policy as set out above. In addition, there is no evidence that the appellant has given full consideration to the sequential approach as set out. As a consequence, I consider that the proposal would result in clear conflict with the requirements of Policy LP 42. I do not consider the Council's policy in this respect to be out of date and is consistent with the most recently adopted London Plan.

Affordable Housing

6. Policy LP 36 of the Local Plan requires a contribution to affordable housing from all proposed housing sites. This was justified through the adoption of the Local Plan due to the particular housing market characteristics within the Borough and at a time when the Government advised a threshold of 10 units, below which a contribution would not normally be sought. The recently published NPPF also sets out a threshold for affordable housing which would normally be 10, however within paragraph 9 of the NPPF it indicates that the NPPF is not a document against which every decision can or should be judged. Furthermore, I am mindful that the robust examination of the Local Plan will have included detailed submissions about local circumstances which are still relevant.
7. In respect of the appellant's submission in relation to the possibility of raising the threshold for affordable housing, the current threshold is set out above and I have had regard to that and also to other advice within the NPPF about local circumstances. I have had regard to the adopted Local Plan and noted that the Government's threshold, as expressed in the Written Ministerial Statement at that time, was also set at 10 units and that the Local Plan Examination concluded with the current adopted Policy. Taking account of these matters, I do not consider Policy LP 36 to be out of date in this respect and find that the proposal is in conflict with it. I also note the numerous other appeal decisions which support such an approach.
8. The appellant suggests that in such circumstances, I should seek a Planning Obligation for a contribution for affordable housing. The Planning Practice Guidance makes it clear that the imposition of a condition requiring such an Obligation should not normally be used and I see no special circumstances about this appeal to suggest that an exception should be made.

Character of the Area

9. The surrounding residential development takes the form of mainly 2 storey houses in short terraces or semi-detached form. A number of these have accommodation within the roof and dormer windows. The proposal includes a terrace of 6 houses with varying heights and some having accommodation on 4 floors, the top floor being mainly within the roof-space.
10. The layout provides for vehicular access to the integral garages which would result in a large part of the site being surfaced to accommodate vehicles. The houses would each be provided with a small garden on their eastern side.
11. The design of the houses would give them a particularly strong vertical emphasis, accentuated by the dividing parapet wall, bays and dormers. Compared to the existing properties in the surrounding streets, the proposed taller houses within the appeal scheme would appear particularly dominant due to their height. I appreciate that there would only be limited views of the proposal from Hounslow Road, but the houses would be particularly noticeable from the rear of the surrounding properties. In my judgement, this disparity in height, when compared to the existing houses, would be made much worse by the very short rear gardens which would fail to provide sufficient visual setting space for the proposal. I acknowledge that the Council's minimum garden area requirements are met but this aspect of my consideration relates to the visual effects on the surrounding area and in this respect, I consider that the proposal would have an unacceptable effect, contrary to Policies LP 1 and LP 39 of the Local Plan.

Biodiversity

12. The appellant has submitted a bat survey with the appeal. The Council are critical of the timing of the survey in that it was undertaken at a time of the year when bats would not be foraging. Notwithstanding this, the survey identifies a low potential for accommodating bats and for them roosting at the site. In order to have confidence in such a survey, I consider that it should have been undertaken at a time of year when roosting is likely to occur. Based on what is submitted, I consider that reliance cannot be placed on the findings of the submitted survey.
13. In relation to trees, the Council consider that what has been submitted is insufficient to identify the effects on trees and ensure there is no unacceptable effect, and would result in an enhancement for biodiversity, as set out in the NPPF. In addition, the Council considers that the configuration of the site with very small gardens would offer insufficient opportunity to enhance biodiversity. Whilst I have noted the details that have been submitted, I agree with the Council that the site would offer insufficient opportunity to enhance biodiversity due to the very limited open areas suitable for planting. Therefore, the proposal is in conflict with Policies LP1, LP8, LP15, LP16 and LP39 of the Local Plan.

Sustainability

14. Policy LP 22 of the Local Plan requires the submission of the Council's Sustainable Construction Checklist, details of water consumption and details to satisfy the BREEAM standards. The appellant suggests that a condition to require compliance with their own submitted details would be sufficient in this

respect. However, the submitted details do not align with the Policy requirement and so is in conflict with it.

Conclusions

15. The appellant suggests that the Council cannot demonstrate a suitable supply of housing sites. Based on the submissions by the Council, I consider that they can. Notwithstanding this, I have considered the potential benefits of the appeal scheme, including tidying up an unsightly site and the provision of new homes. However, I find that the scheme raises considerable conflict with policies within the Council's Local Plan and I consider that these matters are not outweighed by the benefits. As a consequence, the appeal is dismissed.

S T Wood

INSPECTOR