

Appeal Decision

Site visit made on 18 October 2021

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/L5810/W/21/3267654

14 High Street, Hampton Wick KT1 4DB

- 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 Paul Cooper against the decision of the Council of the London Borough of Richmond upon Thames.
 - The application Ref 18/4277/FUL, dated 20 December 2018, was refused by notice dated 25 August 2020.
 - The development proposed is - Demolition of existing external rear metal access stairs providing access to existing 2 bedroom flat. Internal alterations to existing 2 bedroom flat to provide a new entrance from the adjacent residential courtyard and new internal access staircase. Demolition of existing lean-to building at the rear of No 14 High Street. Construction of a new 2 bedroom flat over 2 storeys with 2 car parking spaces at lower ground level, cycle and bin/recycling storage.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The appellant submitted a set of amended plans with the appeal which are stated to be minor corrections of the application plans, plus a small change to the roof profile of the new flat. I accept that these minor changes should not cause prejudice to any party and will consider them as part of the appeal.
3. Since this appeal was lodged the new London Plan 2021 has been adopted, taking the place of the London Plan 2016, and a revised version of the National Planning Policy Framework (the Framework) has been published. The appellant and the Council have both had opportunities to comment on these new policies, which I have taken into account in making this decision.

Main issues

4. The main issues are:
 - i) whether the proposal would preserve or enhance the character or appearance of the Hampton Wick Conservation Area, the Building of Townscape Merit (BTM) and the setting of nearby listed buildings;
 - ii) the effect of the proposal on the archaeological interest of the site;

- iii) the effect on living conditions at the existing flat at 14 High Street in terms of impacts on outlook and natural light; and
- iv) whether the proposal would make adequate provision to meet the need for affordable housing in the Borough.

Reasons

Heritage assets: conservation area and buildings

5. The Council's Hampton Wick Conservation Area 18 statement (CA18) describes a riverside settlement dating from at least the medieval period, with its centre characterised by the distinctive curve of the High Street, enclosed by closely packed clusters of 18th, 19th and 20th century buildings. 14 High Street is within this central area, a mid-terrace Victorian building with commercial uses at ground and lower ground floor levels and a flat at first and second floor levels.
6. The Council's Supplementary Planning Document *Hampton Wick and Teddington Village Planning Guidance* (SPD-VPG) shows 14 High Street as a BTM, which is considered to be a non-designated heritage asset. The SPD-VPG does not indicate a specific reason for this, although the Council's Supplementary Planning Document *Buildings of Townscape Merit* (SPD-BTM) advises that BTM are chosen on the basis that they are pre-1840 or, if later as is likely in this case, because they are considered to be of definite quality and character. No 14 sits next to a grade II listed building, 16 High Street, with other listed buildings nearby.
7. The building's main contribution to the appearance of the conservation area is from its frontage to the High Street and this would not be affected by the proposal. The Council's concern is about the rear of the site. It raises no objection to the removal of a rear metal stairway and the demolition of an outbuilding, the latter of which has already taken place but objects to the proposed new development.
8. Backland development is part of the evolving character of this densely built up area. I note that new dwellings have recently been constructed behind other High Street buildings just to the south of the site, set away from the frontage buildings with a courtyard in between. Although the appeal proposal would be a substantial addition to No 14, it would be lower in height than the frontage building and reasonably subsidiary in scale. In contrast to the adjacent backland development, however, it would connect directly to the frontage building, leaving no courtyard space and enveloping most of the rear wall.
9. The rear wall of No 14 is out of public view and plain in construction. Together with the courtyard it is of limited but not insignificant interest as a retained example of the functional aspects of this Victorian building. Although there have been alterations, these can to some extent be read in the wall's brickwork.
10. By building over the whole of the rear yard and obscuring most of the rear elevation, the proposal would have a minor negative impact on the character of the conservation area and the BTM. There would also be some harm to the setting of the listed building due to this loss of visual context, even though No 16's side wall adjacent to the proposed development is blank so that there

would be little direct impact on the character of that building. The settings of other nearby listed buildings would not be significantly affected due to intervening buildings and spaces.

11. The Council refers to another appeal decision for a development at East Sheen¹, where an Inspector refused permission for a rear extension to form flats. The circumstances and context of that proposal are significantly different and I have assessed this case on its own merits.
12. I conclude that the proposal would fail to preserve or enhance the character or appearance of the conservation area, the BTM and the setting of the adjacent listed building. It therefore conflicts in this respect with the aims of London Borough of Richmond upon Thames Local Plan July 2018 (RuTLP) Policies LP1, LP3, LP4 and LP39, SDP-VPG, SPD-BTM, the Framework, CA18 and other Supplementary Planning Documents (*Design Quality; Residential Design Standards* and *Small and Medium Housing Sites*), to ensure that development is of high architectural and urban design quality that conserves the historic environment of the Borough including non-designated heritage assets.
13. In the terms of Framework paragraphs 199, 200 and 202, I assess the level of harm to designated heritage assets (the conservation area and the setting of a listed building) to be '*less than substantial*', and close to the lower end of that scale. The harm to the non-designated heritage asset (the BTM) would also be minor. I return to these points in considering the planning balance.

Heritage assets: archaeology

14. In line with Framework paragraph 194, RuTLP Policy LP7 states that where development is proposed on sites of potential archaeological significance, Desk Based Assessments (DBAs) and, where necessary, archaeological field evaluations will be required before development proposals are determined.
15. The appeal site is within the area of the medieval settlement of Hampton Wick, which is one of the Council's Archaeological Priority Areas. As I have not seen any submissions to the contrary, I consider this to be a non-designated heritage asset. The appellant has submitted a DBA which finds that the site has a medium potential for below ground archaeological remains and recommends a staged programme of investigation. The appellant argues that this should be required by a planning condition, rather than being needed before determination.
16. Based on advice from Historic England's Greater London Archaeology Advisory Service the Council considers that key information, including information about nearby investigations, is missing from the DBA so that the assessment is incomplete. The appellant does not address the specifics of this point. Although I note that the DBA was produced by a conservation consultancy, it does appear that important information has been left out so that the assessment cannot be fully relied on.
17. In these circumstances I can only conclude that it has not been satisfactorily demonstrated that the proposal would not harm important archaeological remains. The proposal therefore conflicts with the aims of

¹ APP/L5810/W/18/3213375

RuTLP Policy LP7 and the Framework, to protect archaeological heritage. I consider that this matter cannot be safely dealt with by imposing a condition because additional information is required pre-determination.

Living conditions

18. The existing flat at No 14 has a first floor level rear bedroom with a single window at the back, looking out onto an open courtyard and across the roofs of neighbouring buildings. Whether or not this bedroom changes into a dining room, as indicated on the submitted plans, it would still be a habitable room. It has been designed and laid out for such purposes and should continue to be provided with adequate outlook and natural light.
19. The proposed new flat would have a wall facing this window, only a very short distance away. Even though the revised plans now show a pitched roof here to slightly reduce the impact, the development would still sharply curtail the outlook from that window. The Council's Supplementary Planning Document *Residential Design Standards* (SPD-RDS) states that new development that would create an unacceptable sense of enclosure or appear overbearing when seen from neighbouring gardens or rooms will not be permitted. The proposal would be intrusive and overbearing in views from the only window of a habitable room in the existing flat.
20. In terms of the impact on natural light to the room, both the Council and the appellant refer to guidance in the Supplementary Planning Document *House Extensions and External Alterations* (SPD-HEEA), the SPD-RDS and a Building Research Establishment publication referring to a maximum 25 degree vertical angle between existing windows and new buildings. The proposed new wall opposite the rear window of the existing flat would break this 25 degree line by about 5 degrees. Framework paragraph 125 says, however, that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
21. In this case, the window in question is at first floor level, nearly as high as other nearby buildings. The proposed new structure would not block out a large proportion of the sky and would leave some open aspect to the south-east. In the circumstances, I find that that window would continue to receive sufficient daylight (light from the sky) and direct sunlight despite the conflict with the SPD's guidance.
22. Although I take a flexible approach to this issue and find no objection in terms of the impacts on daylight and sunlight, I conclude that the proposal would unacceptably harm the outlook from the existing flat at No 14. It therefore conflicts with RuTLP LP8 and LP39, SPD-HEEA, the SPD-RDS, the Supplementary Planning Document *Small and Medium Housing Sites* and the Framework, to protect the amenity and living conditions of the occupants of neighbouring properties.

Affordable housing

23. The appellant accepts that there is a justified need for an affordable housing contribution here due to the high house prices in the Borough, despite the general policy set out in Framework paragraph 64 that affordable housing

contributions should not be sought in connection with minor developments like this. I also accept that an exception to the Framework's policy is justified here.

24. The appellant has submitted a Unilateral Undertaking (UU) which would provide a contribution towards the off-site provision of affordable housing, if the appeal were to be allowed. The UU has been checked by the Council, which raises no objection to its terms. I likewise find it to be an acceptable and appropriate document.
25. On this basis, I conclude that the proposal would make adequate provision towards meeting the need for affordable housing in the Borough, in accordance with the aims of RuTLP Policy LP36, the Council's Supplementary Planning Document *Affordable Housing* and the Framework.

Other matters and planning balance

26. The Council has raised an additional issue in regard to fire safety, consequential to the adoption of the new London Plan. Policy D12 of that plan aims to ensure that provision is made for fire safety in new development. I am satisfied that this matter could be dealt with by condition if planning permission were to be granted for this small scale development.
27. As above, I consider that there would be less than substantial harm to the significance of designated heritage assets and also harm to non-designated heritage assets. Framework paragraph 202 states that in such cases, the harm to designated heritage assets should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 203 states that for non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
28. It is agreed that there is no shortage in the required 5 year housing land supply for the Borough. The proposal would nevertheless provide an additional home and would thus help to meet the Framework's objective of boosting the supply of houses. The proposal would also make a small contribution towards the supply of affordable housing in the Borough. It would furthermore make good use of an underused site to provide these public benefits.
29. These benefits weigh in favour of the proposal but are fairly marginal. Although the harm to heritage assets would be minor, I find that the benefits of the scheme would on balance be insufficient to outweigh the combined harm to the built and archaeological heritage. Looking at the wider balance, the harm to living conditions in the adjacent flat would be compelling enough on its own to justify withholding planning permission for this particular proposal.

Conclusion

30. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR