



Appeal Decisions

Site visit made on 29 June 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal A Ref: APP/L5810/W/22/3290206 291A Sheen Road, Richmond TW10 5AW

- 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 Elliot Smith against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 21/0728/FUL, dated 28 February 2021, was refused by notice dated 9 July 2021.
 - The development proposed is demolition of existing two storey dwellinghouse and the erection of a two storey dwellinghouse plus basement and accommodation in the roof space together with lightwells to the front and rear of the building.
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Appeal B Ref: APP/L5810/W/22/3295924 291A Sheen Road, Richmond TW10 5AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Elliot Smith against the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 21/3849/FUL, is dated 28 November 2021.
 - The development proposed is Demolition of existing two storey dwellinghouse and the erection of a two storey dwellinghouse plus basement and accommodation in the roof space together with lightwells to the front and rear of the building.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed, and planning permission is refused.

Application for Costs

3. An application for costs in relation to Appeal A was made by Mr Elliot Smith against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate decision.

Procedural Matters

4. There are two appeals at this site. They differ primarily insofar as the replacement dwelling proposed pursuant to Appeal B would be smaller in height and narrower in plan to that sought in relation to Appeal A. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The Council failed to determine the application subject to Appeal B. However, in its appeal statement, the Council has set out two putative reasons for refusal. Whilst the Council's decision in relation to Appeal A contains six reasons for

refusal, the Council has since clarified its intention to maintain only two of those reasons, which are consistent with those offered in relation to Appeal B.

Main Issues

6. Against this background, the main issues in relation to both appeals are:
- the effect of the proposal on the living conditions of the occupants of 289 Sheen Road and 291 Sheen Road, with regard to light and outlook; and,
 - whether or not the scheme would provide a suitable contribution to affordable housing.

Reasons

Living conditions

7. 291A Sheen Road is a detached, twentieth century, two storey dwelling constructed between the late Victorian, villa styled 289 and 291 Sheen Road, with the former once a nursing home, now converted to flats. No 291A utilises steeply pitched roofs and low eaves, which tapers its mass at height. Its proposed replacements would be larger, more akin in width and scale to the adjoining buildings. Although, as a measurement, the resultant height increases would be relatively modest, in the practical terms of massing, the imposition on the adjacent buildings would invariably be more pronounced.
8. In considering the magnitude of these effects on No 289, the appellant favours an assessment against a benchmark of the values derived from a 'mirror image test', as conveyed in Appendix F to the 2011 BRE document 'Site Layout Planning for 'Daylight and Sunlight' (the Guide). The Guide states that this test may be useful where an adjacent building has windows that are unusually close to the site boundary and are taking more than their fair share of light.
9. No 289 is unusually close to the boundary with No 291A. That said, I do not agree that its windows are taking more than their fair share of light, given that it is composed of self-contained flats. Rather, the evidence shows that, given their relationship to the boundary wall and No 291A, light (and outlook) is already at a premium inside several of the rooms they serve, some of which are single aspect. As such, it is most appropriate to assess the effects of the proposals against the standard target values set out by the Guide in relation to the Vertical Sky Component (VSC) and the Daylight Distribution (DD) tests.
10. Regarding Appeal A, Windows 5 and 13 serve single aspect bedrooms in ground and first floor flats respectively. Window 5 would not meet the 27% Visual Sky Component (VSC) target and would suffer a significant loss of just over 50%. Window 13 would face a loss of 34%. DD would be affected to a comparable degree. In relation to Appeal B, only Window 5 would fall below acceptable VSC levels, but even so, the reduction would be clearly perceptible to occupants at 32%. DD for the bedroom served by Window 5 would follow a similar pattern.
11. I note that the Guide states that bedrooms can be less sensitive to change than other spaces. Nonetheless, they can also be well used, versatile spaces within a home, and especially so within flats. Given the significant extent of noticeable change that the occupants of the affected flats would evidently face, I consider that the effects of both proposals on No 289 in terms of light and outlook would be unacceptable. In my opinion, this would not be satisfactorily resolved through the use of a lighter coloured render on the proposed dwellings.

12. Turning to No 291, the VSC in relation to Appeal A would miss the target at one window, but only by a single percent, and the affected room would pass the DD test. Given such, and within the context of a large and detached dwellinghouse, the effect of the proposals on this property would be acceptable.
13. Consequently, drawing my findings on this issue together, I conclude that, whilst both proposals would have an acceptable effect on 291 Sheen Road, they would each have an unacceptable effect on the living conditions of the occupants of 289 Sheen Road with regard to light and outlook. They would conflict with the residential amenity aims of Policy LP8 of the Local Plan (adopted 2018) and the National Planning Policy Framework (the Framework).

Affordable housing

14. Policy LP36 of the Local Plan requires for schemes of this scale and type to contribute to the provision of offsite affordable housing. The divergent relationship of Policy LP36 with the government's affordable housing policy, as now expressed in Paragraph 64 of the Framework, was found to be justifiable when the Local Plan was examined, owing to the exceptional need for affordable housing in Richmond. This conclusion has been latterly endorsed in a number of appeal decisions. I have no reason to find these circumstances changed.
15. The appellant does not consider that either scheme could viably contribute to affordable housing, and the appeals are accompanied by viability evidence to that effect. However, it is an explicit requirement of Policy LP36 that the developer underwrites the costs of a Council commissioned economic viability assessment, in order for this evidence to be tested. Although the appellant has asserted a willingness to do so, this has not taken place. Regardless of the reasons why, the requirements of Policy LP36 remain unfulfilled.
16. Accordingly, I must conclude on this issue that the proposals would not provide a suitable contribution to affordable housing. In this regard, both proposals would conflict with Policy LP36 of the Local Plan and the Affordable Housing Supplementary Planning Document (adopted 2014).

Planning Balance and Conclusion

17. The harm to the living conditions of neighbouring occupants and the absence of a policy compliant financial contribution to offsite affordable housing draw both appeal proposals into conflict with the development plan when read as a whole.
18. Each scheme would provide an energy efficient, family dwelling to the housing stock, in an area with good access to services. Biodiversity habitat within the site would be enhanced. However, the social and environmental benefits of such would not outweigh the harm identified. It is suggested that a design approach consistent with the surrounding architecture is more appropriate. However, the existing house reads as an honest, modern intervention into its context, so this is not an opinion that I share. As such, there are no other considerations which serve to outweigh the conflict with the development plan in either case.
19. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeals should be dismissed, and further in relation to Appeal B, planning permission should be refused.

Matthew Jones
INSPECTOR