



Appeal Decision

Site visit made on 20 December 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/L5810/W/21/3283783

6 St. Johns Road, Richmond TW9 2PE

- 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 Urban Matrix Properties LLP against the decision of London Borough of Richmond Upon Thames Council.
 - The application Ref 21/0377/FUL, dated 4 February 2021, was refused by notice dated 19 August 2021.
 - The development proposed is demolition of the existing garages and the erection of a detached two storey house and a pair of semi-detached houses.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted a Unilateral Undertaking alongside the appeal, dated 29 July 2021 (the UU). I have taken this into account in determining the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposal on the living conditions of the occupants of Larkfield Road and 6 St Johns Road, with particular regard to outlook;
 - Whether the proposal would be appropriate in respect of flooding and fire risk;
 - Whether the proposal would provide an appropriate provision of affordable housing, and;
 - Whether the proposal would provide an acceptable standard of accommodation for future occupants.

Reasons

Living Conditions- Neighbouring Occupiers

4. The appeal site currently comprises garages and hard surfaces, bound by a high brick wall and fencing to all except its front elevation. The site exists as a gap in the street of otherwise predominately two storey houses with rooms within the roofspaces. Numbers 26, 28 and 30 Larkfield Road lie immediately behind the appeal site and have several windows in their rear elevations, from which occupants experience outlook over the appeal site.

5. Based on the supporting plans, the rear elevations of the proposed development would be between approximately 18m and 14m from the first floor levels of properties behind on Larkfield Road. A lesser distance would exist at the ground floor level, where properties on Larkfield Road have been extended into their rear gardens.
6. Due to the scale of the development, its proximity to those properties, and in combination with the width of development across much of the appeal site, the outlook from the rear windows of those properties on Larkfield Road would be substantially altered. The proposed development would appear prominent and domineering in the views from those windows and, in turn, this would create oppressive conditions and a feeling of enclosure within the rooms which those windows serve.
7. The supporting plans show a 25 degree line taken from the ground floor windows of 26, 28 and 30 Larkfield Road. While this provides a useful guide of the likely impacts, it is not indicative of what constitutes an acceptable impact on outlook, which is a matter of judgement. In any event, the drawing shows that 25 degree line would be breached by the gable roof forms of the proposal. While the effect of the proposal on the daylight received by those windows is not in dispute, this nonetheless would not mitigate for, nor provide justification for the harm that would arise to the outlook from the properties.
8. Other properties to the west of the appeal site have a similar relationship created by plots of limited depth and relatively close proximity of rear elevations. I do not have details of the distances involved on those nearby sites, and the distances between the rear elevations appears to be greater to the west by virtue of the staggered building line of properties on Larkfield Road. In addition, I note that these constitute historic forms of development rather than development considered under current planning policy. For these reasons I am not convinced that the circumstances of their relationships provide justification for the appeal scheme, nor for the harm that I have found.
9. In respect of the effects on 6 St Johns Road, the main parties agree that the most northern first floor side window in this building serves a kitchen. This currently has unobstructed outlook over the appeal site. The scale and proximity of the proposed development in front of that window would appear dominant in its outlook, and would have an oppressive effect to users of that kitchen.
10. There is little evidence regarding the size of the kitchen, or how this room contributes to the overall standard of accommodation within that unit. There is dispute between the parties as to whether the window is obscure glazed, and it was not possible to establish this from my site visit, when the blinds were drawn. While the appellant's sunlight and daylight report demonstrates the window would experience modest reductions in sunlight and daylight provision, this would not adequately mitigate for the harm arising to its outlook. Overall, in the absence of convincing evidence to the contrary, the proposal would cause harm to the living conditions of no.6 in respect of the outlook from the kitchen.
11. With regard to this main issue, the proposal would cause harm to the living conditions of the occupants of those neighbouring properties for the reasons given. Consequently, the proposal would conflict with policies LP8 and LP39 of the Richmond Local Plan 2018 (the RLP), insofar as they seek to protect the

amenity and living conditions of neighbours. The proposal would also be at odds with the aims of the Residential Development Standards Supplementary Planning Document (SPD) 2010 and the Small and Medium Housing Sites SPD 2006, insofar as they similarly require new development to consider the amenity of existing homes, including overbearing impacts. There would also be conflict with the objectives of the National Planning Policy Framework (the Framework), in particular paragraph 119 where it requires development to ensure healthy living conditions.

Flooding and Fire Risk

12. The site is located in an area which has greater than a 75% chance of ground water flooding and is within a Throughflow Catchment Area. The proposed development, through including subterranean development, could impact upon ground water flows. The Council's Strategic Flood Risk Assessment (SFRA) highlights the need for it to be demonstrated that basements in these areas would be safely developed without increasing throughflow and groundwater related flood risk. Based on the evidence, and the absence of substantive information to the contrary, the proposed development could adversely impact or increase throughflow and groundwater flood risk.
13. Through causing potential harm to flood risk, the proposal would conflict with policies LP11 and LP21 of the RLP, as well as policies SI12 and SI13 of the London Plan 2021 (the LP), which together seek to ensure that flood risk, including surface water, is minimised and mitigated. The proposal would also conflict with the Council's Basement Assessment User Guide 2021, which provides advice regarding the need for basement proposals to consider a range of impacts, including flooding.
14. Policy D12 of the LP requires all development to achieve the highest standards of fire safety, and provides criteria which they should meet. The appeal scheme includes details of a location for a fire engine, hose reach across the site as well as fire assembly points. While this complies with part of the criteria of Policy D12, compliance with the other points has not been demonstrated and in the absence of this information, the proposal could cause harm through risk of fire, in conflict with Policy D12.
15. In respect of both flood and fire risk, the proposal would conflict with the objectives in the Framework, particularly paragraph 167 which requires development not to increase flood risk elsewhere, and paragraph 92 which seeks to achieve safe places.
16. I have considered whether these matters could be dealt with by the imposition of conditions. Given the uncertainty surrounding the impacts of the development on groundwater, and as the subsequent extent of any amendments or mitigation are unknown, I do not consider that a condition to secure details of flooding impacts would meet the test of reasonableness. A condition to ensure compliance with the remaining parts of Policy D12 of the LP may be appropriate, however I do not have any suggested wording of such a condition before me, and in any event, as the appeal is being dismissed for other substantive issues this is not a matter I need to consider further.
17. While I appreciate the appellant's frustration relating to the timing of the adoption of the above policies, and the Council's pre application advice, these

do not provide reason to alter my judgement, which is made in the context of the current development plan.

Affordable Housing

18. Policy LP36 of the RLP expects an affordable housing contribution on all housing sites. In the case of the appeal scheme, the policy seeks a financial contribution in line with the scales set out in the policy and also the Affordable Housing SPD 2014. It has been adequately proven in the policy that such a contribution is necessary and the main parties agree that the extent of the contribution stated in the UU is appropriate. I have no reason to dispute this.
19. However I have concerns about the document itself, its execution and thus whether the Council could rely on it to secure the obligations it contains. Most notably the UU refers to a planning permission granted by the Council, which would not be the case here if the appeal were allowed. For this reason, I am not satisfied that the submitted UU would be capable of taking effect and securing the intended obligations. As such I cannot afford weight to the obligations which it contains.
20. As a consequence, the proposal would not deliver an appropriate affordable housing contribution and would cause harm to the delivery of affordable housing in the Borough. The proposal would fail to comply with Policy LP36 of the RLP, the Affordable Housing SPD and the objectives of the Framework insofar as they relate to the delivery of affordable housing.

Living Conditions- Future Occupiers

21. The Council's concerns relate to the rear bedroom within the roofspace of the proposed detached dwelling on plot 1. This room would be served by two windows located to the front and side of the building, of which one may need to be obscure glazed to prevent overlooking to the rear. Consequently the main direction of outlook from that room would be towards the roofslopes of 6 St. Johns Road and this would be a relatively poor standard of outlook, given the proximity to no.6.
22. Despite this, this room forms only one part of the larger unit, which would benefit from a good quality of outlook overall, from a number of windows and openings on various elevations. Similarly, as the bedroom concerned would be served by two windows, levels of natural lighting to that room would be appropriate. Considering plot 1 as a whole, the proposed living conditions of future occupants would be acceptable.
23. In respect of this main issue, the proposal would provide an acceptable standard of accommodation for its future occupants, and would comply with Policy LP8 of the RLP and the Residential Development Standards SPD, insofar as they require development to protect the amenity and living conditions of new occupants. The proposal would also comply with the aims of the Framework in respect of living conditions.
24. In respect of this main issue, there is no conflict with Policy LP35 of the RLP, which contains criteria relating to other aspects of the standard of development and which, individually, are not in dispute, nor with Policy LP11 of the RLP, which relates to basement development.

Other Matters

25. The proposal would provide housing in a sustainable location, within 800m of both Richmond Station and the Richmond Town Centre boundary, and the proposal would conform to the objective of the Framework to boost the national supply of homes. There is, however, little evidence to support the assertion that it is uncommon for housing to come forward in such locations. Given the scale of the proposal I afford moderate weight to the delivery of housing.
26. The Council note that the proposal could enhance the character and appearance of the Central Richmond Conservation Area and, based on the findings of my site visit, I concur with that view. However, given the scale of the development and given the neutral contribution of the existing site to the conservation area, I afford this moderate weight as a benefit. Any alteration to the level of on street parking provision outside the site would also be minimal given the existing parking bays across much of the frontage. Where the proposal has been found to be policy compliant in other respects these matters are neutral and do not weigh in favour of the proposal.
27. Taken together, the benefits of the proposal would not outweigh the harms identified above, which would be significant and long lasting, and which are given significant weight.
28. The UU includes other obligations in addition to affordable housing. However, as the appeal is being dismissed for other reasons it is not necessary for me to consider these matters in further detail.
29. The site lies within the Central Richmond Conservation Area and is close to a number of Grade II listed buildings, including the Church of St John the Divine to the north west and St Johns Studios to the south west. I note that the effects of the proposal on these designated heritage assets is not in dispute. Based on my assessment of the evidence and the findings of my site visit, the proposal would preserve or enhance the character and appearance of the conservation area, and would not form part of the setting of the listed buildings. As such, it would preserve their significance.
30. I note that the appellant has amended the proposals since the time of the earlier planning application. However I do not have details of those earlier proposals before me, and in any event, I find the appeal scheme to be harmful for the reasons given.

Conclusion

31. The proposed development would be contrary to the development plan as a whole and this conflict is not outweighed by other material considerations in this instance. The appeal is therefore dismissed.

C Shearing

INSPECTOR