



Appeal Decision

Site visit made on 21 February 2023

by C Harding BA(Hons) PGDipTRP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2023

Appeal Ref: APP/L5810/W/22/3302715

Land behind No 1 Enmore Gardens, Palewell Common Drive SW14 8RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs Jonathan Beach against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref 21/3903/PIP, dated 4 November 2021, was refused by notice dated 10 January 2022.
 - The development proposed is described as "Two-storey and basement home positioned within the existing separated walled garden to front onto Palewell Common Drive."
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Decision

1. The appeal is allowed and permission in principle is granted for two-storey and basement home positioned within the existing separated walled garden to front onto Palewell Common Drive at Land behind Enmore Gardens, Palewell Common Drive SW14 8RE in accordance with the terms of the application, Ref 21/3903/PIP, dated 4 November 2021

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent routes has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. I have used the description of development as given on the planning application form, however in the interests of clarity, I have removed those superfluous words that do not relate to acts of development.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of the subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regards to its location, the proposed land use and the amount of development.

Reasons

6. The appeal site lies at a point of change between existing residential development to the north and west, and Palewell Common which is a large open area of recreational parkland to the east. The pattern of residential development in the area varies with regard to the age, size and form of properties.
7. The appeal site comprises a fenced area of grass and trees to the rear of 1 Enmore Gardens ('No 1'). Although the appeal site may have historically formed part of the garden of No 1 and retains some of the character of a residential garden, it is now clearly divided from the garden of No 1 by means of fencing and is indicated as being in separate ownership. Properties on Enmore Crescent are located at a higher level than the neighbouring parkland, with the rear gardens of these properties falling towards it. The appeal site is therefore located in a moderately elevated position in comparison to the parkland, but is lower than the level of properties on Enmore Gardens.
8. Palewell Common is designated within the London Borough of Richmond upon Thames Local Plan ('RTLP') as Metropolitan Open Land ('MOL'). A footpath runs through trees along the western boundary of Palewell Common, to the rear properties on Enmore Gardens and to the east of the appeal site. The appeal site is not, itself, designated as MOL. However, RTLP Policy LP13 states that when considering proposals on sites outside of Green Belt or MOL, any possible visual impacts on the character and openness of the MOL will be taken into account.
9. Existing trees on the western boundary of the parkland provide a degree of screening to gardens associated with residential properties on Enmore Gardens, as well as the appeal site when viewed from within the parkland. However, the dwellings themselves form an extensively visible backdrop to the park when looking towards its western boundary, and serve to draw the eye.
10. Furthermore, the rear gardens of properties on Enmore Gardens already contain a number of garden structures, buildings, fencing and residential extensions which extend to varying degrees towards the boundary of the MOL.
11. In this context, I consider that the appeal proposal, whilst it would result in a dwelling in closer proximity to the MOL than those that currently exist, would not, in principle, be likely to appear so prominent that it would result in harm to the character of the MOL or the parkland.
12. As the appeal site no longer appears to be associated within any specific dwelling, and does not appear to have been for some time, I consider that it is not garden land. It also has a frontage on to Palewell Common Drive, albeit across a wide, unmetalled verge. Consequently, I consider that the appeal proposal would not constitute back garden or backland development, nor would it comprise infill development as it would not fill a gap between existing properties. Accordingly, RTLP Policy LP39 is not relevant to this proposal.
13. Nevertheless, whilst residential development within the appeal site would be separated from other dwellings as a result of the intervening rear garden of No 1 and introduce domestic frontage onto the semi-rural character of Palewell Common Drive, the appeal proposal would nevertheless still be seen as a continuation of the existing residential area. Furthermore, the extent of the

parkland and the rear gardens of properties on Enmore Gardens is clear, and the appeal proposal would not compromise this, or harm its openness.

14. Although matters of scale, position within the plot, orientation and detailed design would be considered at the second stage of the permission in principle process, I consider that the presence of a single dwelling, although likely to be visible would not, in principle, be inherently harmful to the character and appearance of the area. Having a road frontage, it would not be totally at odds with the prevailing urban grain.
15. I am aware that proposals for residential development on the appeal site have twice previously been dismissed at appeal by Inspectors¹. I am also aware that these decisions date from 1985 and 1986 respectively, and that the planning policy context has changed to a significant extent since that time.
16. Furthermore, it is likely that the physical characteristics of the site and its surroundings will have also changed over the intervening period. Given the significant period of time that has passed since these decisions, I cannot be sure of the visual context within which the previous Inspectors reached their conclusions, or how this context is reflected in the appeal site and its surroundings as they stand today. Additionally, neither of the previous Inspectors were considering a proposal in relation to the permission in principle process and would therefore have likely taken account of a range of additional factors and evidence.
17. As a result, the circumstances within which these decisions were made is not wholly comparable to the circumstances of the current appeal before me. Consequently, whilst I have had regard to the findings of these Inspectors in reaching my decision, I consider that there is justification, in this instance, for me reaching a different conclusion.
18. For the reasons set out above, the appeal site is suitable for residential development having regard to its location, the proposed land use, and the amount of development. It would therefore be in accordance with RTLP Policies LP1 and L13, which together, and amongst other criteria require new development to be compatible with local character, and for decision makers to take account of any possible visual impacts on the character and openness of the MOL. It would also accord with advice within the London Borough of Richmond upon Thames Design Quality Supplementary Planning Document insofar as it relates to ensuring new development takes appropriate account of local character, as well as continuity and enclosure.

Other Matters

19. I have had regard to the various comments of interested parties which have been received in response to the proposed permission in principle. In addition to matters relating to character and appearance, as addressed above, concerns have been raised regarding a number of other matters. These include the effect of the proposed development upon the living conditions of nearby occupiers and users of Palewell Common with regard to privacy, the means of access to the site, effect on existing trees, light pollution, drainage, parking and whether adequate living conditions would be provided for future occupiers. However, I

¹ T/APP/L5810/A/85/026596/P3 & T/APP/L5810/A/86/047177/P4

am satisfied that these are matters that can appropriately be considered through the technical details consent.

20. I am also aware that the appeal site may be subject to a restrictive covenant, however this does not influence the assessment of the planning merits of the proposal.

Conclusion

21. The proposed development would be in accordance with the development plan as a whole, and there are no material considerations that would lead me to reach a conclusion other than in accordance with it.
22. For the reasons set out above, I conclude that the appeal should be allowed.

C Harding

INSPECTOR