
Appeal Decision

Site visit made on 25 May 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 20 June 2023

Appeal Ref: APP/L5810/W/22/3311880

**Land off Taylor Close, to the rear of 159A High Street, Hampton Hill
TW12 1BZ**

- 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 Aquinna Homes against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 22/1082/FUL, dated 25 March 2022, was refused by notice dated 9 June 2022.
 - The development proposed is the redevelopment of existing vacant car parking site to provide a two-storey one-bedroom detached dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of existing vacant car parking site to provide a two-storey one-bedroom detached dwellinghouse on land off Taylor Close, to the rear of 159A High Street, Hampton Hill TW12 1BZ in accordance with the terms of application Ref 22/1082/FUL, dated 25 March 2022, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - The effect of the proposed development on nearby trees with particular regard to whether any felling or pruning would have a detrimental effect on the character and appearance of the High Street (Hampton Hill) Conservation Area.
 - The effect of the proposed development on highway safety and the free movement of traffic with particular regard to on-site parking provision.
 - Whether adequate arrangement is made towards the provision of affordable housing.

Reasons

Effect on trees

3. The appeal site comprises a small car park located on the south-western side of Taylor Close and lies within the High Street Hampton Hill Conservation Area CA28 (the CA). The boundary of the CA is located in close proximity to the north-western perimeter of the site. A Robinia/Locust tree is located to the

north of the appeal site and positioned in close proximity to the proposed garden area. This tree is located within the CA and is protected by Tree Preservation Order (TPO) No. T1007. It is a large tree which is visible from the High Street and contributes to the green feel and village character of the CA. A Lawson Cypress tree is located to the north west of the appeal site. This tree is not located within the CA and not protected by a TPO.

4. The Council's first reason for the refusal of planning permission identified that the siting of the proposed development would fail to protect the TPO tree and that there would be pressure from future occupants to prune the tree. The submitted Tree Appeal Statement Addendum (the Addendum), dated 8 November 2022, includes the results of a number of tree-safe trial excavations to determine whether any tree roots were present within the site in the location of the footings for the proposed dwelling. The trial excavations demonstrated there were no roots present in the position of the proposed footings and the Addendum concludes that the proposed construction will not cause harm to any trees.
5. On the basis of the additional information provided in the Addendum, the Council has confirmed that the trees could be adequately protected during the construction of the proposed development. I concur with this view and, in the absence of any other substantive evidence to the contrary, I do not consider that the proposed development would have a detrimental effect on the roots of the TPO tree.
6. The Council maintain that there would be pressure to prune trees in the vicinity of the site including the TPO tree. However, I have no demonstrable evidence to conclusively confirm that this would be the case. In any event, the Council would have a degree of control over such matters as a consequence of statutory protection and/or the requirements of suggested planning condition No. 3, which is considered later in this decision.
7. In addition, I accept the Appellant's view that there is no reason to assume that any proposed works to prune the trees would not be carried out in accordance with best industry practice as per BS3998:2010 'Tree work – Recommendations'. This provides arboricultural standards to ensure that trees are pruned without disfigurement.
8. The Lawson Cypress tree currently over hangs the site, but I accept that under common law, the tree could be pruned back to the boundary line to alleviate the overhang. In my view, it does not follow that any pruning of this tree would cause visual harm as the tree can be pruned in accordance with good arboricultural practice if that is required.
9. Taking the above factors into account, I do not consider that the proposed development would cause a significant detrimental impact on the health of existing trees in the vicinity of the site. Furthermore, there is no substantive and demonstrable evidence before me to suggest that the proposed development would lead to pressure to prune trees in a manner that would cause harm to the character and appearance of the Conservation Area.
10. As a consequence of the above, there would be no conflict with the advice contained within Chapter 16 of the National Planning Policy Framework (the Framework) or the relevant provisions of the Hampton Hill Village Planning Guidance, the Design Quality Supplementary Planning Document and the CA38

High Street Hampton Hill Conservation Area Statement. In addition, there would be no conflict with the relevant provisions of Policies LP1, LP3, LP16 and LP29 of the London Borough of Richmond upon Thames Local Plan (the Local Plan). Amongst other things, these policies, seek to maintain the high-quality character and heritage of the Borough, conserve heritage assets and resist development which results in the damage or loss of trees that are considered to be of townscape or amenity value.

Highway safety and the free movement of traffic

11. The proposal provides for car-free development and, as such, does not make provision for any on-site car parking. The site is not located within a Controlled Parking Zone (CPZ) and has a Public Transport Accessibility Level (PTAL) of 2.
12. Policy LP45 of the Local Plan outlines that development must demonstrate an appropriate level of off-street car parking to avoid an unacceptable impact on on-street car parking conditions and local traffic conditions. The supporting text to the policy sets out that, in general, it is expected that in PTAL areas of 0-3 the Council's car parking standards should be met.
13. Appendix 3 (Parking Standards) of the Local Plan states that for a one-bedroom dwelling in an area with a PTAL of between 0 and 3, one parking space is required. However, Policy T6.1 of the London Plan (2021) requires that 1-2 bedroom dwellings in outer London boroughs with a PTAL of 2-3 should provide a maximum of 0.75 car parking spaces per dwelling.
14. There is clearly a degree of conflict between the required level of car parking provision for a one-bedroom dwelling between the Local Plan and the more recently adopted London Plan. The Planning Policy Guidance¹ (PPG) advises that under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.
15. Taking into account the above, I consider that the car parking standards as set out in the more recently adopted London Plan should be applied in this case and I have attached significant weight to the provisions of Policy T6.1. Whilst this suggests that a maximum of 0.75 car parking spaces should be provided, I recognise that this would be of insufficient size to accommodate a car. Furthermore, I have no evidence before me to suggest that the London Plan provides any explicit support for rounding up the car parking space requirements beyond the maximum specified. On this basis, I consider that the Council's position that a car parking space should be provided would exceed the maximum set out in the London Plan and consequently I concur with the Appellant's view that 0.75 spaces would, in reasonable interpretation, equate to nil spaces.
16. Although the Council suggest that parking is severely restricted in this location, I have no evidence before me to support this view. The site is located close to a public car park which had available spaces during my site visit at late morning on a weekday. I have taken into account the Council's concerns regarding the loss of 4 existing parking spaces. However, I concur with the

¹ Paragraph: 012 Reference ID: 21b-012-20140306

views of the Inspector in the previous appeal relating to this site (Ref. APP/L5810/W/20/3264171) that the existing private car park is not connected with any surrounding uses. Consequently, there is no substantive evidence before me to show that the loss of this car park would materially increase pressure for on-street parking in the area.

17. I have considered the Council's view that the Appellant should enter into a legal agreement that would exclude future occupants of the proposed dwelling from obtaining parking permits within any future CPZ created around the site. However, I have no evidence before me to indicate if, and when, a CPZ may be implemented in the future. Consequently, given the speculative nature of any future CPZ, I do not consider that such obligation is necessary to make the development before me acceptable in planning terms. Furthermore, in my experience, even if a CPZ were to be implemented in the future this is likely to reduce any on-street parking stress compared to current levels.
18. In my view, it would be unreasonable to require the Appellant to provide a planning obligation or for me to impose a planning condition that would exclude future occupants from obtaining parking permits within any future CPZ created around the site. The appeal site is positioned in a relatively sustainable location in being approximately 40 meters from Hampton Hill High Street which the Appellant indicates is a designated Local Centre with shops, restaurants, and services. As such, the probability of the occupants having a car may be limited. Furthermore, I do not consider that there is any reasonable justification for the Appellant to provide a parking survey in light of the on-site parking restrictions for a development of this nature as set out in Policy T6.1.
19. Taking the above factors into account, and in the light of my findings regarding the weight to be given to Policy T6.1 of the London Plan, I do not consider that the proposed development would reasonably conflict with the relevant provisions of Policies LP44 and LP45 of the Local Plan. These policies, amongst other things, require development to ensure that there is no severe impact on the operation, safety and accessibility of the local highway network and minimise the impact of car-based travel.
20. The Council has also suggested conflict with Policy LP39 of the Local Plan. This policy relates to infill and backland development and requires that proposals must reflect the character of the surrounding area and protect the amenity and living conditions of neighbours. It further states that development should not result in unacceptable impact on neighbours in terms of visual impact, noise or light from vehicular access or car parking. As the proposal before me does not provide for car parking, I have no evidence to indicate how the development would conflict with this policy. Furthermore, the Council, in the determination of the planning application, raised no concerns regarding any impact on the living conditions of nearby existing residents. Consequently, I have attached little weight to the suggested conflict with Policy LP39.

Affordable Housing

21. Policy LP36 of the Local Plan states that a contribution towards affordable housing will be expected on all housing sites. On sites below the threshold of ten units, a financial contribution to the Affordable Housing Fund commensurate with the scale of the development will be sought. Whilst paragraph 64 of the Framework discourages the requirement for affordable housing provision on non-major residential developments, the supporting text

of Policy LP36 explains the substantial need for affordable housing in Richmond upon Thames and the significant contribution that small sites make to housing supply. Consequently, I have attached significant weight to the adopted development plan policy that seeks such contributions.

22. The financial contribution to the Council's Affordable Housing Fund is required to accord with the sliding scales set out in the Local Plan and Annex A to the adopted Affordable Housing Supplementary Planning Document. The Council calculate that the relevant contribution necessary is £8,995.
23. At the time the application was determined by the Council, it was considered that the commuted sum spreadsheet submitted with the planning application was incorrectly filled out and I have no evidence to indicate whether any planning obligation was submitted.
24. The Appellant has provided a completed Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 which makes provision for the identified affordable housing contribution (indexed linked) to be made together with provisions to contribute to the Council's legal and monitoring costs.
25. I consider that the submitted planning obligation meets the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 204 of the Framework. Consequently, there would be no conflict with Policy LP36 of the Local Plan.

Other matters

26. The Appellant has drawn my attention to a number of appeal decisions that predominantly relate to car parking provision. I have carefully considered the previous appeal relating to this site, as mentioned above. However, whilst the other appeal decisions suggest that there are some similarities to the issues in this case, each decision must be determined on its own merits. Consequently, I have only given limited weight to these other decisions and I have determined the appeal on the basis of the proposal before me and the site circumstances.
27. In addition to the main issues that I have identified above, I have taken into account the concerns of local residents regarding the effect on trees, highway safety and the fact that the site should be retained for use as a car park. These matters have been carefully noted and partly considered in my main issues. Other matters raised in relation to the retention of the car park do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for this other reason.

Conditions

28. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability. I have also deleted one of the suggested conditions.

29. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. In order to protect existing trees, a condition (No. 3) is necessary requiring the development to proceed in accordance with the submitted Arboricultural Impact Assessment.
30. In the interests of enhancing the ecology of the locality, and in the interests of protecting the character and appearance of the area, conditions are necessary requiring the submission and implementation of details of biodiversity net gain, details of hard and soft landscaping and details of the external surfaces of the proposed building (conditions Nos. 4, 5 and 16). However, I have amended part (c) of condition No. 5 to ensure the replacement of any plants that die or are removed during a period of 5 years following the completion or occupation of the development. A condition (No. 6) is necessary requiring the submission of a Construction Management Plan in order to protect the living conditions of nearby residents during the construction period and in the interests of highway safety.
31. In order to promote sustainable development, conditions are necessary requiring reductions in carbon dioxide emissions, details of proposed photovoltaic panels and to minimise water consumption (conditions Nos. 7, 8 and 15).
32. To promote sustainable modes of transport and reduce the need for travel by car, a condition is necessary requiring the provision of cycle parking facilities (condition No. 9). To ensure that adequate provision is made for refuse and recyclable materials storage, conditions are necessary requiring the submission and implementation of bin storage and collection details (conditions Nos. 10 and 11).
33. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national Permitted Development rights unless there is clear justification to do so. However, taking into account the constrained nature and location of the site in the Conservation Area and its location in close proximity to existing residential development, conditions are necessary to restrict the creation of roof terraces, extensions and outbuildings (conditions Nos 12, 13 and 14).
34. The Council has suggested a Grampian Condition requiring that, with the exception of disabled persons, no occupier of the development shall obtain a parking permit within any controlled parking zone. However, in light of my findings above, such condition is not necessary. Consequently, I have deleted the suggested condition.
35. A condition is necessary requiring site contamination investigation and remediation to ensure that any ground contamination encountered is adequately and safely dealt with (No. 17). This is necessary in order to ensure that the site is satisfactorily remediated and to protect the future users and occupiers of the site, the environment and ecological systems from risks associated with contamination.
36. In order to ensure that the proposed dwelling can be safely occupied, a condition (No. 18) is necessary requiring that the development is undertaken in accordance with the submitted Fire Safety Statement.

Conclusion

37. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out other than wholly in accordance with Drawing Nos:
FA22-1909-050 (Existing Site Plan), FA22-1909-055 (Proposed Site Plan Coloured), FA22-1909-055 (Proposed Site Plan), FA22-1909-100 (Floor Plans, Elevations, Street Scene), Location Plan received 31/03/2022
Tree Protection
- 3) The development hereby approved shall not be implemented other than in accordance with the recommendations of the Arboricultural Impact Assessment & Method Statement, prepared by Arboricultural Consultants and dated 17/03/2022.
Hard and Soft Landscaping Works
- 4) There should be no net loss of soft landscaping and existing and proposed comparisons are to be provided to the Local Planning Authority in accordance with the requirements of this condition.
 - (a) Prior to the commencement of the development hereby approved, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include proposed finished levels or contours, means of enclosure and hard surfacing materials.
 - (b) Soft landscape works shall include planting plans; written specifications (including cultivation and establishment); details of the quantity, density, size, species, position and proposed planting programme of all shrubs, hedges, grasses etc. together with an indication of how they integrate with the proposal and streetscape in the long term with regard to their mature size and maintenance. All species should be of native or non-native plants of known value for wildlife and include examples of seed/fruit bearing species, pollinator plants and those which attract night flying insects. All tree, shrub and hedge planting included within that specification shall be carried out in accordance with BS 3936:1986 (Parts 1, 1992, Nursery Stock, Specification for trees and shrubs, and 4, 1984, Specification for forest trees); BS 4043: 1989, Transplanting root-balled trees; and BS 4428:1989, Code of practice for general landscape operations (excluding hard surfaces).
 - (c) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Ecological enhancement plan

- 5) Prior to the commencement of construction above ground level, full details of biodiversity net gain to be installed shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details. The details shall include integrated bricks or boxes for bats and house sparrows. The details for each aspect should include specific location, specific product/dimensions and construction method.

Construction Method Statement

- 6) Prior to the commencement of the development hereby approved, including any works of demolition, a Construction Management Statement (to include any demolition works) shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.

The Statement shall provide for:

1. The size, number, routing and manoeuvring tracking of construction vehicles to and from the site, and holding areas for these on/off site;
2. Site layout plan showing manoeuvring tracks for vehicles accessing the site to allow these to turn and exit in forward gear;
3. Details and location of parking for site operatives and visitor vehicles (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
4. Details and location where plant and materials will be loaded and unloaded;
5. Details and location where plant and materials used in constructing the development will be stored, and the location of skips on the highway if required;
6. Details of any necessary suspension of pavement, roadspace, bus stops and/or parking bays;
7. Details where security hoardings (including decorative displays and facilities for public viewing) will be installed, and the maintenance of such;
8. Details of any wheel washing facilities;
9. Details of a scheme for recycling/disposing of waste resulting from demolition and construction works (including excavation, location and emptying of skips);
10. Details of measures that will be applied to control the emission of noise, vibration and dust including working hours. This should follow Best Practice detailed within BS5288:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites;
11. Details of any highway licenses and traffic orders that may be required (such as for licences for any structures / materials on the highway or pavement; or suspensions to allow the routing of construction vehicles to the site);
12. Details of the phasing programming and timing of works;

13. Where applicable, the Construction Management Statement should be written in conjunction with the Arboricultural Method Statement, and in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction - recommendations', in particular section 5.5, 6.1, 6.2, 6.3 and 7;

14. A construction programme including a 24 hour emergency contact number.

Energy Reduction

- 7) The dwelling hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Building Regulations requirements (2013).

Water Consumption

- 8) The dwelling hereby approved shall not be occupied other than in accordance with the water consumption targets of 105 litres or less per person per day, and 5 litres or less per head per day for external water use.

Cycle Parking

- 9) The dwelling shall not be occupied until cycle parking facilities have been provided in accordance with detailed drawings to be submitted to and approved in writing by the Local Planning Authority, such drawings to show the position, design, materials and finishes thereof. The approved facilities shall be retained for the purposes of cycle parking at all times thereafter.

Refuse Arrangements

- 10) The building hereby approved shall not be occupied until arrangements for the storage, disposal and collection of refuse/waste/recycling have been made in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The details should accord with the Council's Refuse and Recycling Storage Requirements SPD (2015) and Transport SPD (2020). The approved refuse storage facilities shall be retained and made available for such purpose at all times thereafter.

Refuse storage

- 11) No refuse or waste material of any description shall be left or stored anywhere on the site other than within a building or refuse enclosure.

Permitted development restrictions

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no part(s) of the roof of the building hereby approved shall be used as a balcony or terrace nor shall any access be formed thereto.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no external alterations or extensions shall be carried out to the building hereby approved.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no building, enclosure or swimming

pool falling within Part 1, Class E, shall be erected on any part of the land.

PV panels

- 15) No development above ground level shall be carried out until details of the proposed photovoltaic panels have been submitted to and approved in writing by the Local Planning Authority. Details shall include the manufacturer, product number and design/materials. The works shall be carried out in accordance with the approved details.

Materials details

- 16) The external surfaces of the building (including fenestration) and, where applicable, all areas of hard surfacing shall not be constructed other than in accordance with materials details/samples which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Potential contamination

- 17) 1. Prior to the commencement of the development hereby approved:
- a) a desk study shall be submitted to the Local Planning Authority detailing the history of the site, hazardous materials and substances used on the site. Such details shall include a site investigation strategy based on the information revealed in the desk study. The site investigation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development;
 - b) any necessary intrusive site investigation shall be carried out comprising sampling of soil, soil vapour, ground gas, surface water and groundwater. Such work shall be carried out by suitably qualified and accredited geo-environmental consultants in accordance with the current U.K. requirements for sampling and testing.
 - c) written reports of i) the findings of the above site investigation and ii) a risk assessment for sensitive receptors together with a detailed remediation strategy designed to mitigate the risk posed by the identified contamination to sensitive receptors have been submitted to and approved in writing by the Local Planning Authority

Note: some demolition work, if required, could be allowed beforehand for enabling the above requirement (1b), subject to the agreement of the Local Planning Authority.

2. The dwelling hereby approved shall not be occupied until:
- a) the remediation works approved as part of the remediation strategy have been carried out in full and in compliance with the approved strategy. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then the additional contamination should be fully assessed in accordance with parts b and c above and an adequate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority and shall be fully implemented thereafter.
 - b) a verification report, produced on completion of the remediation work, has been submitted to and approved in writing by the Local Planning

Authority. Such report to include: i) details of the remediation works carried out and ii) results of verification sampling, testing and monitoring and iii) all waste management documentation showing the classification of waste, its treatment, movement and disposal in order to demonstrate compliance with the approved remediation strategy.

Fire Safety

- 18) The development shall be carried out in accordance with the provisions of the Fire Safety Statement dated 19 April 2022 and shall be retained as such thereafter.