



Appeal Decision

Site visit made on 18 July 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/L5810/W/22/3291938

26A Hounslow Road, Twickenham TW2 7EX

- 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 Sol Khan against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref 21/0381/FUL, dated 4 February 2021, was refused by notice dated 2 August 2021.
 - The development proposed is described as demolition of existing property. Erection of 6 terraced houses on the backland site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As no site address was provided on the application form, I have used the address from the decision notice.

Main Issues

3. The main issues are the effects of the development on and in relation to:
 - the local supply of employment land;
 - the provision of affordable housing;
 - flooding and drainage;
 - parking and servicing;
 - biodiversity;
 - the character and appearance of area; and
 - the sustainable use of resources.

Reasons

Employment land

4. Policy LP 42 of the Local Plan 2018 seeks the retention of industrial land given its limited local supply, requiring compelling evidence for its loss, including marketing. It further sets out a sequential approach in relation to alternative use. A 2021 appeal concerning a similar proposal for development of the site (the 2021 appeal) established that it is industrial land. Notwithstanding continuing disagreement over what the lawful use of the site might be, I have been provided with no reason to take a different view.
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5. As was the case in relation to the 2021 appeal, the appellant has not provided any evidence of marketing, or which shows that the sequential approach set out within Policy LP 42 has been followed. Noise and neighbour issues which arose from past use of the site are provided as justification. However, as these appear to have arisen as a result of the particular way in which the site was being used, they do not indicate that an industrial use of the site is unsuitable. Nor do they provide a basis to disregard all preferred alternative uses.
6. The site is unkempt, and there was little evidence of active use at the time of my visit. However, this does not in itself demonstrate a lack of demand for the land.
7. For the reasons set out above I conclude that the development would result in the unjustified loss of industrial land, thus resulting in likely harm to the local economy. The development would therefore conflict with Policy LP 42 of the Local Plan as set out above.

Affordable housing

8. Policy LP 36 of the Local Plan requires all housing sites to contribute towards the provision of affordable housing. On sites providing fewer than 10 units a contribution is expected. This requirement does not align with that set out within the Framework which sets the relevant threshold at 10 dwellings. This divergence was however considered and justified within the context of the Local Plan examination, and the Council has shown that having regard to local circumstances its justification remains relevant.
9. Insofar as Policy LP 36 allows for requirements to be modified based on economic viability, the appellant has provided a report with the appeal which seeks to demonstrate that the development could not provide any contribution. Following the approach set out within Policy LP 36, the report should have been subject of a developer financed review. However, no review has been undertaken. Within this context there was clearly some requirement for the parties to work together. Whatever the reason for the apparent failure in this case, in the absence of a review, I cannot be satisfied that the evidence provided is reliable. Nor can I therefore conclude that the adverse effect the scheme would have on the local delivery of affordable housing has been soundly justified.
10. For the reasons outlined above I conclude that the appellant has failed to satisfactorily demonstrate that development would be incapable of making a contribution towards affordable housing provision, contrary to the requirements of Policy LP 36 of the Local Plan.

Flooding and drainage

11. Policy LP 21 of the Local Plan addresses flood risk and drainage, partly with reference to national policy. In this regard the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) set out the objective of steering development towards areas at the lowest risk of flooding from any source. The site is located within Flood Zone 1, but nonetheless also within an area identified as being at high risk of groundwater flooding. As is currently set out within the Framework and PPG, in these circumstances application of the sequential test is required, and footnote 55 of the Framework further indicates the need for a site specific flood risk assessment. The Council

has additionally identified the need for completion of a London Sustainable Drainage Proforma and Groundwater Flooding Screening Assessment. Neither of the latter has been provided, and nor has any relevant evidence which addresses the above matters.

12. The appellant has highlighted the fact that most of the site is concreted over, and that permeability could be improved. However, the way in which SuDS and groundwater would interact has again not been addressed.
13. In the absence of evidence, I cannot reach any conclusion in relation to the sequential test. I also cannot conclude that the development and its occupants would be safe from the risk of flooding, that the development would not increase flood risk elsewhere, or that within these contexts, the development would be suitably drained.
14. For the reasons set out above I conclude that the appellant has failed to demonstrate that the site is a suitable location for the development in relation to flood risk and drainage. The development would therefore conflict with Policy LP 21 as set out above.

Parking provision and servicing

15. On-street parking within the area surrounding the site is in short supply and subject of permit control. The development would provide only 2 parking spaces, thus 4 spaces short of the requirement set out within the Local Plan. The appellant states that this would be addressed by the development otherwise being 'car free', and that this would be secured by a Section 106 agreement (S106). However, Policy LP 45 of the Local Plan, which sets out a series of requirements in relation to car free housing, does not indicate that the site is located within an area where its provision is considered appropriate. Even if it was, no S106 has been submitted, and no acceptable alternative means by which the car free element of the scheme could be secured has been set before me.
16. The development could therefore give rise to increased parking demand within an area where parking is already subject of constraint. Assuming that future occupants would be successful in applying for permits, no evidence which demonstrates that overspill parking could be comfortably accommodated on street has been provided. Resultant harm could typically include increased parking in inappropriate locations and increased competition for space; the former giving rise to adverse effects on the free flow of traffic and highway safety, and the latter adverse effects on the living conditions of local residents.
17. Both Policy LP 45 and Policy LP 39 of the Local Plan require the provision of appropriate servicing arrangements, and the Refuse and Recycling Storage Requirements Supplementary Planning Document 2015 (SPD) sets out the desirability of off-street waste collections. The submitted plans however fail to demonstrate that refuse vehicles could enter and turn within the site. If safe means of turning did not exist it can be reasonably assumed that refuse vehicles would not seek to enter the site, thus avoiding the risk.
18. The appellant has highlighted the Council's past assessment of a previously refused application which established that lorries could enter and turn within the site. This was however within the context of the site's use as a scaffolding yard, and its proposed use for hire and storage in connection with the building

trade. The current proposal would not however see the yard retained in its existing form.

19. Consequently, it appears likely that future occupants would be required to drag their bins to the street frontage. Whether the distance would comply with that set out within the SPD is unclear. However, bins could thus obstruct both the access and the pavement, and their collection would lengthen the time that refuse vehicles would pause within the street. Adverse effects could thus arise in terms of both highway safety and the free flow of traffic.
20. For the reasons set out above I conclude that the appellant has failed to demonstrate that the development would make adequate provision for parking and servicing. The development would therefore conflict with Policies LP 39 and LP 45 of the Local Plan as set out above.

Biodiversity

21. The appellant has submitted a preliminary bat roost assessment relating to the building currently on site. Whilst the Council has criticised its timing, and this was also noted in the 2021 appeal, assessments of this type can be carried out at any time of the year.
22. The assessment establishes both the absence of bats and the negligible potential offered by the building on site for roosting. Though the survey is now 2.5 years old, it appears unlikely that conditions would have changed since.
23. The Council has additionally referenced trees and soft landscaping in relation to biodiversity. In this regard, notwithstanding the poor quality of the information provided, measures to protect the mainly poor quality off-site trees identified could be secured by condition.
24. Any provision of soft landscaping would be likely to exceed the negligible quantity currently on site. Within this context, the appellant has additionally sought to provide a greater amount of soft landscaped space than featured within the scheme subject of the 2021 appeal.
25. Further specific details of measures to enhance biodiversity, including through tree planting, could again be secured by condition.
26. For the reasons outlined above I conclude that the development would not have an unacceptable effect in relation to biodiversity, or therefore conflict with Policy LP 15 of the Local Plan which seeks to protect and enhance the borough's biodiversity, and Policy LP 16 of the Local Plan which seeks to secure development that protects, respects, contributes to and enhances trees.

Character and appearance

27. The proposed terrace would be accessed via the west elevation. This would serve as the 'front' in both functional and visual terms. I have therefore assessed the scheme on that basis, notwithstanding the fact that, for reasons unclear, the Council took the opposite view.
28. The site lies on land between Hounslow Road and Prospect Crescent. The adjacent parts each features a densely built up frontage containing 2-storey terraces with pitched roofs, some of which have been extended. The depth of back gardens varies, being generally deepest to the rear of dwellings fronting Prospect Crescent.

29. The height of the proposed terrace would be no greater than that of other terraced dwellings nearby, and its overall massing would also appear little different. In this regard it would have a partly pitched roof form featuring large rectilinear 'dormers' across the front, similar in size and shape to rear roof extensions added to some surrounding dwellings. The style would clearly differ, but the terrace would exhibit typical uniformity in design.
30. Whilst thus broadly compatible with the surrounding context in terms of height, form and appearance, the proposed layout would feature atypically shallow back gardens. This would directly contrast with the relatively long back gardens of properties fronting Prospect Crescent immediately to the rear, lending the terrace a degree of prominence as viewed from within adjoining parts of those gardens. None of this would however be apparent from public vantage points, including the site access, Hounslow Road and Prospect Crescent. There would therefore be little if any public perception of any inconsistency in terms of layout.
31. Insofar as the current character of the site detracts from that of the surrounding area, the development would provide some improvement. That said, the character of the site could also be improved through better management.
32. The Council's reason for refusal cross references trees and soft landscaping. Having already separately concluded on these matters, they do not alter my findings above.
33. For the reasons outlined above I conclude that the development would not have an unacceptable effect on the character and appearance of the area. The development would therefore comply with Policy LP1 of the Local Plan, which seeks to secure development that respects, contributes to and enhances the local environment and character, and Policy LP 39 of the Local Plan, to the extent that this requires backland development to reflect the character of the surrounding area. Though the Council also cited Policy CP 8 of the Local Plan, this addresses neighbour amenity, which is not directly relevant to the matter above.

Resource use

34. Policy LP 22 of the Local Plan addresses sustainable design and construction. Amongst other things the policy requires new dwellings to incorporate water conservation measures sufficient to achieve maximum water consumption of 110 litres per person per day. The appellant has provided a report which seeks to demonstrate this. It would however ultimately be secured by requiring compliance with the relevant optional standard set out within the Building Regulations.
35. Policy LP 22 of the Local Plan further states that changes of use to residential will be required to meet the BREEAM Domestic Refurbishment standard. However, the development would not entail refurbishment. The broader applicability of BREEAM to a new housing development is otherwise questionable in light of national policy relating to the use of technical standards.
36. Policy LP 22 also requires the completion of a sustainable construction checklist, but none has been provided. This gives rise to a conflict with the

requirements of Policy LP 22 which are not resolved by the submitted energy statement. However, insofar as the Council has identified specific concerns, matters such as potential connection to a DE network, and construction standards in relation to energy performance, each could be addressed by appropriately worded conditions.

37. The requirements of Policy LP 20 of the Local Plan, which seeks to secure development that is resilient to the future impacts of climate change, could be addressed in a similar way.
38. For the reasons set out above I conclude that notwithstanding conflict with the information requirements of Policy LP 22, satisfactory performance in relation to future resource use could be secured through the imposition of conditions.

Other Matters

39. The appellant asserts that the Council lacks a demonstrable 5-year supply of deliverable housing sites (5 YHLS). This is however based on an annual report published by the Council in September 2020, which, aside from now being out of date, confirmed the existence of a 5YHLS. This is also the case in relation to a more recent report provided by the Council. Indeed, no up to date evidence which supports the appellant's case has been set before me. I have thus been provided with no valid reason to question the Council's position.
40. The development would provide 6 additional open market dwellings thus making a contribution towards the general supply of housing. I have additionally noted that there would be some improvement to the character and appearance of the area. The related social, economic and environmental benefits would not however outweigh the combination of various harms I have identified above, with regard to which the development would be unacceptable.

Conclusion

41. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan taken as a whole. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR