



Appeal Decision

Site visit made on 06 February 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2024

Appeal Ref: APP/L5810/W/23/3326775

42 St. Marks Road, Teddington, Richmond Upon Thames TW11 9DD

- 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 Jonathan Levy against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 22/1843/FUL.
 - The development proposed is the demolition of two existing garages and construction of one x one-bedroom residential dwelling with associated access, refuse and cycle enclosure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the area;
 - whether the proposal would provide an acceptable standard of accommodation for future occupiers with particular regard to amenity space provision;
 - the effect of the proposal on the living conditions of neighbouring residents at 42 St Marks Road with particular regard to the potential to appear overbearing; and
 - the extent to which the basement aspect of the proposal accords with development plan policies.

Reasons

Character and appearance

4. The appeal site is located in a predominantly residential area which is characterised by large single and 2 storey detached and semi-detached properties. Whilst varied in design and scale, these properties are typically well-maintained with pitched and hipped roofs and are set back from the road

- behind small front gardens enclosed by a mixture of low walls, railings and hedges. This, in addition to planting within the street scene and front gardens, results in a spacious and verdant character to the area.
5. The appeal site comprises 2 flat roof garages which are sited on the amenity space to the side of 42 St Marks Road. Given the gently curving nature of the road there is limited visibility of the garages in distant views from the street scene. Nonetheless, they are noticeable above the gates to the site frontage in views from the immediate area.
 6. The proposal seeks permission for a detached dwelling in place of the garages. The dwelling would appear as a single storey structure when viewed from the road and would retain the existing gap between 42 St Marks Road and the properties on Fairfax Road. A proposed 2m high timber fence would have a similar visual impact as the existing enclosure. Due to the curve in the road, there would be limited distant views of the dwelling.
 7. Nonetheless, the dwelling would be visible above the boundary fence from the immediate area and, given the increased scale of the dwelling and its limited setback from the road, it would be more visible than the garages in views from the street scene. In these views, the modern, flat roof design and proposed palette of materials would contrast unfavourably with the traditional form of dwellings in the surrounding area. The dwelling would also noticeably project forward of the staggered building line along St Marks Road. Consequently, it would appear as a discordant feature inconsistent with the form and layout of dwellings in the surrounding area.
 8. Furthermore, whilst acknowledging the constraints of the appeal site, the limited separation to the site boundaries would give the dwelling a cramped appearance which would be discernible when viewed from the immediate surroundings.
 9. My attention has been drawn to developments¹ which it is stated set an architectural precedent for the proposal. I accept that modern infill development can be acceptable in traditional spaces. However, the acceptability is dependent on individual site circumstances and there is limited information of these developments for me to give substantial credence to. They do not therefore provide a justification for the proposal, which in any case must be considered on its individual merits.
 10. In light of the above, the proposed development would fail to harmonise with its surroundings and would detract from the character and appearance of the surrounding area. It would therefore be contrary to Policy D6 of the London Plan (2021) (LP) and Policies LP1 and LP39 of the London Borough of Richmond on Thames Local Plan (2018) (LBRUTLP). Collectively these policies seek to ensure that development respect the local context and that the built form of the development should be appropriate for the surrounding context, including consideration of, amongst other matters, the relationship to the existing townscape and development patterns.
 11. I also find conflict with the Small and Medium Housing Sites Supplementary Planning Document (2006) (SMHSSPD) and the Design Quality Supplementary Planning Document (2006) (DQSPD) which require that new development

¹ Aperture House, Shadow House, 30 Cardozo Street, Spiral House, Pocket House and Adolphus Road

responds to local character and is sympathetic to its surroundings reflecting the set back of adjoining buildings and the form of the street.

Living conditions- future occupiers

12. The proposal would comply with national space standards and the Council raise no objection to proposed internal light levels, ventilation or privacy to habitable rooms. The proposal would provide 2 areas of amenity space: a terrace of approximately 16.8m² and a courtyard of approximately 3.5m². These spaces would exceed the Council's required outside amenity space of 5m², as indicated in the Residential Development Standards Supplementary Planning Document (2010) (RDSSPD).
13. Nonetheless, these spaces would be subterranean and enclosed by sizeable walls. Consequently, they would not receive any daylight for large parts of the day and would not be a pleasant space for future occupiers to spend time in. Whilst the terrace would receive some sunlight during summer months, this would fail to compensate for the limited levels of daylight in other seasons. Additionally, even if it is the case that the dwelling would be unlikely to accommodate families, future occupiers would nonetheless reasonably expect to have suitable high quality private outdoor space.
14. It is suggested that the entrance walkway is also amenity space. This space would provide access to daylight and fresh air. However, the comings and goings of occupiers within this area would considerably reduce the space which would be available for enjoyment as an amenity area. Thus, it would be of insufficient size to comfortably accommodate the range of uses reasonably expected of an amenity space such as the siting of a table and chairs and an area for drying washing. The contribution made by this space in meeting the amenity space requirements of future occupiers would therefore be limited.
15. Reference is made to appeal decisions in which it is stated Inspectors accepted that close proximity to public open space would be sufficient to compensate for a shortfall in private amenity space. Whilst the full details of these decisions are not before me, I note that public open spaces in the local area to which my attention has been drawn are some distance from the appeal site. Bushy Park and Langdon Park are approximately 500m away and Broom Road Recreation Ground approximately 1km. Given the distances involved, whilst these spaces may serve to meet some recreational needs of future occupants, they would not compensate for the inadequate nature of the private amenity space.
16. I therefore consider that the proposal would not provide satisfactory living conditions for the occupiers of the development, with regard to the quality of outdoor amenity space. Thus, it would conflict with LP Policy D6 and LBRUTLP Policy LP 35 which collectively seek to ensure that housing development is of a high quality design which maximises the usability of outside amenity space, and that amenity space for new dwellings should be, amongst other matters, usable, functional and orientated to take account of need for sunlight and shading. I also find conflict with the RDSSPD which states that aspect, useability and sense of enclosure will all be taken into account in assessing whether private gardens provide sufficiently good living conditions.

Living conditions- neighbouring residents

17. The proposal would result in the construction of a building which would be taller and would project further to the front of the site than the existing garages. Given the proximity to the site boundary, this would enclose the front amenity space to 42 St Marks Road, creating a sense of overbearing for the current occupiers which would make this an unpleasant space in which to spend time, to the detriment of the living conditions of the occupiers of the dwelling.
18. Whilst the appellant references a 2m high boundary enclosure that could be erected, given the height of the dwelling in relation to such an enclosure, it would not have a comparable effect on outlook from this area of amenity space. Additionally, I acknowledge that the appellant resides at the affected property. Nonetheless, I am tasked with consideration of the effect of the proposal on the living conditions of the occupiers of this dwelling, regardless of ownership, their lack of objection or involvement in the proposal. This matter does not therefore weigh in favour of the proposal.
19. Thus, the proposed development would have an unacceptable effect on the living conditions of the occupiers of 42 St Marks Road with regard to outlook from the front amenity space. Therefore, conflict arises with LBRUTLP Policy LP8 which requires that development protect the amenity and living conditions for occupants of adjoining and neighbouring properties. I also find conflict with the SMHSSPD which requires that design should mitigate the visual intrusion of new development on existing properties. Whilst referenced by the Council, I find no conflict with the DQSPD which relates to design quality.

Basement

20. The proposal satisfies many of the criteria for subterranean development and basements set by Policy LP11 of the LBRUTLP, and the Council raise no concerns regarding stability, ventilation, lighting or flood risk. However, the Council are concerned that requirement B.1 would not be met. This requires that proposals should extend to no more than 50% of the existing garden land or more than half of any other undeveloped garden area. The Council maintains that the basement, which would comprise most of the plot, is excessive.
21. The supporting text to LBRUTLP Policy LP11 explains that whilst basements may not have a detrimental impact on the openness of an area, they can introduce a degree of artificiality and restrict the range of trees and other planting. Thus, it requires the retention of at least half of each garden to enable natural landscapes and the character to be maintained. The Planning Advice Note Good Practice Guide on Basement Developments (2015) (PANBD) states that the Council will seek to ensure that gardens maintain their biodiversity function for flora and fauna, and that they are capable of continuing to contribute to the landscape character of an area, so that this can be preserved and enhanced.
22. Whilst forming part of the amenity space to 42 St Marks Road, the proposed basement accommodation would be provided on land which comprises garages and hardstanding and does not contain any landscaping. Thus, in these particular circumstances, the extent of the basement would not introduce a degree of artificiality, restrict the range of trees or other planting or harm biodiversity function. Indeed, the proposal incorporates a green roof which would enhance the site's biodiversity function.

23. LBRUTLP Policy LP11 and PANBD set out further planning considerations in relation to subterranean and basement developments, including that the design and appearance of the proposal will be assessed against the advice in the Council's SPDs relating to character and design. I have found that the proposal would conflict with the SMHSSPD and DQSPD. Nonetheless, these concerns relate to the design and siting of the dwelling. The basement aspect of the proposal would itself have little impact on the character and appearance of the area.
24. In light of the above I find no conflict with those aims of LBRUTLP Policy LP11 or the PANBD as set out above. I also find no conflict with the Basement Assessment User Guide (2021) which provides guidance on the content and assessment of a Basement Impact Assessment, which has been submitted in support of the proposal.

Other Matters

25. The proposal would provide housing on a small site at low risk of flooding with good access to facilities and public transport. It would conform to the objective of the Framework to boost the national supply of homes and would contribute to the choice of housing in the area. The proposal would generate economic benefits through employment during the construction phase. Given the limited scale of the development, I attach limited weight to the development's positive contributions to these factors.
26. The dwelling would incorporate an Air Source Heat Pump and would be of a sustainable design which would exceed relevant local policy requirements in relation to biodiversity net gain and carbon emissions and would result in surface water runoff improvements. However, these benefits would be limited by the scale of the development. I therefore afford them limited weight.
27. The proposal is likely to be able to meet with the relevant local and national policies in terms of fire safety, drainage, impact on trees and the highway network and cycle and bin provision. Additionally, the host dwelling would retain sufficient garden space to meet the guidance in the RDSPD. However, as these would be policy requirements in any event, I attribute these matters limited weight.
28. Reference to the site comprising 'previously developed land' (PDL) is noted. Annexe 2 to the Framework provides a definition of PDL which excludes land in built up areas such as residential gardens. The appeal site forms part of a residential garden in a built-up area and does not comprise PDL as defined by the Framework. The proposal therefore gains no favour from policies which support the redevelopment of PDL.
29. It is stated that the appellant has amended the proposals since the time of the pre-application enquiry. However, the amendments would still result in a proposal that would harm the character and appearance of the area, would fail to provide adequate living conditions for future occupants and would harm the living conditions of the occupiers of 42 St Marks Road for the reasons outlined.

Conclusion

30. The proposal conflicts with the development plan and there are no material considerations, either individually or in combination, that outweigh the

identified harm and associated development plan conflict. Therefore, I conclude the appeal should be dismissed.

N Robinson

INSPECTOR