



Appeal Decisions

Site visit made on 18 November 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 December 2024

Appeal A Ref: APP/L5810/W/24/3342167

38 Warren Road, Twickenham, Richmond Upon Thames TW2 7DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mahan Mirzanasiri against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 23/2728/FUL.
 - The development proposed is two storey side and rear extension to create a new 5 bed single dwelling, including car parking and bicycle space. First floor rear extension to the existing house at 38 Warren Road.
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Appeal B Ref: APP/L5810/W/24/3350707

38 Warren Road, Twickenham, Richmond Upon Thames TW2 7DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mahan Mirzanasiri against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 24/0926/FUL.
 - The development proposed is two storey side and rear extension to create a new 5 bed single dwelling, including car parking and bicycle space and first floor rear extension on the existing house at 38 Warren Road.
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Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. The applicant's name is spelt incorrectly on the planning application form relating to Appeal B. However, the applicant's name is clear from other documents, so I have corrected this in the heading above.
3. The description of the proposed development subject to Appeal A is taken from the appeal form and decision notice, as it reflects the scheme more accurately than the description included on the planning application form.
4. The application subject to Appeal B was submitted following the Council's decision on the Appeal A application. The proposals are similar, with the main differences being design and parking based. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. In an attempt to address some of the Council's objections to the Appeal A scheme, a flood risk assessment, a viability assessment, an ecological report and an updated fire safety strategy have been submitted. The Council and interested parties have had an opportunity to consider these documents as

part of the appeal procedure. Moreover, the documents are substantively the same as or identical to ones submitted with the application subject to Appeal B. I have therefore taken the documents into account as no prejudice arises in doing so.

6. The Council submitted its emerging Local Plan¹ (eLP) for examination in January 2024. It has not been reported whether there are unresolved objections to any relevant policies or if modifications are necessary for soundness. However, the Council contends that eLP policies 4 or 39 should be afforded no weight in relation to specific carbon offset rate and 20 percent biodiversity net gain requirements. It is not clear why this should be the case, but in the absence of any arguments indicating otherwise, I have no reason to disagree. In any case, I must consider the weight to give to the eLP in the context set out and having regard to the degree of consistency between its policies and the National Planning Policy Framework (Framework)².

Main Issues

7. The main issues for consideration are:
 - i. the effects of the proposals on the character and appearance of the site and the surrounding area;
 - ii. whether the proposals are satisfactory in respect of flood risk;
 - iii. whether the proposals make satisfactory provision for affordable housing;
 - iv. the effects of the proposals on highway safety;
 - v. the effects of the proposals on ecology;
 - vi. the effect of the Appeal A proposal on the living conditions of the occupiers of 40 Warren Road, with regard to light and outlook; and
 - vii. whether the Appeal A proposal is satisfactory in respect of fire safety.
8. The final two main issues specified above relate to Appeal A only, whereas the others relate to both appeals.

Reasons

Character and appearance (both appeals)

9. The site relates to an end of terrace property adjacent to a junction between Warren Road, The Ridge and an alley that provides access to garages. No 36A is a modern infill property that sits behind the site and a flat block is on the other side of the alley. Notwithstanding these, there is a fairly cohesive and repetitive appearance to the dwellings in the host terrace and others nearby as a result of their relatively consistent widths, pitched and hipped roof designs and fenestration layouts, sizes and designs, albeit many have been altered and material finishes vary. These qualities are set out in the Whitton and Heathfield Village Planning Guidance Supplementary Planning Document (SPD) for the Nelson Road/Warren Road Character Area.

¹ Richmond Publication Version Local Plan (Regulation 19) Version

² See paragraph 48 and footnote 22 of the Framework

10. The dwelling on site makes a positive contribution to the character and appearance of the area as it reflects many of the features common to the terraces in the locality. Notably, however, its plot differs from most insofar as it benefits from a roughly triangular shaped side garden as a result of its position near the junction. Consequently, the side of the dwelling is prominent within the streetscene, including from the alley.
11. The proposals entail extending the terrace into the side garden to provide an additional dwelling. Both would include a disproportionately large two storey rear projection that would be highly visible from the alley. In each case this would erode the legibility of the existing dwelling and the rhythm of the terrace because of its excessive width and centralised position, which would blur where one dwelling ends and the next begins. It would also be contrary to the thrust of the House Extensions and External Alterations SPD, which sets out that extensions should be less than half the width of the original building. There are no comparable projections to the rear of the rest of the terrace. The projection for the Appeal A scheme would exacerbate these issues through its substantial flat roof and high eaves, which would be discordant with the rest of the building. Furthermore, that proposal would include a narrow, two storey side projection with a gabled end that would be uncharacteristic of the hipped roof form of No 38, the rest of the host terrace and other similar terraces.
12. The proposed front elevations would follow the building line and broadly reflect the fenestration of the existing terrace in both cases. Additionally, though the new dwellings would be wider than others in the terrace, these would be comparable to the width of the end of terrace dwelling roughly opposite at 53 Warren Road. Careful use of materials would also ensure that some sense of rhythm to the widths of the individual dwellings within the terrace is retained.
13. Notwithstanding this, the schemes would harm the character and appearance of the site and the surrounding area. Consequently, they conflict with policies LP1 and LP39 of the Council's Local Plan (LP), eLP policies 15 and 28, and the House Extensions and External Alterations, Design Quality, Small and Medium Housing Sites, and Whitton and Heathfield Planning Guidance SPDs. These specify that development should respect, contribute to and enhance the local environment and character, or provide advice to achieve those objectives.

Flood risk (both appeals)

14. The site is located within flood zone 1 and therefore at low risk of fluvial flooding. However, it is also in a critical drainage area and highly susceptible to groundwater flooding according to the Council's Strategic Flood Risk Assessment – Level 1.
15. The appellant's flood risk assessment is the same for both schemes. It concludes that the site-specific risks for most forms of flooding would be low having regard to various sources including mapping, as there have been few recorded flood events historically, and as the site is on a hill. I have no reason to find otherwise in most respects. However, the flood risk assessment also suggests that the building footprint would reduce the risk of groundwater flooding to acceptable levels without giving any detail about how this would be achieved. Given the lack of information, I am not persuaded that the proposals would be satisfactory with regard to groundwater flooding. That being said, it would be inappropriate to impose a condition relating to the matter since I cannot be sure if an adequate scheme can be delivered.

16. Additionally, though not specified on either decision notice, the delegated report for the Appeal B scheme indicates that the sequential test should be carried out due to the area's susceptibility to groundwater flooding. This correlates with Table 6-1 of the Strategic Flood Risk Assessment which suggests that the sequential test may need to be applied in flood zone 1 where there may be flood issues now or in the future from sources other than rivers. No sequential test, or reasoning to justify the absence of a sequential test, has been provided. Without such, I cannot conclude that the Appeal B scheme is acceptable in respect of flood risk. Moreover, given that the site and the type of development proposed are the same for both appeals, I must conclude likewise for Appeal A.
17. The proposals are unsatisfactory in respect of flood risk. Consequently, there are conflicts with LP policy LP21 and eLP policy 8, which specify that development should avoid or minimise contributing to all sources of flooding. The Council also refers to London Plan policy SI13 in respect of this matter, but I find no conflict with the policy as it refers principally to surface water management and there is reasonable scope for an appropriate sustainable drainage scheme to be secured by a condition.

Affordable housing (both appeals)

18. Policy LP36 of the LP states that contributions towards affordable housing will be expected on all housing sites, including minor development like this, in a manner commensurate to its scale. The policy also provides for contributions to be reduced where a development is shown to be unviable, but in those circumstances it requires an applicant to underwrite the Council's costs for commissioning a viability assessment to make sure that affordable housing provision is maximised.
19. Paragraph 64 of the Framework specifies that provision of affordable housing should not be sought for minor development. LP policy LP36 is therefore inconsistent with the Framework. However, the policy's supporting text highlights a substantial annual undersupply of affordable housing. It also states that small sites make a significant contribution to housing supply, the cumulative impact of these sites should contribute to affordable housing provision, and that this is justified by the LP's evidence base and local circumstances. I do not doubt that the need for affordable housing remains as acute now as when the LP was adopted. Accordingly, while the provisions of the Framework are important considerations, these do not lead me to conclude that LP policy LP36 should disapply.
20. The appellant's assessment of viability is the same for both schemes. Although the inputs should differ slightly as the sizes and designs of the proposed dwellings are not exactly equal, even accounting for slight adjustments to the evidence to address this, it would still suggest that affordable housing contributions cannot be viably provided in each case. However, the appellant has not furnished the Council with funds to commission an assessment, in conflict with LP policy LP36. While the Council did not request funding at any point, it is for the appellant to ensure that relevant actions required by a policy are undertaken in pursuance of permission. Consequently, there is insufficient information to conclude that the appellant's viability assessment is robust and therefore that affordable housing cannot be provided. As such, even if I were to find the assessment adequate, this would not address the policy conflict.

21. The schemes have therefore failed to demonstrate that they are satisfactory in respect of affordable housing considerations. Conflict with LP policy LP36 and the Affordable Housing SPD arises as a result.

Highway safety (both appeals)

22. The Appeal A scheme proposes vehicular access to a parking space that would be roughly perpendicular to Warren Road, which is classified and subject to a 20 miles per hour speed limit. The Transport SPD advises that crossovers onto classified roads will only be approved where a vehicle can enter and exit a site in a forward gear. The proposal would not provide turning space so this would not be possible. However, the access and parking arrangement would be similar to many others along the road, including properties near highway junctions, and vehicles would move along the road slowly due to the speed restriction. No traffic incident or other data has been provided to suggest that collisions or near misses have occurred in the vicinity. Further, given the speed restriction, there is a reasonable prospect of sufficient visibility splays being provided, which could be secured by a condition.
23. In contrast, the Appeal B scheme proposes a gated vehicular access to an awkwardly positioned parking space from the alley near the junction. In the absence of tracking drawings indicating otherwise, the width of the alley at this point appears too narrow to enable access to and egress from the space without making multiple manoeuvres. I am not satisfied that pedestrians and drivers of vehicles travelling along the alley would be able to anticipate or see vehicles emerging from the access. Moreover, even if the alley is used by vehicles infrequently, any vehicles turning into the alley would have to wait very close to the junction when parking manoeuvres are being attempted at the site. This would pose an unacceptable risk to highway safety. Based on the evidence, conditions would be incapable of resolving these issues.
24. The delegated report for the Appeal B application suggests that the Highway Authority contends that a legal agreement should have been entered into to prevent occupiers of the development from applying for parking permits to park in any controlled parking zone. The reason for this is purportedly to mitigate the impacts of overspill parking. However, no information has been provided regarding the extent of such zones or the supply and demand for parking in the vicinity. When I visited I saw permit parking nearby, such as along The Ridge, but there were no obvious issues arising from this. Based on the information before me, a legal agreement is not required for this reason.
25. I conclude that the Appeal A scheme would not be harmful to highway safety. However, the Appeal B proposal would give rise to unacceptable highway safety risks in conflict with LP policies LP44 and LP45, eLP policies 47 and 48 and the Transport SPD. These seek to avoid severe impacts on the operation, safety and accessibility of highway networks and inappropriate parking.

Ecology (both appeals)

26. The refusal reasons for both appeal schemes relate to concerns regarding potential impacts on ecology. However, the Council also queries misalignments between the appellant's biodiversity net gain calculation inputs and the contents of the ecological report supporting the Appeal B application.

27. The site is in an established residential area and features limited soft landscaping. While part of the existing dwelling and its outbuildings would be removed, there is nothing before me which indicates that protected or priority species are likely to be present and affected by the development. As such, it has not been demonstrated that the proposals would be harmful in this respect. There is a street tree in front of the site, but no work is proposed directly to it and conditions could be applied to require a method statement to be submitted to ensure that any nearby works would be appropriate.
28. In terms of biodiversity net gain, notwithstanding the discrepancies between the calculation inputs and the ecological report, the Council's ecology officer advises that it is likely that the applicant would be able to achieve an appropriate net gain. The Small Sites Metric indicates that biodiversity net gain well in excess of 10 percent can be achieved, with no errors flagged in the calculations. On that basis, I do not doubt that the Appeal B scheme is capable of satisfying the net gain requirements of Schedule 7A of the Town and Country Planning Act 1990. Given that eLP policy 39 carries no weight in respect of its 20 percent net gain requirement, as set out at the start of this letter, there are no policies requiring higher net gains to be achieved and, in any case, the evidence before me indicates that over 20 percent net gain would be possible.
29. The proposals would not have a harmful effect on ecology. Both accord with LP policies LP15 and 16 and eLP policy 39, which seek to protect biodiversity, trees, woodlands and landscapes at a minimum.

Living conditions (Appeal A only)

30. The Council alleges there would be impacts arising from a proposed single storey rear extension on daylight receipt and outlook to No 40, which is the adjoining property in the host terrace. However, the delegated report for the Appeal B scheme clarifies that the projection from the ground floor of the existing dwelling was constructed following prior approval being granted. The impacts of the existing single storey projection are therefore beyond the scope of the appeals. It is not claimed that any other aspects of the schemes would be harmful to living conditions.
31. On that basis, the proposal would not result in unacceptable harm to the living conditions of the occupiers of No 40. In these ways it accords with LP policy LP8, eLP policy 46 and the House Extensions and Alterations, Residential Development Standards and Small and Medium Housing Sites SPDs, which seek to ensure that amenity and living conditions are protected.

Fire safety (Appeal A only)

32. The updated fire safety strategy is almost identical to the one submitted for the Appeal B application, which the Council raised no concerns about. It broadly addresses the requirements of London Plan policy D12 in respect of fire safety standards. It is deficient in that it erroneously shows fire escape routes for the scheme relating to Appeal B, not Appeal A. However, the proposals and hence their escape routes would be similar. In that context, it would be reasonable to impose a condition to require the submission of an amended fire escape strategy to address the issue. Subject to that, the Appeal A scheme would accord with London Plan policy D12.

Planning Balance and Conclusions

33. I have identified that either one or both of the proposals are contrary to eLP policies 8, 15, 28, 47 and 48. In terms of the issues specified above, the policies are consistent with paragraphs 115, 135 and 165 of the Framework insofar as they seek to ensure that development is directed away from areas at highest risk of flooding, sympathetic to local character and avoids unacceptable impacts on highway safety. Having regard to these considerations and the factors identified in paragraph 5 of this letter, the conflicts with the eLP policies attract significant weight.
34. Each proposal would contribute to housing supply in the borough in a relatively accessible location. The evidence also indicates that the schemes would be sustainably constructed and energy efficient. There would also be environmental benefits through the provision of wildlife enhancements and biodiversity net gain in excess of the minimum requirement. Benefits would arise from the construction process and the occupiers spending on and engaging with local amenities too. The appellant also argues that the site is currently underutilised and the schemes would optimise its use, albeit I disagree given the harm I have found.
35. Overall, the merits of the schemes are limited by the small amount of housing proposed. Critically, these do not outweigh the harm to the character and appearance of the site and the surrounding area or the issues in respect of flood risk and affordable housing provision for both appeals, the additional harm to highway safety for Appeal A, or the consequent conflicts identified with the development plan and its supporting guidance, the eLP and the Framework.
36. For these reasons, as set out in detail above, each proposal conflicts with the development plan as a whole. Material considerations do not outweigh the conflicts with, or indicate that decisions should be taken that are contrary to, the development plan.
37. Accordingly, both Appeal A and Appeal B should be dismissed.

Mark Philpott

INSPECTOR