



Appeal Decision

Site visit made on 24 September 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/L5810/W/24/3341795

77 Broad Lane, Hampton, Richmond upon Thames TW12 3BE

- 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 Mrs Irina Hirtan against the decision of Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 23/2637/FUL.
 - The development proposed is the demolition of the existing 3-bedroom dwellinghouse and garage with the erection of a replacement 6-bedroom dwellinghouse and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The reasons for refusal refer to policies of the Richmond upon Thames Local Plan (2018) (RLP). Reference has also been made to policies within the emerging Richmond Local Plan (Regulation 19 version) (eRLP). However, I have not been advised as to the status of the emerging plan or its policies and whether or not it has been formally adopted. As a consequence, the weight that I can give it and its provisions is limited.

Background and Main Issues

3. The appeal site is occupied at present by a detached dormer-bungalow chalet-style dwelling. The site is irregularly shaped with a wide street frontage that tapers towards the middle of the site, extending further rearwards, sharing garden boundaries with 79 Broad Lane and 101 and 103 Wensleydale Road. The property, which was vacant and the garden somewhat overgrown at the time of my visit to the site, has a single point of vehicular access from Broad Lane. A short gravel driveway provides access to a detached single garage.
4. The proposal seeks the replacement of the existing dwelling with a detached 6-bedroom dwelling and detached double garage. The vehicular access to the site would be relocated further west across the site frontage with a new driveway and turning area.
5. Revised proposals have been put before me as part of the appeal submissions. The revisions include the re-siting of the dwelling by moving it further back within the site to reflect the building line of the neighbouring property at No. 79 rather than that of No. 81¹. The appellant has also clarified the nature of the front boundary and landscaping treatments, particularly with regard to entrance gate pillars and visibility splays. As a consequence however there is a discrepancy between the revised proposed site layout plan¹ and the proposed landscaping plan² that I have before me.

¹ Drwg No: BL/77/02 Rev D – Proposed Site Plan

² Drwg No: CWLD-IH-BL-LA-2236-01 – Proposed Landscaping Arrangements

6. It is a well-established³ principle that the planning appeal process should not be used to evolve a scheme. The approach to revisions during the appeal process was set out in *Wheatcroft*⁴ and refined more recently in *Holborn Studios Ltd*⁵. Thus, per Holborn, I must consider the revisions to the submitted plans on substantive and procedural grounds.
7. With regard to substantive matters, the proposed replacement dwelling would remain largely unaltered in terms of its design. The effect of the revised scheme would be to move the proposed dwelling further back into the site than was initially proposed. This would not, in my judgement, amount to so substantial a difference or fundamental change to the scheme as to amount to a materially different application.
8. With regard to a procedural test, the re-positioning of the proposed dwelling within the site would alter the relationship of the building with those around it. These changes include its relationship with and position relative to the building lines and façades of neighbouring properties, and its position relative to those properties in terms of windows and window positions and the effects of this upon outlook, privacy and daylight and sunlight. However, I am satisfied that these changes would not introduce new issues over and above those already expressed by interested parties, which are already well-documented and comprehensively set out by the respective parties.
9. Thus, I have determined the appeal on the basis of the revised plans and the main issues are therefore the effects of the proposed development upon:
 - The character and appearance of the surrounding area;
 - The living conditions of occupiers of 103 Wensleydale Road and 79 Broad Lane, with particular regard to outlook, daylight / sunlight and privacy; and
 - Highway and pedestrian safety.

Reasons

Character and appearance

10. The proposed dwelling would be a far larger building than that which it would replace, as the appellant's plans and elevations helpfully demonstrate. However, the existing dwelling is something of an outlier in terms of its design and scale to those buildings around it, and indeed many buildings along significant lengths of Broad Lane, Wensleydale Road and Nightingale Road.
11. It is, however, a relatively discrete outlier. Although the appeal site's garden is somewhat overgrown, the existing roadside vegetation is well-established and despite the building's dormer-bungalow design and gable end facing the site frontage, it does not play a significant part in the Broom Lane streetscene. Indeed, the tree, shrub and hedge cover across the appeal site and neighbouring frontages of Nos. 77 and 103, and those properties on the opposite side of the road, create a particularly verdant setting at this part of Broom Lane.

³ 'Procedural Guide – Planning Appeals – England' (Chapter 16) – updated 17 September 2024

⁴ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

⁵ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

12. The modest nature of the existing building, and its comfortable relationship with its two neighbours on either side is more readily appreciated from within the site, and from the two neighbouring plots, than it is from the roadside. It is also evident that, despite the size of some of the nearby properties, particularly 81 Broom Lane and No. 103, there is presently generous spacing on at least one side of the building. Although not as large as either, No. 79 also displays a generous gap between it and No. 81 whilst its design, scale and massing softens the transition between that building and the appeal site. As a result, there is a prevailing sense of space about and between the buildings.
13. This sense of spaciousness would be lost as a consequence of the proposed development, however. Despite the appeal site's frontage width, the immediately tapering portion of the plot narrows quickly, and it would be this gap that the proposed dwelling would almost completely occupy. Attempts have been made to limit the additional elevation height facing towards No. 103, and to reflect the recessive roofline of the existing building on the side facing towards the rear of that property. Nevertheless, the vertical element of the side elevation would be greater, and the roof plane at a slightly higher level and one that would extend to a much greater height, than is currently the case. Thus, the additional scale, bulk and massing of the replacement dwelling would be clearly noticeable and would erode the setting of, and the characteristic spaciousness between, neighbouring properties to the detriment of the prevailing character and appearance of surrounding properties.
14. However, the effect of the larger replacement dwelling would be more readily, and harmfully, visible in relation to 79 Broom Lane which is described by the Council as a Building of Townscape Merit. There is currently a generous gap between the two buildings, assisted by the recessive roofline of the chalet-style dormer bungalow. The proposal would result in a taller and deeper flank elevation, leading to a much higher ridge line than present, sited much closer to the boundary with No. 79. Views of the verdant backdrop of trees behind the dwellings, visible through the gaps between, would be almost completely lost on both sides, and whilst the landscape proposals at the front would retain existing trees and hedges the areas of hardstanding and driveway would open up much of the internal area of the frontage and remove the depth of vegetation that currently exists and which contributes to the verdant setting of this part of Broom Lane.
15. Even though the appellant has proposed an amendment to the submitted scheme by setting the proposed dwelling further back into the site so that it does not project forward of the dwelling at No. 79, this would make only a very slight difference to the overall visual impact of the scheme. The dwelling's full two storey façade and peaked gable bay would still have significant bulk and massing at upper levels, particularly when compared with the recessive cat-slide roof at the side of No. 79. Together with the significant depth of the flank elevation, where the extended ridgelines would give clear hints as to the dwelling's depth of floor plate and extensive crown roof, the dwelling would overpower the more modest, yet particularly pleasing lines of No.79.
16. The appellant has cited various examples of replacement dwellings which have incorporated a combination of design cues seen in the appeal proposal. Thus, my attention has been drawn to dwellings at 59, 81⁶ and 83 Broad Lane and

⁶ LPA Ref No: 05/3735/FUL – Appendix 10 Appellant Statement of Case

86A Wensleydale Road which all feature crown roofs⁷, and in the case of No. 81, one which is 'significantly larger' than that proposed of the appeal scheme. Further reference has also been made to 10 Broad Lane⁸ and 40 Wellington Road⁹ for replacement dwellings larger than those that they replaced and to 47 Nightingale Road¹⁰ where separation distances between properties were less than proposed at the appeal site.

17. Comparisons with other properties and schemes are, however, problematic. The examples given are almost all of considerable age and whilst some information has been submitted in respect of each, I do not have the full details before me as the Council had before them. Furthermore, I cannot be certain that the development plan context in which these examples were considered has not materially changed in the intervening time. Consequently, the weight that I give these examples is limited.
18. Moreover, whilst the examples provided emphasise the varying architectural styles present across a wide surrounding area, their effect is to also highlight features and characteristics that contribute positively to the area's prevailing character and appearance and also distinguish the particular contexts in which each example lies. The appeal scheme combines some or all of the features described in these other examples but which, in the particular context of the appeal site and surrounding area, come together to result in a development that would cause material harm to the character and appearance of the surrounding area, and to the character, setting and contribution that the adjacent Building of Townscape Merit (No. 79) makes to the Broom Lane streetscene. The weight that I give to the appellant's comparative schemes is limited, both individually and cumulatively, such that it does not persuade me as to the acceptability of the appeal proposal.
19. The appeal scheme is accompanied by a landscaping scheme. The scheme includes proposals to thin and manage the site's roadside frontage vegetation, retain larger trees and to incorporate hedging to either side of the relocated site entrance. The site is presently untidy and, in part, overgrown. Nevertheless, the verdant frontage contributes positively to the prevailing character of the street where such vegetation softens site frontages, provides pleasant foregrounds to the large houses behind, and establishes a visual link to the trees and vegetation behind.
20. In the short to medium term, the proposal would thin out vegetation on the site frontage. As a consequence, the large detached double garage would be a significant and prominent feature within the site frontage. Although in the longer term the landscaping scheme would provide a degree of mitigating screening to soften the site's roadside frontage, the garage would remain a sizeable and disruptive structure in a relatively prominent position within the site. Although the larger areas of hardstanding could be reasonably well contained in visual terms by the landscaping proposals, I am not persuaded that the same would be true of the replacement dwelling or the detached double garage. As such, it has not been adequately demonstrated that landscaping or plans conditions would appropriately ensure longer term

⁷ Paragraph 4.26 and Figures 8 – 12 Appellant Statement of Case

⁸ LPA Ref No: 19/2235/FUL – Appendices 5 – 9 Appellant Statement of Case

⁹ APP/L5810/W/15/3002944 – Appendix 11 Appellant Statement of Case

¹⁰ LPA Ref No: 22/1453/FUL – Appendices 12 and 13 Appellant Statement of Case

assimilation of the site frontage into the streetscene such that it would overcome or sufficiently offset the harm that I have identified above.

21. The appeal scheme fails to accord with the aims and provisions of LP Policy LP1 in that it would not provide the high-quality architecture and design that the development plan seeks. Policy 28 of the eRLP shares similarities in intent to LP Policy LP1 in requiring high architectural quality in new development. However, for the reasons set out above, the weight that I give it is limited and it has not been decisive in this instance. It would thus fail to contribute positively to, or enhance, the local environment or its character and appearance.
22. LP Policy LP1 sets out the Council's approach to seeking high architectural and urban design quality in development schemes, where high quality character and heritage of the borough will need to be maintained and enhanced, and development proposals will be expected to demonstrate a thorough understanding of a site, its context, and character and appearance. Although only provided to me in draft form, the 'Hampton Village Planning Guidance' nevertheless provides a useful assessment of the character and appearance of the area within which the appeal site lies even if the weight that I give its advice and guidance is limited as a consequence.

Living conditions

23. The proposed replacement dwelling would be significantly and visibly larger than the existing dwelling when viewed from the two properties on either side of it. The outlook from the rear of 103 Wensleydale Road, where there are a number of windows at both ground and first floor is broadly diagonally across the rear of the appeal plot.
24. The flank elevation of the proposed dwelling would be a prominent feature in the field of vision from these windows. Although this elevation would not be closer to the rear of No. 103, it would be higher in the vertical plane at ground floor, whilst the sloping roof would extend to a greater overall ridge height than that of the existing chalet-style dormer-bungalow. Importantly, this flank elevation would extend further rearwards than the existing dwelling, compounded by the appellant's amendment to the scheme in an attempt to address the Council's concerns regarding the front building line.
25. No. 103 is set within a generous garden plot, across which a reasonable outlook towards a verdant, sylvan backdrop is taken. The proposed dwelling would encroach into the field of vision from the rear of No. 103 in terms of its considerable additional rearward projection into the site whilst also being both taller and more bulky along this side of the site. An existing tree, located just inside the garden boundary of No. 103 would partly obscure the building, as it currently does with the existing building, but the effects of this are (and would be) mostly felt at first floor level through its canopy, rather than from habitable rooms at ground floor level. Within an area characterised by larger properties within generous garden plots, this degree of proximity in outlook would be uncharacteristically curtailed and would cause material harm to the living conditions of occupiers of No. 103.
26. No. 79 has a different relationship to the appeal site. The appellant has helpfully overlaid the footprint of the existing dwelling on to the proposed site layout plans, proposed floor plans and proposed streetscene elevations. There would be in the region of 1.5 metres between the flank elevation and the fence

line between Nos 77 and 79. Although this would broadly replicate the distance between house and fence at No 79, replication here would have a significant impact upon the outlook from windows along the side elevation of that neighbouring property.

27. Although the two buildings' flank elevations would remain parallel with each other they would be significantly closer to each other than is currently the case. Moreover, unlike the building's other side elevation closest to No. 103, this would be a full two storeys in height for the full length of the elevation. Furthermore, the additional height, bulk and proximity of this elevation to No. 79 would be compounded by its considerable length, which would also extend beyond the rear of No. 79. The proposed dwelling would therefore have a considerable physical and visual presence when experienced from No. 79.
28. The windows along the side elevation of No. 79 are largely secondary windows to habitable rooms. Thus, the study at the front of the building and the kitchen / living area at the rear have windows that face forwards (across the front garden towards the road) and rearwards (across the rear garden). Both afford a reasonable outlook across the respective external areas. However, both rooms also have high level windows that provide additional light and upwards outlook. Not being the largest or most spacious of rooms, these additional windows are beneficial to the overall ambience of the rooms and supplement the outlook and daylight offered by the principal windows.
29. The appellant's '*Neighbouring Daylight and Sunlight Study*'¹¹ (NDSS) provides a calculated baseline with regard to daylight to windows, calculating by considering both the Vertical Sky Component (VSC) and daylight distribution for these two rooms. This shows that the VSC figures are such that the combination of the windows provides a balanced VSC across the windows for each room. However, it is conceded that the replacement dwelling would have a significant effect on the VSC at 'window 25', described as the second of the main windows serving the kitchen / living space.
30. No further commentary is offered though in relation to the effects of the same flank elevation upon the other side windows at No. 79. Although not quite as great as the effect upon window 25, the effects upon windows 22 and 23 would still be significant with VSC falling below 27% and 0.8 times its former level. In terms of the received VSC and diffuse daylight and the effect upon this room, the rooms windows would become heavily unbalanced resulting in a greater reliance upon the rear facing window. These effects would be repeated in the front facing study where the previously balanced VSC figures would become heavily skewed towards a reliance upon the front facing window.
31. There is some disagreement between the findings of the appellant's NDSS and technical comments provided on behalf of an interested party regarding the effect on daylight. Whilst the NDSS goes on to state that all rooms with a daylight requirement at both No. 103 and No. 79 pass the daylight distribution test, little else is explained regarding the findings in this respect, whilst the interested party's representation concludes that there would be a harmful impact on daylight received by No. 79.
32. Given the orientation of the various properties relative to the sun's path and other local features and obstructions within and surrounding the appeal site,

¹¹ Smith Marston Building Surveyors – 25 July 2023

the other residual effects upon daylight might not necessarily be as clear cut as the proposal's significantly larger scale and bulk, and proximity to No. 79, might otherwise suggest. Nevertheless, the effects of the proposal on the VSC of side windows at No. 79, together with the added height and bulk of its flank elevation and greater proximity to it, combine to such an extent that the replacement dwelling would have a materially harmful effect on the living conditions of occupiers of No.79 with regard to outlook and daylight.

33. LP Policy LP8 seeks to protect the amenity and living conditions for occupants of new, existing, adjoining and neighbouring properties. The proposed replacement dwelling would, by reason of its scale, bulk and massing, and siting fail to ensure good standards of daylight for occupiers of 79 Broom Lane, or good standards of outlook for occupiers of No. 79 and 103 Wensleydale Road for the reasons set out. The appeal scheme is therefore contrary to LP Policy LP8. Policy 46 of eRLP sets out to achieve similar goals as LP Policy LP8 but, for reasons already set out, the weight that I give its provisions is limited and it has not been determinative as a consequence.
34. With regard to privacy and overlooking, the existing building has side-facing dormer windows, on both sides, in an elevated position. Whilst those facing towards the side and rear of No. 103 serve a stairwell and bathroom, those facing towards No. 79 serve a lounge area. Although a reasonable distance away from the side windows of No. 79 these dormer windows are clearly visible from within the neighbouring property.
35. The appeal scheme largely avoids windows on the side elevations, and those that would face towards No. 79 would serve a bathroom, ensuite and utility room. Should the appeal succeed, I do not consider it to be an unreasonable requirement to secure the installation of obscure glazing to all the side facing windows. Whilst there would be a number of roof-windows in the roof facing towards No. 103 these also serve a mix of dressing room, ensuite and stairwell which, whilst further from the closest windows of the neighbouring property may also benefit from fitting with obscure glazing, if only in the interests of privacy for future occupants of the proposed dwelling.

Highway and pedestrian safety

36. The existing dwelling is currently served by a single driveway access point from Broad Lane, close to its junction with Wensleydale Road. The proposal would relocate the single point of access further away from this junction, to which the Council are generally receptive. The appellant has provided confirmation that the new access would incorporate suitable visibility splays and restricted height boundary treatments at the driveway entrance.
37. RLP Policy LP45 sets out the approach to parking standards, provision for the accommodation of vehicles in new development and the minimisation of the impact of car-based travel on the local road network and local environment. Car parking standards will be applied to new development, whilst front garden car parking will generally be resisted unless certain criteria can be satisfied.
38. London Plan (LonPlan) Policy T6 states that the maximum standards set out in Policy T6.1 and Table 10.3 should be applied to development proposals. The appeal site lies within a PTAL2 location, albeit that it is at the extremity of such classification and is on the fringe of PTAL1. Applying a PTAL2 location, a

dwelling of the size proposed would be subject to a maximum of 1 space per dwelling; PTAL1 would be up to a maximum of 1.5 spaces per dwelling.

39. The proposal's provision of a detached double garage and two parking spaces would exceed both maxima. The appellant seeks to argue that the London Plan provides for flexibility by allowing consideration of greater levels of parking where it would support additional family housing. The Council have subsequently suggested that 2 car parking spaces would be acceptable, slightly above the LonPlan maximum standards. Such an approach is consistent with the flexibility the appellant states is present within LonPlan Policy T6.1.
40. The proposed dwelling would be large. It is not inconceivable that the occupants of a 6-bedroomed dwelling, essentially a large family house, might have more than 2 cars, particularly given the site's outer London location. Given the size of the proposed dwelling and its location relative to nearby bus stops and various road hazards including bus stops, crossroad junction and kink in road, measures to avoid parking of vehicles spilling out beyond the site would be welcomed in highway and pedestrian safety terms. Nevertheless, the appeal scheme would exceed the car parking maximum levels as set out by LonPlan Policy T6, as expanded upon by T6.1 and Table 10.3 thereof.
41. However, RLP Policy LP45 seeks to balance the accommodation of vehicles to provide for the needs of development with minimising the impact of car-based travel including on the operation of the local highway network. It is broadly accepted by the Council that the revised access arrangements for the redeveloped site would be preferable to the existing arrangements in terms of access location and on-site manoeuvring and, thus, highway and pedestrian safety to the existing arrangements.
42. I do not disagree. The access point would move further away from the slightly offset crossroads junction on a slight kink in Broom Lane than is currently the case. Although there are some discrepancies in the detail shown between the proposed site layout plan and the landscaping plan in terms of gates, gate pillars and front wall, such matters could be adequately resolved by suitably worded planning conditions, including the plans condition, to ensure satisfactory visibility splays in both directions. The site layout would also adequately provide for the ability to turn within the site so as to be able to enter and exit in a forward direction. In this respect, it would be little different to many other properties along Broad Lane, nor would such an arrangement be unexpected for a dwelling of the nature and scale of that proposed, or those found alongside it.
43. Whilst the appeal scheme would provide on-site parking provision in excess of the maximum standards set out in the LonPlan, the site's proposed layout would provide benefits to pedestrian and highway safety in the immediate area. The access point into the site would be moved further away from the junction of Wensleydale Road, Nightingale Road and Broad Lane. The site's layout would also facilitate access to and egress from the site in a forward motion, something that the site's current layout does not. Given the site's location close to this junction, its proximity to a bus stop and the improvements to sightlines that the landscaping scheme proposes, there would be demonstrable improvements to highway and pedestrian safety arising from the appeal scheme.

44. Subject therefore to suitably worded conditions regarding means of enclosure and details of the gate and gate pier layout, I am satisfied that the appeal scheme would provide sufficient benefits in highway and pedestrian safety that would outweigh the harm arising from parking provision in excess of the LonPlan's maxima. Thus, whilst the proposal would not comply with the provisions of LonPlan Policy T6 or the parking requirements of LP Policy LP45, the improvements to highway and pedestrian safety that the appeal scheme would facilitate would broadly align with the substantive provisions of LP Policy LP45, and LP Policy LP44. The provisions of eRLP Policies 47 and 48 are not matters to which I give any significant weight for reasons previously set out.

Other Matters

45. The iterative nature of the scheme is noted. The appellant has sought to respond to previous concerns of the Council raised through the pre-application advice process and previous planning applications and the main areas of change as set out by the appellant are noted. I am also conscious that other areas of consideration set out in the Council's officer report that did not form part of the reasons for refusal could be capable of resolution by way of planning condition should the appeal have succeeded.
46. Thus, the Council indicated in the officer report that outstanding clarification and correction could have been sought by request whilst the conclusions of the 'Energy Report' and a sustainable construction checklist could have been secured by suitably worded planning conditions. So too with regard to measures regarding flood risk and drainage and fire safety. It is also noted that the Council accepted that there was no requirement for an affordable housing provision. However, these matters are neutral and weigh neither in favour or, nor against, the appeal scheme.

Conclusion

47. There are elements of the proposed replacement building worthy of note and elements of the building that, taken separately, would not be inappropriate. However, taken together and in the context of the appeal site and its surroundings, the harm to character and appearance of the appeal site and surrounding area and to the living conditions of occupiers of neighbouring properties are matters to which I give significant weight.
48. The proposal would result in an improvement to highway and pedestrian safety for the reasons set out. The over-provision of car parking is outweighed by these highway and pedestrian safety benefits, whilst also not unexpected given the size of the proposed dwelling. Other matters that could be addressed by way of suitably worded planning conditions to avoid harm are neutral factors and weigh neither in support of nor against the proposal in the planning balance.
49. Neither individually nor collectively do these matters outweigh the harm that I have identified. For the reasons set out, and having considered all other matters raised, I conclude that this appeal should be dismissed.

G Robbie

INSPECTOR