
Appeal Decision

Site visit made on 19 November 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/L5810/W/24/3339808

Anlaby Lodge, Teddington, Richmond Upon Thames TW11 0PB

- 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 & Mrs Bacon against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref is 23/0715/FUL.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided a completed unilateral undertaking planning obligation with the appeal which would secure a financial contribution towards the provision of off-site affordable housing. The Council has advised that this overcomes reason for refusal 1 and I proceed on that basis.
3. The submissions made by the appellant with the appeal also demonstrate that the new access to serve the proposed dwelling would meet with the dimensional requirements set out in the Transport Supplementary Planning Document 2020. Therefore, I am satisfied that reason for refusal 4 too has been satisfactorily addressed.

Main Issues

4. The main issues are the effect of the proposal on (i) flood risk, (ii) the character and appearance of the area and Anlaby Lodge and (iii) trees.

Reasons

Flood risk

5. Reason for refusal 3 includes reference to the Strategic Flood Risk Assessment 2021 (SFRA) and to the Basement Assessment User Guide 2021 (BAUG). The SFRA sets out that developments which include basements within areas that are at increased risk of flooding due to groundwater require further analysis of flood risk. This is to ensure that proposed subsurface developments do not increase the risk of groundwater flood risk in the immediate area via a Basement Screening Assessment (BSA) and, if subsequently required, a Basement Impact Assessment (BIA). The SFRA identifies the appeal site as falling within an area with a greater than 75% susceptibility to groundwater flooding and therefore a BSA should have been undertaken.

6. The appellant has provided a Flood Risk Assessment (FRA). Whilst this does cover matters relating to groundwater flood risk, it focusses upon the potential impact on the basement of the proposed dwelling, as opposed to any wider groundwater flooding impact that could result. The FRA does not engage with, or indeed even acknowledge, the SFRA or the BAUG. No BSA, which would include screening of whether the proposed subsurface development would increase groundwater flood risk to neighbouring properties has been provided. Consequently, it has also not been demonstrated that a BIA would not be required following the screening.
7. This leaves a scenario whereas it is uncertain as to the full impact of the proposed development in terms of groundwater flood risk. The Council has produced a SFRA and BAUG to address and provide guidance on this specific issue. It is reasonable to expect, in the absence of an explanation justifying a contrary approach, that the published guidance should be followed. The appellant has not sought to explain their absence of reference to either the SFRA or the BAUG in the submissions they have made. It is suggested a condition could be imposed with respect to surface water drainage, but in the circumstances outlined, that does not provide comfort that the full extent of any groundwater flood risk would be satisfactorily addressed.
8. In conclusion, the submission fails to demonstrate that the proposal would accord with Policies LP 11 and LP 21 of the Richmond Local Plan 2018 (RLP), where they collectively seek to ensure that flood risk is addressed, including in the specific instance where a basement would be provided.

Character and appearance

9. Anlaby Lodge is identified as a Building of Townscape Merit. The proposed dwelling would be located in its rear garden and would front onto Kent Drive. The Heritage Statement identifies how the area around the dwelling has become more densely developed over time, including through the creation of Kent Drive and the erection of dwellings along it. It is clear therefore that the surroundings of Anlaby Lodge have been much altered since it was constructed. There are presently two dwellings on Kent Drive facing the rear garden of Anlaby Lodge, with the appeal site being directly opposite 4 Kent Drive. Whilst the Council refers to the proposal as being back garden development, I agree with the appellant that to all extents and purposes it would be an infill development owing to the fact that it would have a frontage onto Kent Drive. As a result, there is not, in principle, a need for the proposal to be of a lesser scale than that of other existing dwellings.
10. Due to the substantial depth of the rear garden area of Anlaby Lodge, the proposed dwelling would be located well away from this existing dwelling. Anlaby Lodge would retain a generously sized plot which would ensure that it would retain primacy in the respective street scenes in which it sits. The proposed dwelling would have a closer relationship to the dwellings on Kent Drive, which are on smaller plots, and which are more modern dwellings in comparison to Anlaby Lodge. The scale, positioning and design of the proposed new dwelling would ensure that it would not cause harm to the setting Anlaby Lodge has in the locality, nor to the positive contribution that it makes to the character and appearance of the area. A section of boundary wall would be removed to facilitate the new access. This would result in the loss of some original fabric, but the amount lost would not be great in comparison to the

extent of the wall that would remain. This too would not result in harm to the character and appearance of Anlaby Lodge or its setting.

11. The Kent Drive street scene is formed predominantly by detached dwellings with attractive features including bow/bay windows to their front elevations. However, the dwelling at 1 Kent Drive differs in its design, lacking some of the detailing of those other dwellings. It is also of a scale and bulk that would be not dissimilar to that of the appeal proposal. In many views taken down Kent Drive towards the appeal site from the south, the proposed dwelling would be visually read in conjunction with No 1. Where it would be seen in longer views from the west, it would not be seen immediately alongside other existing dwellings on Kent Drive but across the road from them. Its siting in relation to the public highway would also be consistent with other dwellings and would ensure it would appear coherent in its positioning when viewed from the west. It would not as a result appear as a cramped or constrained addition to the street scene.
12. Its bulk and massing would not reflect that of the majority of the dwellings on Kent Drive, but nonetheless it would be a well-designed dwelling that would take some design cues from the surrounding built development, including appropriate detailing/design features and the use of materials. There would not be an excess use of glazing on its front elevation and its projecting gable would not undermine its overall design and appearance. There is in any instance variation in the age and design of dwellings in the locality, including Anlaby Lodge and the aforementioned No 1. Although it would be positioned behind a high wall, this is an existing feature in the street scene. Taking all of these considerations together, the proposal would integrate well into the surrounding area and would not cause harm to its character and appearance.
13. For these reasons I conclude that the proposal would accord with Policies LP 1, LP 4 and LP 39 of the RLP where, taken together, they seek to protect character and appearance, including with respect to Buildings of Townscape Merit and their settings. There would also be no conflict with the overarching aims of the Design Quality, the Small and Medium Housing Sites and the Buildings of Townscape Merit Supplementary Planning Documents in the same respect.

Trees

14. The crux of this reason for refusal relates to the removal from the appeal site of a mature Horse Chestnut tree subject to a tree preservation order. That tree was however removed in 2014 and the appellant has provided evidence that this was undertaken with the full knowledge, and agreement, of the Council. Whilst replacement planting was referred to in the correspondence between the parties at that time, no replacement tree has since been provided.
15. The appellant contends that the power available under the Town and Country Planning Act 1990 to enforce the replanting of the protected tree is now time lapsed. The Council does not address that matter in their Statement of Case or contradict that position. However, even if such powers are available, they have not been exercised in the ten years since the tree was removed. The tree, and its contribution to the public amenity of the area and in terms of any ecological considerations, have thus been absent for some considerable length of time. Requiring a replacement tree equivalent to that removed in a similar position

would neutralise the appeal site for development of the type proposed. Given the passage of time since the protected tree was removed and the absence of moves to enforce its replacement, I consider this to be an unreasonable proposition.

16. An appropriate landscaping scheme would instead suffice to ensure accordance with Policies LP 1, LP 16 and LP 39 of the RLP where they together seek to protect character and appearance relating to trees and landscaping. Furthermore, the Arboricultural Report demonstrates that there would be no need to remove additional trees to facilitate the proposed development, other than one recently planted Cherry tree which is a tree that does not have any particular public amenity value. The consultation response from Ecology recommends the imposition of a condition relating to ecological enhancements. It is not explained in the Council's submissions why that would not be adequate to ensure that suitable ecological enhancement measures would be put in place to satisfy Policy LP 15 of the RLP.

Other Considerations

17. The proposal would deliver a new dwelling on a small site, an approach which Policy H2 of the London Plan 2021 requires Boroughs to pro-actively support. The accompanying text to that policy refers also to the incremental intensification of existing residential areas within Public Transport Accessibility Levels 3-6 or within 800m of a station or town centre boundary, including new build and infill. There would also be a further benefit via the financial contribution towards the provision of off-site affordable housing. Due to the quantum of development proposed, these are considerations which collectively carry moderate weight in favour of the proposed development.

Planning Balance & Conclusion

18. It has not been demonstrated that the proposed development could be undertaken without increasing flood risk, including to neighbouring properties. This is a concern of significant magnitude and is contrary to the relevant policies of the RLP on that matter. Whilst I have found there would be no harm with respect to main issues two and three and that there would be benefits of a moderate weight in favour of the proposal, these do not justify the permitting of the development in the face of the policy conflict I have identified.
19. In conclusion, the proposal fails to accord with the development plan taken as a whole and I find that the other considerations in this case do not indicate that a determination should be made otherwise than in accordance with the development plan. Accordingly, the appeal should be dismissed.

Graham Wraight

INSPECTOR