



Appeal Decision

Site visit made on 18 November 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/L5810/W/24/3349593

Land to Rear of 323-325 Staines Road, Twickenham TW2 5AU

- 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 Dr Alma Sarajlic against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 22/3675/FUL.
 - The development proposed is 4-bedroom dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address specified above is taken from the decision notice and appeal form as these identify the site more accurately than the application form.
3. The revised National Planning Policy Framework (Framework) and the 2023 Housing Delivery Test (HDT) results were published on 12 December 2024. The presumption in favour of sustainable development as set out by paragraph 11(d) of the Framework is applicable as a consequence of the HDT results. Accordingly, I gave the appellant and the Council an opportunity to comment on any implications of these matters for the appeal.
4. The Council's emerging Local Plan¹ (eLP) was submitted for examination in January 2024. It is unclear if there are unresolved objections to any relevant policies or if modifications are necessary for soundness, albeit the Council contends that certain aspects of policies 4 and 39 should attract no weight. In any event, I must consider the weight to give the policies having regard to their degree of consistency with the Framework.
5. In an attempt to address some of the Council's objections to the proposal a Preliminary Ecological Appraisal Report (PEA) and a Basement Screening Assessment (BSA) have been provided with the appeal. The Council and interested parties have been able to consider this information, so I have taken it into account in making a decision. Further, the Council has confirmed that its refusal reason relating to ecology has been addressed. As such, I consider this following my assessment of the main issues in this case.
6. The appeal is also supported by a draft unilateral undertaking (UU) that relates principally to affordable housing. I also discuss this later in the decision.

¹ Richmond Publication Version Local Plan (Regulation 19) Version

Main Issues

7. The main issues for consideration are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of neighbouring properties, with particular regard to outlook and privacy;
- whether the proposal is satisfactory in respect of flood risk, with particular regard to groundwater; and
- whether the proposal would make satisfactory provision for affordable housing.

Reasons

Character and appearance

8. The site comprises a parcel of mostly hardstanding enclosed by brick walls, close boarded wooden fencing, mesh fencing and hoardings. It is located to the rear of the building at No 323-325 and adjacent to junctions between Staines Road and Fielding Avenue, and Fielding Avenue and Fielding Close, and therefore occupies a prominent location in the streetscene. Fielding Avenue is defined mostly by semi-detached and terraced properties with relatively consistent characteristics.
9. The proposed dwelling would be oriented towards and compatible with the building line along Fielding Avenue. It would also be of a height and include materials and features that reflect surrounding properties, such as two storey bay windows and front facing gables. Additionally, though the dwelling would appear cramped near the rear of No 323-325, the distance between the properties would be similar to the front-to-side relationship between 1 Fielding Avenue and 321 Staines Road.
10. Nevertheless, the dwelling would be discordant in the streetscene as the only detached dwelling fronting this part of Fielding Avenue. Its proximity to No 323-325 would compound this issue by making it appear as a scheme designed to occupy the available space, rather than one informed by the prevailing characteristics of the area. The proposed lightwells, the roof and its large, triangular shaped dormers that would match the ridge height of the main part of the roof would also be discordant features that would make the dwelling appear disproportionately larger than others nearby.
11. The proposal would thereby harm the character and appearance of the area in conflict with policies LP1 and LP39 of the Council's Local Plan (LP) and the Supplementary Planning Documents (SPDs) on Design Quality and Small and Medium Housing Sites, which specify that development should be compatible with local character or provide advice relating to achieving that aim.

Living conditions

12. The Council's living conditions objections relate to the residential properties above ground floor level at No 323-325, which feature rear windows and first floor balconies facing the site, and 327 and 329 Staines Road, which have gardens to the rear of the proposed dwelling.

13. The supporting text to LP policy LP36 and eLP policy 46 suggests that where principal windows face a wall that contains no or occluded windows, a separation distance of 13.5 metres between buildings would be appropriate as a guideline, whereas there is a 20 metre guideline between habitable rooms for privacy reasons.
14. The appellant acknowledges that the above guidelines would not be met for the dwellings at No 323-325, with there being a gap of only 10.2 metres between the windows to their habitable rooms and the nearest side elevation of the proposed dwelling. The balconies would be closer still. Outlook from the first floor rear windows and balconies would be significantly and unacceptably foreshortened and dominated by the proposed dwelling because of its position and proximity. The roof design and landscaping would not mitigate this issue adequately. The nearest dormer window would also overlook No 323-325, though this could be controlled by a condition given that the top floor would be used for storage only. Accordingly, the proposal would not result in a loss of privacy to these neighbouring properties.
15. The proposed dwelling would be around 6 metres from the boundary with No 327. Direct views of the rear gardens of both Nos 327 and 329 would be readily achieved from the proposed first floor rear windows and thus an unsatisfactory loss of privacy would arise. However, significant overlooking of the dwellings would not occur due to their offset position relative to the proposed one. Additionally, there would not be an unacceptable loss of outlook from Nos 327 or 329 given that outward views from the dwellings and gardens would be maintained other than in the direction of the proposed dwelling. Nonetheless, the overall effects on these properties would be unacceptable.
16. The proposal would therefore unacceptably harm outlook from the residential properties at No 323-325 and privacy of the rear gardens of Nos 327 and 329. It conflicts with LP policy LP8 and eLP policy 46, which seek to protect living conditions, as a result.

Flood risk

17. The proposed dwelling would include a basement and the Council's Strategic Flood Risk Assessment (SFRA) identifies that the site is within an area with a 50 to 74.9 percent susceptibility to groundwater flooding.
18. LP policy LP11 sets out various criteria that should be satisfied for such development. Among other things, flood risk on or beyond a site should not be increased or otherwise exacerbated as per LP policy LP21. The latter policy broadly follows the Framework's approach to flood risk in setting out that schemes should avoid or minimise contributing to all sources of flooding and requiring the sequential and exception tests to be followed as appropriate. LP policy LP21 also states that development will be refused in line with the SFRA, which in turn advises that where development has a 25 percent or greater susceptibility to groundwater flooding, the risks should be assessed. The Basement Assessment User Guide provides related guidance.
19. The appellant's site-specific Flood Risk Assessment concludes that the site is at moderate risk of groundwater flooding but the residual risk would be low after mitigation. However, it also recommends an investigation to confirm the underlying geology and potential groundwater at the site. The BSA similarly concludes that the depth of groundwater at the site is unknown and that

investigations should occur. As such, the potential risks at and beyond the site from groundwater flooding cannot be confirmed, and I cannot be certain that any mitigation measures would achieve satisfactory outcomes. Additionally, while not expressly identified as an issue by the Council, the development plan, the SFRA and the Framework indicate that a sequential test should have been undertaken as groundwater flood risk at the site is categorised as greater than elsewhere.

20. I cannot conclude that the proposal is satisfactory with regard to flood risk. It conflicts with LP policies LP11 and LP21, eLP policies 8 and 54, the SFRA, the Basement Assessment User Guide and section 14 of the Framework, which aim to steer development to areas with the lowest risk of flooding.

Affordable housing

21. Policy LP36 of the LP states that contributions towards affordable housing will be expected on all housing sites in line with a table specified therein and the Affordable Housing SPD. The appellant has acknowledged that a contribution is required. While paragraph 65 of the Framework states that affordable housing should not be sought for non-major residential development, the policy's supporting text explains that there is a substantial annual undersupply of such housing. In this context and having regard to the positions of the main parties, LP policy LP36 should not disapply.
22. The UU is ineffective insofar as it is incomplete and does not specify an affordable housing contribution figure, amongst other things. A contribution has not therefore been secured. No other means of securing a contribution have been put forward and thus I cannot be sure that an appropriate payment would be made.
23. Consequently, I conclude that the proposal would not make a satisfactory contribution towards affordable housing provision. There is conflict with LP policy LP36, eLP policy 11 which echoes it, and the Affordable Housing SPD.

Other Matters

24. The PEA makes clear that the site has little ecological value and concludes that there would be no adverse impacts to flora or fauna in the locality subject to avoidance and mitigation measures. It also sets out a range of biodiversity enhancements that could be delivered. I have no compelling reasons to come to alternate conclusions in these respects. Additionally, I do not doubt that biodiversity net gain could be achieved. However, the PEA queries whether a screening assessment is required in respect of potential effects of the development on the Richmond Park Special Area of Conservation and the South West London Waterbodies Special Protection Area. If I intended to allow the appeal, I would need certainty that the scheme would not harm the integrity of these or any other 'habitats sites' as defined by the Framework.
25. In terms of the issues specified above, eLP policies 8, 46 and 54 are consistent with sections 12 and 14 of the Framework as far as they seek to ensure a high standard of amenity and that development is directed away from areas at highest risk of flooding. That being said, and having regard to paragraph 49 of the Framework, the conflicts with these eLP policies attract significant weight. However, the weight to be applied to the conflicts with LP policy LP36 and eLP

policy 11 should be limited taking into account their consistency with paragraph 65 of the Framework as explained earlier.

26. I acknowledge the need to significantly boost housing supply, that small sites are important contributors to meeting housing requirements and the use of accessible, underutilised, and previously developed land should be encouraged, as reflected by the development plan and the Framework. However, even in that context and considering the extent of the Council's housing delivery issues, the provision of just a single additional family-sized dwelling would constitute only a modest benefit in favour of the development. There would also be modest benefits arising from the provision of biodiversity net gain and wildlife enhancements and the proposal's sustainable construction, carbon reduction and energy efficiency measures, considering the small amount of housing proposed. I also have no reason to doubt that the disposal of the site will support the running costs of the surgery by removing the burden of maintaining it.

Planning Balance and Conclusion

27. Paragraph 11(d) of the Framework indicates that permission should be granted for the development unless the application of its policies that protect areas or assets of particular importance provides a strong reason for refusal. Footnote 7 of the Framework states that the policies referred to include those relating to areas at risk of flooding. The potential flood risk implications for the site and its surroundings are significant, and the conflicts with the Framework in respect of avoiding flood risk and directing development away from areas at highest risk provide clear reasons for refusing the scheme. Consequently, the Framework does not indicate in favour of the development.
28. The proposal conflicts with the development plan as a whole as a result of the conflicts with the LP identified above. Overall, the benefits weighing in favour of the scheme are modest. However, even if the UU secured a policy compliant affordable housing contribution, the material considerations taken together would not outweigh the conflicts with the development plan.
29. Accordingly, the appeal should be dismissed.

Mark Philpott

INSPECTOR