



Appeal Decision

Hearing Held on 21 January 2025

Site visit made on 21 January 2025

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Appeal Ref: APP/L5810/W/24/3351726

Land at junction of Roseleigh Close and Cambridge Park, Cambridge Park, Twickenham TW1 2JT

- 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 Jacobus Lombard against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref is 23/2401/FUL.
 - The development proposed is for the development of 3 No two-storey maisonettes with accommodation into the roof and a partial basement level on land at junction off Roseleigh Close and Cambridge Park, associated landscaping, car/cycle parking and refuse storage at Cambridge Park, East Twickenham.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 17 February 2025.

Decision

1. The appeal is dismissed.

Procedural Matters

2. For certainty, I have used the address and description of development given on the Council's Decision Notice.
3. The National Planning Policy Framework (the Framework) was revised on 12th December 2024. The main parties were asked to provide comments on the updated Framework before and during the Hearing. As such, I have taken these comments into account in my determination. Consequently, any reference to Paragraph numbers in the Framework are to the revised 2024 version.
4. Since the appeal was submitted the emerging Richmond Local Plan (eRLP) has been examined in public. The Council confirmed at the Hearing that only minor corrections remain. In accordance with the requirements of Paragraph 49 of the Framework relevant policies in an emerging Local Plan are capable of carrying weight in the determination of an appeal. As such, the Council now give the emerging plan significant weight. I see no reason to disagree.

5. Late evidence offered by the appellant in support of the proposal was turned away at the Hearing. To do otherwise would prejudice not only the interests of the Council but also interested third parties and consultees, who may have observations to make on the additional evidence. I have therefore proceeded to determine the appeal on the basis of the evidence as originally submitted.

Main Issues

6. The main issues in this appeal are the effect of the proposal on:
- the character and appearance of the area,
 - trees and ecology; and
 - affordable housing contribution.

Reasons

Character and appearance

7. Roseleigh Close is characterised by established residential dwellings that are set on landscaped and open-fronted plots. The surrounding area is further typified by mature garden and street trees. The appeal site is a parcel of land at the corner of Roseleigh Close that is directly adjacent to the main highway known as Cambridge Park. The land has a line of five Horse Chestnut trees to the southern boundary, some of which are protected. The historic use of the site was as a driveway to a large residential dwelling that was demolished to make way for the construction of the Cambridge Park Estate in the 1950's.
8. Even though the appeal site is in private ownership the appeal site is regarded by some interested parties as a valued community space. However, while there was some disagreement between the appellant and interested parties at the Hearing as to the extent and type of past activity that has occurred on the site and by whom, it was clear to me that the quantum of any community use of the site over the years has now been proven to have been very limited.
9. Moreover, the Council described the plot as undeveloped land rather than a 'designated' open space. As such, even though a previous scheme¹ of some vintage for the site was found to be unacceptable to the Council, at the Hearing the main parties agreed that the principal of development on the appeal site is accepted. Furthermore, the Council acknowledged that features of the 'L' shaped turn-corner scheme broadly reflect the height, style and pattern of nearby dwellings.
10. Nevertheless, I noticed at my site inspection that corner plots near to the appeal site are set back from the road and are relatively informal and open in nature, such as those seen on the opposite side of the junction with Cambridge Park and at nearby Beaulieu Close. This arrangement helps to create a sense of spaciousness in this location and softens the surrounding built form. Indeed, whether fenced or not, the appeal site has become an established part of the verdant back drop to Roseleigh Close. Whereas the proposal for the appeal site would have an extensive footprint that would extend across a large proportion of the site and include a hardstanding for parking to the front.

¹ APP/L5810A/1169000

11. Consequently, notwithstanding that there are larger and more accessible open spaces at a short walking distance nearby for families to relax and congregate, such as Marble Hill Park and the Thames Riverside Path, the proposed development would appear as a bulky and prominent addition when viewed in either direction along Cambridge Park or for those passing by. This would erode the sense of spaciousness in this specific location.
12. Nevertheless, the appellant brought to my attention that the scheme would make efficient use of the site, and that Paragraph 73 of the Framework recognises that the use of small and medium sites can make an important contribution to meeting the housing requirement of an area. This is noted. I also acknowledge that the proposal would have a number of sustainable features such as a wildflower garden, a green roof, additional tree planting and that wildlife could be relocated should the need arise.
13. Even so, notwithstanding the relatively limited number of suitable development sites available in the Borough, I heard that the Council have a 5.51-year Housing Land Supply (HLS) for the provision of new homes. Therefore, when measured against the Council's up to date HLS, the small-scale benefits associated with three new dwellings, even in combination, do not outweigh the substantial harm I have found above.
14. I conclude therefore, the scale and mass of the proposed development would harm the established character and appearance of the area.
15. Accordingly, in respect of the character and appearance of the area, the proposal does not meet the aims of Policies LP1, LP12, LP16 and LP39 of the Richmond Local Plan (2018) (RLP), Policies 15, 16, 28, 34 and 42 of the eRLP and Policies G1 and G4 of the London Plan (2021), as supported by the East Twickenham Village Planning Guidance U0177415, which say, amongst other things, that it should be ensured that development respects, contributes to and enhances the local environment and character.

Trees and ecology

16. At my site inspection I noticed that although the Horse Chestnut trees to the front of the appeal site have some wounds at high level there was no evidence of Canker bleed. The trees appeared to be mature in height and extent and were in early bud at the time of the site inspection. As such, while I heard that the trees are unlikely to grow much bigger and it is a point of agreement between the parties that the trees have recorded 'Leaf Miner' disease, there can be no doubt when in full leaf, that the trees would still provide a high level of visual and ecological value in this residential-type location.
17. Nonetheless, given the proximity of the proposed development to the trees, the Council is concerned that occupiers of the new dwellings would bring pressure to regularly pollard, lop or cut the trees as a consequence of shading to their dwellings and gardens as well as the inconvenience and clearance of leaf litter and other detritus associated with the trees at certain times of the year.

18. Indeed, the Council fear that while some of the trees are protected², in combination with the effects of climate change, any agreed works would exacerbate the potential for increased disease that in turn would lead to the early demise of the Horse Chestnut trees which, despite being a non-native tree species, is included on the International Union for Conservation of Nature (IUCN) 'Red List'.
19. In addition, that even if the trees were protected during construction, that there would be a potential reduction of the overall number of trees and hence erosion of the ecological value of the site in a location where it is evident that a number of trees have already been lost.
20. In rebuttal, while forwarding the view that occupation of the dwellings and proximity to the trees would be a matter of choice, the appellant argued any request for works to the trees would need to be agreed unanimously by all of the future occupiers, and that in any event as the trees are already fully mature in height and extent, the need for hard pruning or pollarding of trees would be very unlikely. Additionally, even if minor maintenance would be required from time to time it would be similar to that routinely carried out on Street Trees by the Council.
21. Moreover, while the appellant agreed that the trees would limit the level of sunlight reaching the proposed PV panels and a limited number of habitable rooms to the southern elevation, the shading associated with the trees would have a positive effect on the proposed development. For example, welcome shade in times of warmer weather associated with climate change and for certain types of wildlife living in the trees or the shaded garden area below.
22. However, I find to the contrary, even if the future occupiers of the development appreciated the proximity of verdant and mature trees when initially purchasing or renting the property, I concur with the Council it is very likely that they would become weary of the maintenance tasks associated with the trees over time, such as the collection of leaves from the shaded garden through an extended period of the year, the cleaning of debris and sap from windows or as a consequence of anxiety for tree failure during times of high wind and storms.
23. Furthermore, while direct shading from the trees would be mostly onto the southern elevation, which appears from the submitted drawings to be associated with a number of habitable spaces, the other elevations either face a neighbouring wall to the west or are orientated to the north and east.
24. Therefore, whether the dwellings would be 'dual aspect' or not, the orientation of the scheme, as well as its' proximity to the trees and a neighbouring dwelling would reduce light penetration to the new dwellings, particularly at certain times of the day or year when sunlight is more limited. It is likely then, in order to improve daylight within the dwellings, that the occupiers would pressurise the Council to reduce or remove the trees.

² London Borough of Richmond upon Thames Tree Preservation Order 690 (2005)

25. I acknowledge that there are a range of trees in the nearby area that are relatively close to adjacent dwellings. However, they are mostly free-standing trees rather than a line of trees. As such, the appeal trees would throw a greater level of shade than a singular tree, particularly given the orientation of the site. Moreover, I cannot be certain if the surrounding garden trees and street trees were planted before or after the relevant dwelling was constructed or not.
26. Nonetheless, shading provided by the small number of trees to the front of the site is unlikely to provide sufficient cooling in an urban-type context as contended by the appellant; and to my mind any benefit to wildlife such as bats would be eroded by light spill emanating from the property. This would be the case whether managed by automatic/electric blinds or not.
27. Therefore, while it has been drawn to my attention that another proposal for the site raised minimal concerns for tree health, in this case, whether the proposed development would encroach a root protection or not, the above matters whether singularly or in combination are likely to lead to pressure for regular and hard reduction of the trees. This would be likely to either diminish their overall health and/or lead to requests for their complete removal.
28. Overall, given the orientation of the site and quantity of the lined trees that would be in close proximity to the proposal, I conclude that the development would lead to pressure from future occupiers to cut or remove the trees. This would harm the ecological value of the site.
29. It follows then, that in respect of trees and ecology the proposal would be contrary to Policies LP15 and LP16 of the RLP, London Plan Policies G6 and G7, and Policies 39 and 42 of the of the eRLP as supported by East Twickenham Village Planning Guidance U0177416, which when read as a whole are clear that it should be ensured development protects, respects, contributes to and enhances trees and landscapes.

Affordable housing contribution

30. The proposal is for 3 new dwellings. Even though small scale, the development would attract a required contribution (commuted sum) towards affordable housing provision in the Borough as set out in Policy LP36 of the RLP. At the Hearing an unsigned Unilateral Undertaking ('UU') was unacceptable to the Council as a number of matters of disagreement remained between the parties. However, a signed 'UU' was submitted within an agreed revised timetable subsequent to the Hearing.
31. The 'UU' has been entered into as a deed pursuant to section 106 of the Act³, and states that it is a planning obligation for the purposes of that section. It identifies the land, the person entering into the obligation, and their interest in the land, and it identifies the local planning authority by whom the obligation is enforceable. It therefore meets all of the requirements of section 106 (9) of the Act. Section 106 (3) of the Act provides that a planning obligation is enforceable by the local planning authority against the person entering into the obligation and any person deriving title from that person. The definitions and interpretations contained in the 'UU' reinforce this, so the planning obligation would 'run' with the land and bind future owners.

³ Town and Country Planning Act 1990 (as amended)

32. The 'UU' has equal legal status to a planning agreement, so, although the Council is not a party to it, the obligations could be enforced in the same way. I am therefore satisfied that it would provide a robust mechanism for securing the required commuted sum of £185,004.00. Moreover, its acceptability has been confirmed by the Council in writing.
33. Consequently, in respect of an affordable housing contribution, I conclude that the proposal would meet the requirements of Policy LP36 of the RLP and Policy 11 of the eRLP, as supported by the adopted Supplementary Planning Document: Affordable Housing, which says that a contribution towards affordable housing will be expected on all housing sites.

Other Matters

34. The appeal site is located within the setting of Cambridge Park Court, which is a Building of Townscape Merit that is located in the Cambridge Park Conservation Area (CA). However, as the development would be small scale and located on the other side of the highway, I concur with the Council's Urban Design Officer that the proposal would not harm the setting of the non-designated heritage asset or the CA.

Conclusions

35. Whilst the appellant has submitted a 'UU' in respect of an affordable housing contribution that is acceptable to the Council, the proposal would harm the character and appearance of the area and fail to mitigate harm to trees and ecology. As such, the proposed development conflicts with the development plan taken as a whole, and as there are no material considerations of sufficient weight to indicate that a decision should be made other than in accordance with the development plan and the Framework, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR

APPEARANCES:

For the Appellant:

- Deon Lombard – Appellant (Deon Lombard Architects)
- Brian Waters – Architect and Agent (The Boisot Waters Cohen Partnership)
- Peter Holloway - Arboriculturist

For the Local Planning Authority:

- Andrew Vaughan -Senior Planning Officer (RTPI)
- Debbie Turner – Principal Development Viability Officer (RTPI)
- Jacob Strutt – Arboricultural Officer
- Craig Ruddick – Arboricultural Manager

Interested Parties:

- Ron Sharpe and Amy Sharpe - Resident
- Jennifer Taylor – Landlord
- Andre Zdrzalka - Resident
- William Bossert - Resident

*****End*****