



Appeal Decision

Site visit made on 19 March 2025

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/L5810/W/24/3358054

Jacobs Ladder, Eel Pie Island, Twickenham, Richmond Upon Thames TW1 3DY

- 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 Graeme Rimmer against the decision of the London Borough of Richmond Upon Thames.
 - The application Ref is 24/0477/FUL.
 - The development proposed is demolition of existing property and construction of a new three-bedroom, four person house.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing property and construction of a new three-bedroom, four person house at Jacobs Ladder, Eel Pie Island, Twickenham, Richmond Upon Thames TW1 3DY in accordance with the terms of the application, Ref 24/0477/FUL subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - whether the proposed development would be at risk of flooding; and
 - whether the affordable housing contribution is necessary to make the proposal acceptable in planning terms.

Reasons

Flood risk

3. The appeal site comprises a single storey dwelling located on Eel Pie Island - an island on the River Thames that sits within the Twickenham Riverside Conservation Area (CA). The property forms part of a run of dwellings towards the western end of the island facing The Embankment. These dwellings differ in terms of architecture but have a similar height and a number benefit from pontoons on the river.
4. Access to Eel Pie Island is by way of a footbridge from The Embankment and on this basis the island is considered to be a functional floodplain under Policy LP21 of the Richmond Local Plan (2018) (RLP). The policy states that the redevelopment of existing developed sites will only be supported if there is no intensification of the land use and net flood risk reduction is proposed. A functional floodplain falls within flood zone 3b and is defined as land where water from rivers or the sea has to flow or be stored in times of flood.

5. I acknowledge that the proposed development would have a larger footprint than the current dwelling. However, there would be no net increase in the number of dwellings on site. The residential land use of the site would remain unchanged, and the property would still be a two-bedroom single family dwelling irrespective of its increased size. As such, in my judgement the proposal would not lead to an intensification of the land use.
6. RLP Policy LP21 recommends a finished floor level of at least 300mm above the 1 in 100 fluvial and 1 in 200 tidal level including an allowance for climate change but allows for a degree of flexibility provided sufficient justification exists. The Environment Agency (EA) advise that the finished floor level of the proposed dwelling should be 6.72m AOD based upon their modelling of fluvial and tidal Thames levels.
7. The applicant is proposing a finished floor level of 6.10 AOD which would be some 0.5m higher than the existing floor level, but below the 1% AEP + 20% CC flood level. Whilst this would not be as high as the EA would expect, it is nonetheless an improvement upon the current situation providing a reduction in flood risk. Furthermore and whilst noting the Council's comments, I concur with the appellant that to increase finished floor levels to the height suggested by the EA would result in a building that would appear incongruous on account of its overall height and which could undermine the significance of the CA. As such, I am satisfied that sufficient justification has been provided in respect of the proposed finished floor levels.
8. Properties along this part of Eel Pie Island benefit from existing flood defences along the river bank and in the case of the appeal property this defence is formed of a wall at the end of the garden that backs onto the river. The supporting text to RLP Policy LP21 sets out that a setback of 16m is required from existing flood defences to allow for maintenance, future upgrading and emergency access. Currently there is an offset of 11.83m between the dwelling and the flood defence which would be reduced by approximately 0.5m as part of the proposal.
9. I have not been provided with any information as to how the figure of 16m has come about and it seems to me that its blanket application rather than consideration of the particular merits of a development and specifics of a site is somewhat short sighted. In this case neither the Council nor the EA has provided any substantive evidence to indicate why the proposed offset of 11.33m would hinder maintenance, future upgrading and emergency access. There is no vehicular access to Eel Pie Island thus plant and machinery would have to be moved onto site from the river, which is largely free of obstacles, and there is nothing to suggest that a further reduction in this offset would prejudice such operations or that it would not provide sufficient working space for maintenance and any associated plant, machinery or compound.
10. RLP Policy LP21 sets out that in respect of the redevelopment of existing developed sites in flood zone 3b there is no requirement to undertake a Sequential Test or apply the Exception Test. Whilst the EA take exception to this approach there is nothing to suggest that the most relevant RLP policies do not already have regard to national guidance in respect of flood risk. As such, I give this aspect of the EA's argument limited weight in coming to my decision.

11. On the basis of the evidence before me, I find that the appellant has demonstrated that the proposed mitigation measures would be appropriate in terms of ensuring the development is resilient to flooding. I conclude that the proposed development would accord with RLP Policy LP21 which, amongst other things, requires developments to avoid, or minimise, flood risk.

Affordable housing

12. Policy LP36 relates to affordable housing. Part B c. of the policy states that on sites below the threshold of 10 or more units a financial contribution towards the Affordable Housing Fund will be sort. As the proposed development is for one unit an affordable housing contribution of 5% is required.
13. The appellant has provided a planning obligation in the form of a Unilateral Undertaking (UU) and a supplementary deed under section 106 of the Town and Country Planning Act 1990 securing a financial contribution towards affordable housing and the Council's monitoring fee.
14. I am satisfied that the contribution would satisfy the tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010). I find that the submitted UU and deed overcome the Council's concerns in relation to this matter.
15. As such, the proposed development would accord with RLP Policy LP36 and the Affordable Housing Supplementary Planning Document (2014) which, amongst other things, seek an appropriate and proportionate contribution towards affordable housing.

Conditions

16. I have considered the suggested conditions in light of the National Planning Policy Framework (the Framework) and the PPG. In the interests of precision and clarity I have undertaken some rationalisation and rewording of the conditions suggested.
17. In addition to the standard time three-year limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty.
18. Conditions for materials, hard and soft landscaping and in respect of fire safety have been imposed to ensure a satisfactory development. Conditions for flood mitigation measures, flood resistance and resilience measures such as minimum finished floor levels and the use of voids and for an assessment of the integrity of and the potential improvement of existing flood defences have been imposed to reduce the risk of flooding and to ensure that the development is safe for its lifetime. However, in the interests of brevity I have undertaken some rationalisation of the conditions suggested.
19. Given Eel Pie Island has no vehicular access and in the interests of safeguarding pedestrian safety and the living conditions of nearby residents a condition for a Construction Management Plan (CMP) has been imposed. A condition in respect of non-road mobile machinery has been suggested by the Council, however, any such information would form part of the CMP condition and thus a separate one is not necessary.
20. The Council has suggested conditions for details of cycle and refuse storage. However, the appellant has indicated that an existing shed is to be retained for

bicycles and refuse bins. I have combined the conditions and reworded it to ensure that details are provided in accordance with the submitted plans.

21. In the interests of sustainability, a condition for the development to be carried out in accordance with the submitted Energy and Sustainability Report has been imposed. Sufficient details accompany the planning application in respect of the photovoltaic solar panels proposed and thus a condition requesting further details is not necessary. The Council has suggested a condition in respect of water consumption. Such a matter is covered by different legislation i.e. Building Regulations accordingly the condition is not necessary.
22. In the interests of safeguarding the living conditions of neighbouring occupiers a condition for windows in the side elevations to be obscure glazed has been imposed.
23. The Council has suggested a condition for submission of an Arboricultural Method Statement. However, an Arboricultural Impact Assessment and Preliminary Method Statement was submitted alongside the application. Having regard to its conclusions and recommendations further details are not necessary. As such the condition has been reworded to ensure the development is carried out in accordance with the already submitted details.
24. In the interests of biodiversity conditions for a Construction Ecological Management Plan and details of any external lighting have been imposed.
25. The Council have suggested a condition requiring a further ecology survey to be submitted in the event that the recommendations set out in the submitted Preliminary Ecological Appraisal including a Protected Species Assessment are not completed by 1 July 2025. I acknowledge that such reports have a 'best before date', however, to automatically conclude the report is out of date because of the time elapsed seems rather simplistic. Moreover, the deadline date of 1 July 2025 appears rather arbitrary and in reality, unlikely to be met given that a number of pre-commencement conditions will be required to be discharged prior to works starting on site.
26. The site comprises ornamental and managed areas of grass and hard surfacing and based on the submitted evidence has very low ecological value. It is unlikely that this will change in the foreseeable future taking into account the current residential use. As such, I find that this condition is not reasonable and has not been imposed. That said, it is still necessary to impose a condition for ecological enhancements to be provided on site.
27. The Council has suggested removing permitted development rights for external alterations or extensions to the building. I acknowledge that paragraph 55 of the Framework advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, in the interests of maintaining a satisfactory appearance and adequate amenity space and in order to safeguard the living conditions of neighbouring occupiers I have determined that permitted development rights should be removed in respect of the enlargement, improvement or other alteration of a dwellinghouse; additions to the roof of a dwellinghouse and other alterations to the roof and buildings incidental to the enjoyment of a dwellinghouse falling within Classes A, B, C and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

28. The Council has suggested a condition for securing payment of the affordable housing contribution. The appellant has provided a signed and dated UU which commits them to paying the contribution prior to commencement of works on site. As such, the condition is not necessary and has not been imposed.

Conclusion

29. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: Site Location Plan Drawing Number JL-01; Proposed Plans and Elevations Drawing Number JL-02D; Fire Strategy Plan Drawing Number JL-03; Existing Site Views Drawing Number JL-04; Design Considerations Drawing Number JL-06C; Existing Plan Drawing Number JL-07; PV Detail Drawing Number JL-08; Elevations Drawing Number 23103E and Topographical Survey Drawing Number 23103LS.
- 3) No development shall take place until details of mitigation measures and a scheme for flood resistance and resilience measures based upon the conclusions and recommendations in the submitted Flood Risk Assessment and the Appeal Statement in respect of Flood Risk have been submitted to and approved in writing by the local planning authority. The measures shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme and maintained for the lifetime of the development.
- 4) No development shall take place until a scheme to establish the structural integrity of the flood defence on site and a residual life of at least 100 years has been submitted to and approved in writing by the local planning authority. In the event that a residual life of at least 100 years cannot be demonstrated a concept design and feasibility assessment for replacement of the flood defence is to be submitted to and approved in writing by the local planning authority. Any replacement and/or maintenance of the flood defence shall be carried out in accordance with the approved details and in accordance with an agreed implementation programme and maintained for the lifetime of the development.
- 5) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 6) No development shall take place until a Construction Ecological Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved plan.
- 7) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details / samples.
- 8) No development above ground level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 9) No development above ground level shall take place until details of ecological enhancements have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before any part of the development is first occupied and maintained for the lifetime of the development.
- 10) The building hereby permitted shall not be occupied until the windows in the side elevations have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 11) No external lighting shall be installed and brought into use until details of its nature and luminance have first been submitted to and approved in writing by the local planning authority, and any external lighting shall then be installed and used in accordance with the approved details only.
- 12) The development shall not be occupied until space has been laid out within the site in accordance with Proposed Plans and Elevations Drawing Number JL-02D for bicycles and refuse bins to be stored and that space shall thereafter be kept available for the storage of bicycles and bins.
- 13) The development shall be carried out in accordance with the submitted Energy and Sustainability Report.
- 14) The development shall be carried out in accordance with the submitted Fire Safety Strategy.
- 15) The development shall be carried out in accordance with the submitted Arboricultural Impact Assessment and Preliminary Method Statement.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, B, C and E of Part 1 of Schedule 2 to the Order shall be undertaken.

END OF SCHEDULE