



Appeal Decision

Site visit made on 20 May 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/L5810/W/24/3355246

38-38A Church Road, Barnes, Richmond Upon Thames SW13 9HN

- 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 E Such against the decision of Richmond Upon Thames London Borough Council.
 - The application Ref is 24/0611/FUL.
 - The development proposed is conversion of two flats into a single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of two flats into a single dwelling at 38-38A Church Road, Barnes, Richmond Upon Thames SW13 9HN in accordance with the terms of the application, Ref 24/0611/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The information before me indicates that the Richmond Publication (Regulation 19) Local Plan (2023) (PLP) is at an advanced stage of adoption. I therefore attribute weight to the policies in the PLP referred to by the Council.
3. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the Borough's housing stock;
 - ii) whether the proposal complies with the requirements of sustainable construction having regard to local planning policies;
 - iii) whether the proposal meets the Council's requirements for affordable housing; and
 - iv) whether there are other material considerations sufficient to outweigh any harm identified in respect of the above issues.

Reasons

Housing stock

5. The appeal property comprises two flats, one at ground floor and one at first floor. These form part of a two-storey, semi-detached property. The property is set back from the road with a small garden to the front. The proposal seeks to amalgamate the two flats to form a single dwellinghouse.
6. Policy LP38 of the London Borough of Richmond upon Thames Local Plan – July 2018 (LP) sets out a presumption against the loss of housing units, largely because existing housing is valued in the borough due to the constraints of limited land supply and high land values. The amalgamation would result in the loss of a unit of housing, and thus conflict arises with Policy LP38.
7. Policy LP38 goes on to distinguish between reversions, conversions, and redevelopment. Whilst Policy LP38 seeks to protect existing housing, the supporting text advises that exceptions may be considered if other policy priorities are met and wider benefits provided such as an increase in employment uses, affordable housing, etc. There is no dispute that the property was once a single dwelling, which was converted some time ago into 2 flats¹. The appellant wishes to revert to the former use as a single dwelling and I am satisfied, having regard to criterion B of Policy LP38, that the property is suitable to be a single dwelling.
8. In respect of design considerations, this part of Church Road is characterised by similar two storey semi-detached dwellings which display a strong sense of uniformity in their external appearance. The works required to facilitate the reversion to a single dwelling would be limited and include the removal of an internal wall and the replacement of the front doorways. The replacement doorways would be in-keeping with properties in the locality and would have a minor positive benefit to the wider streetscene. For these reasons the proposal would not conflict with criterion B of Policy LP38.
9. In returning the property to a single dwellinghouse the proposal would result in the loss of a residential unit. However, the appeal scheme would contribute to the mix of housing stock and is suitable for conversion with no adverse design considerations. Accordingly, I am satisfied that the proposal accords with Policy LP38 of the LP and Policy 14 of the PLP and would not have an adverse impact upon the Council's housing stock.

Sustainability

10. Policy LP22 of the LP seeks to promote and encourage development to be fully resilient to the future impacts of climate change in order to minimise the vulnerability of people and property. It goes on to state that opportunities to adapt existing buildings, places and spaces to the likely effects of climate change should be maximised and will be supported.
11. The London Borough of Richmond Upon Thames Supplementary Planning Document Sustainable Construction Checklist Guidance Document Adopted August 2011 (SPD) states that the Sustainable Construction Checklist (SCC) forms a mandatory part of the planning application for all new residential development

¹ application ref: 67/1190

- providing 1 or more new dwellings, including conversions and extensions that create one or more new dwellings.
12. The appellant submits that on the basis that the proposal does not result in the creation of one or more new dwellings, and does not propose significant construction, it does not warrant a SCC.
 13. The SCC covers relevant matters not assessed under the Building Research Establishment Environmental Assessment Method (BREEAM) (e.g. Transport and Biodiversity) and points may be gained for providing design features which contribute towards better sustainability practice. As a result, the SCC will also measure 'additional' sustainability impacts of the proposed development which are particularly relevant to the Borough, and which will not require repetition of information already provided as part of a BREEAM assessment.
 14. The appellant has submitted an Energy and Sustainability Statement² and a BREEAM Domestic Refurbishment Pre-Assessment³. The evidence indicates that the proposal would achieve an overall Energy Efficiency Rating of 70, which is in the C Band. Furthermore, the pre-assessment sets out that the proposal would score 76.04%, Excellent rating, subject to recommendations being carried out.
 15. In the interests of sustainability, the Council suggested conditions in respect of BREEAM, carbon dioxide emissions and water consumption. In the particular circumstances of this case, including the existing use of the property and the limited works necessary to facilitate the proposal, I am satisfied that the imposition of such conditions would ensure that the proposal would satisfy the requirements of the LP in this regard.
 16. Accordingly, subject to the imposition of conditions regarding BREEAM, carbon dioxide emissions and water consumption, the proposal would meet the requirements of Policies LP20 and LP22 of the LP, Policies 4 and 6 of the PLP and the SPD.

Affordable housing

17. Policy LP36 of the LP requires that for this development a financial contribution equivalent to the cost of 4% of the gross number of dwellings should be provided. This position is also reflected, and elaborated on in more detail, in the Supplementary Planning Document on Affordable Housing (2014) (Affordable Housing SPD), published by the Council. However, the policy pre-dates the Framework which states that affordable housing should not be sought for residential schemes that are not major developments. The Council has provided substantive evidence that there is an acute need for affordable housing in the Borough, the importance of small sites in delivering this, and that these requirements do not place a disproportionate burden on developers
18. The appellant disputes the relevance of Policy LP36 of the LP on the basis that there would be no net increase in the number of dwellings and consequently the proposal would not qualify for an affordable housing contribution. Notwithstanding this the appellant has provided a Financial Viability Appraisal which concludes that the proposal is unable to support any affordable housing contribution. I have no reason to reach a different view.

² EEABS Issue date: 07.02.2024

³ Prepared by G. Reed (Licensed BREEAM Assessor) January 2024

19. Policy LP36 does allow for viability to be considered when calculating the affordable housing contribution necessary. However, the policy states that the developer will be required to underwrite the costs of a Council commissioned economic viability assessment, where a reduction in the affordable housing contribution is sought.
20. Notwithstanding the report's findings, the appellant has not complied with the LP policy insofar as funding the costs of a Council viability assessment. Consequently, conflict arises with Policy LP26 of the LP, Policy 11 of the PLP, together with the Affordable Housing SPD, the objectives of which are referred to above.

Other material considerations

21. I have carefully considered the reasons why the appellant has applied for planning permission to convert the two flats into a single dwelling. The appellant has explained that an elderly relative lives downstairs and is cared for by family members, who reside in the first floor flat, and the difficulties currently experienced by the existing access arrangements. Due to age and health conditions the appellants family would benefit from having improved accommodation as the appeal proposal would allow them to reside together. However, this must be balanced against the harms identified.
22. As part of determining this appeal, I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's age or disability.
23. In this particular circumstance, the proposal would give the family members direct benefits of regular support and care. Moreover, the existing property would be adapted to meet their needs with limited alterations. Having regard to the site history and the personal circumstances of the appellant and family, on balance, I am satisfied that the limited conflict with the development plan would be outweighed by these other considerations.
24. My attention has been drawn to the permission to convert the dwellinghouse into two flats and the non-compliance with conditions attached to that permission, namely the vehicular parking. However, it is not for me, under a section 78 appeal, to determine whether or not a use is lawful. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Act, regardless of the outcome of the appeal.

Other Matters

25. The appeal site lies within the Barnes Common Conservation Area (CA). The significance of the CA relates to the common itself, the roads and footpaths through it and the way in surrounding housing relates to the common. Surrounding built development is from a variety of periods and styles which adds a sense of interest and enables the evolution of the area to be appreciated. Most of the properties are of architectural merit, displaying decorative moulded detail and have elaborate entrance canopies, although some have been altered to a minor extent. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out in respect of development within Conservation Areas, special attention shall be paid

to the desirability of preserving or enhancing the character or appearance of that area.

26. The proposal relates to a change of use to residential, which would be in keeping with the surrounding mix of land uses. External alterations would be limited, and would be consistent with other properties within the locality. Consequently, I am satisfied that the proposal would preserve or enhance the character and appearance of the CA, and thereby its significance.
27. There would be social benefits through the creation of a family dwellinghouse and the ability of the family to reside together. There would be economic benefits during the construction phase, albeit limited given the small scale of works required to facilitate the amalgamation of units.

Planning Balance

28. The absence of funding the costs of a Council viability assessment draws the proposal into conflict with policies of the LP. However, having regard to the scale of the development, and the evidence before me regarding the viability of the proposal, I find this conflict to be limited.
29. In favour of the appeal, I have found that the proposal would allow for improved living accommodation which would benefit the appellant and her family. Moreover, the existing property would be adapted to meet their needs with limited alterations. I attach significant weight to these considerations.
30. Having regard to the particular circumstances of this case, including the site history and the personal circumstances of the appellant and her family, on balance, I am satisfied that the limited conflict with the development plan would be outweighed by these other considerations.

Conditions

31. I have considered the conditions suggested by the Council, making minor amendments where necessary, to ensure compliance with the relevant tests as set out in paragraph 58 of the Framework and the Planning Practice Guidance (PPG). In addition to the standard time limit, I shall impose a condition specifying the relevant drawings which the development must accord with, in the interests of certainty and to provide clarity. A condition relating to materials is necessary to ensure that the appearance of the development would be satisfactory.
32. In the interests of sustainability conditions regarding BREEAM, Carbon dioxide and water consumption are reasonable and necessary. A condition requiring compliance with the Fire Strategy is considered necessary to make sure that the development incorporates relevant fire safety measures.
33. Having regard to the PPG, conditions regarding cycle parking and refuse storage are not reasonable, or necessary given the property is already in a residential use. Similarly, a condition for protective fencing to retained trees during building operations is not reasonable, or necessary, given the limited nature of the works and the absence of significant trees.

Conclusion

34. On balance, for the reasons given above, I conclude that the appeal should be allowed.

R. Gee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: Y1694/2023/00, Y1694-2023-01 Rev 01, Y1694/2023/06, Y1694/2023/07 and Y1694-2023-08.
- 3) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials to match the existing, except where indicated otherwise on the submitted application form and/or approved drawings.
- 4) The dwelling hereby approved shall achieve BREEAM Domestic Refurbishment Rating 'Excellent'; in accordance with the BREEAM Domestic Refurbishment Assessment dated January 2024; received on 06 Mar 2024 & the requirements of the BREEAM Guide (or such national measure of sustainability for house design that replaces that scheme).
- 5) The dwelling hereby approved shall achieve a 35% reduction in Carbon dioxide emissions beyond Part L of the Building Regulations requirements (2021).
- 6) The dwelling(s) hereby approved shall not be occupied other than in accordance with the water consumption targets of 105 litres or less per person per day, and 5 litres or less per head per day for external water use.
- 7) The development must be carried out in accordance with the provisions of the a 'Planning Fire Safety Statement' received on 06 Mar 2024.

*****End of Schedule*****