
Appeal Decision

Site visit made on 18 October 2016

by **I Jenkins BSc CEng MICE MCIWEM**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 January 2017

Appeal Ref: APP/L5810/W/16/3152828

59 Ham Street, Ham, Richmond upon Thames, TW10 7HR

- 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 Gilbert Homes against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 15/4780/FUL, dated 13 November 2015, was refused by notice dated 6 April 2016.
 - The development proposed is demolition of the existing bungalow (C3) and the erection of 4 x three bed family dwellings and off-street parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The original development for which planning permission was sought in this case was described on the planning application form as '*demolition of the existing bungalow (C3) and the erection of 4 x three bed family dwellings with basement accommodation and off-street parking.*' I will refer to it as option 1. While the application was with the Council for consideration, the appellant put forward an alternative option, option 2, which did not include a basement level and the associated lightwells, and included a revised parking/landscaping layout at the front of the proposed properties. Whilst revised floor plans/elevations were not provided at the time, option 2 was nevertheless taken into account by the Council, along with option 1.
3. On the 3 May 2016 the Council confirmed that it did not object to option 2 being taken into account in the determination of the appeal, supported by drawings submitted after its determination of the application, on 20 and 21 April 2016¹. In its Grounds of Appeal, dated 20 June 2016, the appellant confirmed that the appeal should be determined on the basis of option 2, without the originally proposed basements, and the following revised description of development: '*demolition of the existing bungalow (C3) and the erection of 4 x three bed family dwellings and off-street parking*'. I have determined the appeal on that basis, as I consider to do so would be unlikely to prejudice the interests of anyone, and I have reflected the revised description in the summary information above.

¹ Including drawing no. 15-P1201-01C.

Main Issues

4. I consider that the main issues in this case are the effect of the proposal on the character and appearance of the locality, including the Ham House Conservation Area no. 23, and whether the scheme would make adequate provision for Affordable Housing.

Reasons

Character and appearance

5. The appeal site fronts onto the southwestern side of Ham Street. Back Lane, which runs along the rear boundary of the site, forms the southwestern boundary of the Ham House Conservation Area no. 23 hereabouts. In keeping with the descriptions set out in the *Ham House Conservation Area no. 23* description and the *Character Appraisal & Management Plan Conservation Areas-Petersham no. 6, Ham Common no. 7, Ham House no. 23 & Parkleys Estate no. 67* (CAA), this section of Ham Street contains an eclectic collection of buildings. On the northeastern side of the street, these include detached and semi-detached dwellings and on a smaller scale terraced cottages and single-storey almshouses, to the rear of which are the grounds of Grey Court School. No. 59, which comprises a flat roofed bungalow with integral garage, shares its northwestern boundary with Ham Library, which is a single-storey pitch roofed building, and its southeastern boundary with No. 57, a 'Huf' style house which is under construction.
6. The CAA indicates that the gaps between the houses and groups of houses provide glimpses of the wider backdrop of trees and green space, a landscape setting which contributes to the distinctive semi-rural character of the area. The row of properties that includes No. 59, Ham Library to the north and No. 57 to the south, which have spacious landscaped plots, makes a particularly significant contribution in this regard. Ham Library is set in relatively open landscaped grounds, with a low boundary wall. No. 59 is set back from the front and rear boundaries of the site and alongside its northwestern boundary, shared with the grounds of the library. Due to its single-storey scale, planting within its grounds and the mix of tall walls and fencing along its boundaries, the visual impact of this bungalow is small, such that it makes a neutral contribution to the character and appearance of the Conservation Area. When seen from Ham Street and Back Lane the site has the appearance of enclosed green space. Although No. 57 is a relatively large 2-storey property, the site retains a sense of spaciousness, as a result of the design and layout of the dwelling. This is due in part to: the lightweight appearance of the building, the publicly visible first floor facades of which comprise for the most part glazing; and, the limited visual impact of the single-storey element of the property on its northern side and the gap between the building and its southern boundary.
7. The proposal involves the demolition of the existing dwelling and the erection of 2 pairs of semi-detached houses with a new, more centrally positioned, vehicular entrance off Ham Street and the replacement of the front fence with a lower front wall.
8. Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)* requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

The Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration of a heritage asset.

9. The traditional brick built, pitch roofed form of the proposed buildings would reflect the design of a number of the existing properties along Ham Street. Furthermore, they would have attractively detailed front elevations including a bay window, arched doorway and pitch roofed dormers. In addition, although the proposal would result in the loss of a number of trees from the site, I have no reason to dispute the appellant's view that in most cases they are in relatively poor condition and/or of limited value in terms of visual amenity.
10. However, whilst the first floor level accommodation of the proposed dwellings would be partially contained within roof space, their ridge level would extend above the 2-storey roof level of No. 57 and well above the ridge level of the library. Unlike the existing appeal property, they would be obtrusive features of the street, clearly visible from public vantage points to the front and rear. Furthermore, the proposed row of buildings would extend across almost the entire length of the site between its northwestern and southeastern boundaries, with a small gap at either end. The row of development would be interrupted only by a narrow gap between the semi-detached blocks, which would not be sufficient to limit their massing to any significant degree. Furthermore, the potential to soften the visual impact of the development through landscaping would be small, not least as much of the frontage of the site would be taken up by hardstanding for parking. The proposed built development would dominate the site to the extent that it would no longer make any material contribution to the spacious, verdant character of this part of the Conservation Area.
11. I conclude that the proposal would cause significant harm to the character and appearance of the locality, contrary to the aims of Policy CP7 of the *London Borough of Richmond upon Thames Core Strategy, April 2009 (CS)*, the Policies DM HO1, DM HO2, DM DC1 of the *Development Management Plan, November 2011 (DMP), Supplementary Planning Document-Design Quality, 2006* and *Supplementary Planning Document-Small and Medium Housing Sites, 2006*. As the impact of the proposal would be unlikely to affect a wider area, I consider that the resultant harm to the significance of the Conservation Area, although significant and contrary to the aims of DMP Policy DM HD1 and Policy 7.8 of the *London Plan (March 2016)*, would be less than substantial. The Framework indicates that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, such as a Conservation Area, that harm should be weighed against the public benefits of the proposal. Insofar as the above Development Plan Policies and supporting documents seek to ensure that development responds to local character and history, and addresses the integration of new development into the natural, built and historic environment, they are consistent with the aims of the Framework.

Affordable Housing

12. CS Policy CP15 indicates that some form of contribution towards Affordable Housing will be expected on all new housing sites, as set out in the Development DPD. DMP Policy DM HO 6 indicates that the Council will seek the

- maximum reasonable amount of Affordable Housing when negotiating on individual private residential schemes, with reference to identified contribution levels and economic viability.
13. The findings of viability assessment reports submitted by the appellant and the Council during the earlier stages of the appeal were contradictory with regard to whether a financial contribution towards Affordable Housing would render the scheme unviable. However, in its final comments, dated 14 November 2016, the appellant indicated that, if the need for a contribution is supported by policy, a sum of £138,904 would not compromise the viability of the scheme; a view shared by the Council². However, I give little weight to the appellant's stated willingness to provide a unilateral undertaking, pursuant to section 106 of the *Town and Country Planning Act 1990*, to secure such a contribution, as only a draft planning obligation³ has been submitted and there is no guarantee that a formally completed version would be provided in the event that the appeal were to be allowed and planning permission granted. Under these circumstances the proposal would conflict with the aims of DMP Policy DM HO 6 and CS Policy CP15.
 14. However, an order of the Court of Appeal, dated 13 May 2016, gave legal effect to the policy set out in the written Ministerial Statement of 28 November 2014 (WMS). It indicates that there are specific circumstances where contributions for Affordable Housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development. The circumstances are that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The appeal proposal would fit this criterion. The policy set out in the WMS has also now been incorporated into the national *Planning Practice Guidance* (PPG).
 15. Since then, in June 2016, the Council resolved to continue to require Affordable Housing contributions from all sites, through the application of emerging Policy LP 36 of its *Pre-Publication Local Plan* (PPLP). The justification given by the Council for this approach is the substantial need for affordable housing in the area and the significant contribution made to housing supply in the borough by small sites. However, these are not exceptional circumstances supported by the WMS or PPG. The only identified exception to the 10-unit threshold relates to development in designated rural areas where the local planning authority has chosen to apply a lower threshold. There is no evidence before me to show that this exception applies to the appeal scheme.
 16. I acknowledge that the application of the WMS policy would undermine the Council's current strategy of meeting Affordable Housing needs in its area through funding generated in part from the development of small sites. However, the associated provisions of the current Development Plan, DMP Policy DM HO 6 and CS Policy CP15, pre-date this change in national policy, a key aim of which is to provide a boost for small and medium sized developers by reducing the costs associated with small scale development. Furthermore, the PPLP, which carries forward the same approach as the Development Plan, is at a relatively early stage towards adoption. Under the circumstances, I consider that although the proposal would conflict with CS Policy CP15, DMP Policy DM HO 6 and emerging Policy LP 36, in light of the

² As set out in an email from the appellant to the Council, dated 14 November 2016.

³ Submitted by email, dated 22 November 2016.

guidance on the matter in the PPG, this would not be sufficient to justify withholding planning permission in this case.

17. I conclude that the lack of provision of a financial contribution towards Affordable Housing would not amount to an unacceptable level of provision in this particular case. A financial contribution is not necessary to make this particular development acceptable in planning terms.

Other matters

18. Whilst No. 59 appears to be in a relatively poor state of repair, I give this little weight, as to do otherwise would be likely to encourage landowners seeking a beneficial permission not to manage their property in a diligent manner.
19. The proposal, which in housing density terms would make more efficient use of a part previously-developed site, would add to the supply of family sized housing in the area. Furthermore, the appellant has indicated that renewable energy technologies would be utilised, to limit carbon dioxide emissions associated with the scheme, and water saving devices would also be incorporated into the design. In these respects it would gain some support from the Framework. In addition, there is no dispute that, in keeping with the aims of DMP Policy DM DC 5, the proposal would not harm the living conditions of neighbouring residents.

Conclusions

20. I conclude on balance, having regard to the likely economic, social and environmental impacts of the scheme, any benefits of the proposal would be significantly and demonstrably outweighed by the harm that it would cause to the character and appearance of the locality, including the Ham House Conservation Area no. 23. It would not amount to sustainable development under the terms of the Framework and I consider that it can be regarded as being in conflict with the Development Plan taken as a whole. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR