



Appeal Decision

Site visit made on 26 January 2024

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th March 2024

Appeal Ref: APP/L5810/W/23/3324372

Land Between 18-20 Vicarage Road, Hampton Wick KT1 4ED

- 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 Shazad Mahmood of Tide Developments Limited against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 22/1268/FUL.
 - The development proposed is a new detached family dwelling 4 bedroom 7 person with associated front and rear gardens, and home office outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form gives the address as 18 Vicarage Road. As the site is distinctly separate from No. 18, the heading above reflects the description as on the decision notice and the appeal form.
3. The National Planning Policy Framework ('the Framework') was revised in December 2023. Insofar as it is relevant, the content of the Framework has not been materially altered in respect of the main issue before me, and therefore it was not necessary to go back to the parties in this regard.
4. The appellant's appeal evidence identified that an affordable housing contribution would be unviable. The Council confirmed withdrawal of this reason for refusal, and on the evidence before me, I see no reason to take a different view.
5. The appellant's evidence also included revised plans with minor amends to the cycle parking location. Relevant parties have had the chance to comment. In accordance with the Holborn Studios Ltd 2017 judgement, accepting these plans therefore meets the substantive and procedural tests, and no parties would be prejudiced in the interests of natural justice.

Main Issues

6. The main issues are the effect of the proposed development on:
 - biodiversity;
 - the character and appearance of the area;
 - the living conditions of the occupiers of No. 18 Vicarage Road; and
 - sustainable travel and highway safety, with particular regard to the details of cycle parking and restriction of parking permits.

Reasons

Biodiversity

7. The appeal site comprises a plot of land fronting onto Vicarage Road, part of the long rear garden of No. 3 Cedars Road. It is fenced off from the surrounding properties including No. 3, and includes a brick path, disused flower beds, remnant compost heaps, and dilapidated small timber framed structures. The proposal is for a new dwelling facing onto the street, and an outbuilding filling the rear of the site.
8. The evidence suggests that the site was cleared of substantial vegetation in 2021, and the Preliminary Ecological Appraisal Survey Report ('the Survey') uses this cleared site as its March 2022 baseline. The Council considers that had the Survey's baseline been the vegetated site, the site would have been found important for specific species. This is based on the Greenspace Information for Greater London database, albeit data protection has precluded the sharing of specific details. This is also based on the site's linkage to the large central island of vegetated gardens, acting as an important wildlife refuge and ecological connecting network.
9. While I agree that more species would very likely have been found prior to the clearance, and more biodiversity importance in its combined value with the surrounding gardens, the site is not within or adjacent to any designated biodiversity or nature conservation value site. There were no suitable structures for roosting bats. It is commonplace to clear non-protected vegetation within a private garden, including for paving or for outbuildings. I also note that outbuildings in adjacent gardens have been recently granted permission, with no objections relating to a loss of ecological value. I therefore find that vegetation clearance does not comprise development in this instance.
10. As such, I have based my assessment against the Survey's baseline. I thus find the proposal would provide sufficient biodiversity mitigation and enhancements for the size of the site. These include a wildflower sedum roof on part of the rear projection and the outbuildings, a species rich lawn, shrubs, climbing plants, hedges, several trees, and nesting provision for birds, bats, and hedgehogs. This provision could be ensured via the imposition of conditions. The removal of the outbuilding from the scheme would provide additional mitigation, but I find this unreasonable considering other neighbouring outbuildings, and disproportionate to the baseline ecological position.
11. Overall therefore, the proposed development would enhance the site's biodiversity. It would comply with Policy LP15 of the London Borough of Richmond Upon Thames Local Plan (LP) (2018), which requires protection and enhancement of the Borough's biodiversity, including incorporating and creating new habitats or biodiversity features into development sites. It would also comply with the aims and actions within the London Borough of Richmond Upon Thames Biodiversity Action Plan.

Character and Appearance

12. The site lies between Nos. 18 and 20 Vicarage Road, being a semi-detached and a large detached dwellinghouse respectively, with front and rear gardens. The surrounding area is predominantly residential, and the site already has a residential land use.

13. The LP Policy LP39 is relevant as the site forms both infill development, and back garden development. LP39(A) requires the proposal to reflect the character of the surrounding area, and address various factors. LP39(B) further identifies a presumption against loss of back gardens due to the need to maintain local character, amenity space, and biodiversity. The LP Policy LP1 additionally requires for all development to be of high architectural and urban design quality, and show compatibility with local character. This includes its relationship with the existing townscape, local grain, frontages, scale, height, massing, landscaping, proportions and space between buildings, and materials.
14. I address in the separate main issues below the Policy LP39 requirements for living conditions of neighbours, and cycle parking. I have addressed above that I find there would be no biodiversity features on the site which require retention. Regarding the retention of appropriate garden space for adjacent dwellings, the remainder of the host garden would still be relatively large and in proportion with its neighbours, such that this would be acceptable.
15. Turning to an assessment against local character, the Council does not dispute that the proposed dwelling would part comply with Policy LP39, including having adequate separation and similar spacing to that existing between dwellings, respect for the context of existing building heights and materiality, and enhancement of the street frontage. I similarly find that while the loss of the garden onto Vicarage Street would change the streetscene, its replacement with the dwelling would not create undue visual harm, as such long gardens are no longer a characteristic of the street frontage.
16. Interested parties disagree with this approach. However, the dwelling's height and front building line would match that along the street, and the streetscene is relatively varied architectural design, style, and detailing. Although its gable fronted roof would to some extent draw prominence, this would be mitigated by the brick double height bay which would sufficiently reference the existing context. The design also reflects its narrow plot, which although unusual within the immediate row of dwellings, would in itself be a modest width and limited scale, and avoid a front terracing effect.
17. Although the basement level would extend beyond the existing rear building line, this is not excessive, and would also be at a lower level than for a ground floor projection. This is also in the context that No. 18 Vicarage Road already contrasts the street's main rear building line with its shallower depth.
18. The overall rear massing would be relatively bulky. However, its stepped down form at each level along with the sunken element, and compared against the existing mass of Nos. 20 and 22 on its bulkiest side, would overall not be unduly harmful to the character or appear as overdevelopment. The green sedum roofs would to a small extent also soften this appearance. The rear outbuilding would be a typical scale and design for such a building at the end of a residential garden.
19. Overall therefore, the proposed development would not result in harm to the character and appearance of the area, and so would comply with the LP Policies LP1 and LP39 in this regard. It would also comply with the Design Quality Supplementary Planning Document (SPD) (2006), the Hampton Wick and Teddington Village Planning Guidance (VPG) (2017), and the Small and Medium Housing Sites SPD (2006). Together, and amongst other matters, these similarly seek to promote townscape character and local features by responding

to local patterns of development and street setting, including building lines and frontage composition, restricting loss of front gardens for parking, and alleviating parking issues.

Living Conditions

20. The Residential Development Standards SPD (2010) section 3.1 identifies various requirements in order to maintain 'neighbourliness' for the living conditions of neighbouring occupiers. In relation to loss of sunlight and daylight, it identifies that decisions should be guided by the Building Research Establishment (BRE) standards. I concur with the appellant's evidence that these standards would be met for both the horizontal test and the vertical test of 1.6m above ground level.
21. The new dwelling must also not create an unacceptable sense of enclosure or appear overbearing from neighbouring properties. Although it would be close to the boundaries on either side, I find that its meeting of the BRE tests strongly indicates that it would not oppressively impact on outlook. In coming to this view, I also take into account the comparative depth of the neighbouring dwellings' rear projections, and the stepped/angled away massing of the proposed dwelling's upper floors in relation to the nearest window of No. 18 Vicarage Road. I therefore find that the proposal would not be dominant or oppressive, or result in an undue sense of enclosure.
22. I note the interested party objections regarding a privacy impact from the proposed rear windows. However, due to the separation distances involved, and compared to the extent of existing upper floor windows in the vicinity, I find they would not cause harm in this regard.
23. Overall, the proposal would not cause undue harm to the living conditions of neighbouring occupiers. It would comply with the LP Policies LP8, LP10, and LP39, which together and amongst other matters seek to protect the amenity and living conditions for occupants of neighbouring properties, including with respect to standards of daylight and sunlight, preserving privacy to homes and gardens, and ensuring no visual intrusiveness or sense of enclosure. It would also comply with the Residential Development Standards SPD as outlined above, and the Small and Medium Housing Sites SPD, which similarly requires proposals to consider amenity of existing properties, including overbearing issues and daylight and sunlight matters.

Cycle Parking and Parking Permits

24. The revised plans now identify cycle parking for 2 bicycles within the front garden area. Details of the combined bike/bin store have been provided, which would provide adequate storage. This therefore overcomes the Council's concerns that the cycle storage was previously inside of the proposed dwelling.
25. The parties agree that the proposal generates the need for 2 on-site parking spaces, but that this provision would not maintain the character of the streetscene, and affect highway safety. It would thus conflict with the LP Policy LP45, the VPG, and the Transport SPD (2020). LP45 therefore suggests for controls to be put in place to ensure that the proposal will not contribute to on-street parking stress in the locality. The nearest streets comprise predominantly permit parking, plus a short stretch available with paid parking.

The appellant's parking survey demonstrated a combined stress of 94%, with some stretches of the streets being 100% and above due to illegal parking.

26. The parties therefore agree that the future occupiers (except for persons with proof of a disability) should be prohibited from obtaining a parking permit. I also agree that this is appropriate and necessary. The Council's reason for refusal was due to the absence of a legal agreement to ensure this, and highlights one purpose is that it would be revealed in local searches to prospective future owners. A planning obligation has not been submitted with the appeal, with the appellant suggesting that one could be sought through the imposition of a condition.
27. Without prejudice in the event I were minded to allow this appeal, the Council's suggested condition includes gaining agreement to a scheme in writing, i.e. a planning obligation. However, the Planning Practice Guidance (PPG) refers to this being appropriate only in the context of exceptional circumstances, which I do not find to be the case in this instance for a single dwelling. As a result, I have consulted with the main parties regarding alternative wording for a condition which would meet the PPG 6 tests.
28. The appellant's suggested condition would require that no owner or occupier of the approved development shall apply for or hold the benefit of a Resident's Parking Permit unless entitled to become a holder of a disabled person's badge. However, an approval granted along with any condition to which it is subject, runs with the land or building and not with an individual. A planning condition may restrict what an individual can do with the land or building, or it can prevent certain things from taking place until specific details have been agreed between an individual and the Council. This suggested condition takes an unreasonable approach as it seeks to restrict the rights of individuals to undertake an act rather than a restriction that would be associated with the land or building. It would therefore not meet all the PPG tests.
29. A suitable condition would require restriction of occupation of the dwelling until the Local Planning Authority has been informed in writing of the property's full postal address, and confirmation that occupants or owners at the address would not be issued with a parking permit by virtue of this being clearly set out within a relevant Traffic Regulation Order (TRO). I acknowledge that this would require action outside of the appellant's control for the TRO amendment, but this can be viewed as analogous to where permission is granted for development requiring an agreement under s278 of the Highways Act 1980 for alterations to the highway.
30. I have been provided with a copy of the TRO covering Vicarage Road. However, its wording does not identify specific dwellings where permits are allowed or precluded. I am therefore not convinced in this instance that a suitable restrictive amendment could be achieved for the appeal site. Neither party has suggested a TRO amendment which would resolve my concerns.
31. Overall, I therefore find that in the absence of a planning obligation to restrict the future issuing of parking permits, and an inability to impose a suitable condition, the proposed development would harmfully affect the free flow of traffic and thus highway safety. Although I find the details of cycle parking to be acceptable, the proposal would conflict with the LP Policies LP44 and LP45, the VPG, and the Transport SPD.

Planning Balance

32. The Framework seeks to significantly boost the supply of homes, with paragraphs 123 and 124 providing support for the development of windfall sites and the effective use of land. Additional housing in this location is therefore a benefit of the proposal. However, 1 dwelling would only be a small-scale contribution to the housing supply. There would also be small social and economic benefits from construction, and from the local expenditure and demand for services by the additional residents. These benefits would be small-scale overall, and I give them minor weight.
33. I found above that the proposal would conflict with the development plan, and harmfully affect highway safety. I give this moderate weight. The benefits of the proposal therefore do not outweigh this harm.

Conclusion

34. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR