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Your reference
Our reference
Date

BW/1589
11th September 2024

The Planning Inspectorate
[via Beta appeals website]

BWCP

PROPOSED MAISONNETTES: SITE ON CORNER OF ROSELEIGH CLOSE & CAMBRIDGE PARK, EAST TWICKENHAM, TW1 2JT

23/2401/FUL L B Richmond u Thames
Proposal Proposed development of 3no. 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.



View of the Site from the west looking across Roseleigh Close

Appeal Statement of Case

This statement comprises three documents:

- A) "OPINION on Principle of development - Landmark Chambers" An Opinion by Counsel;
- B) "Appellant's Notes in Support of an Appeal_Final" and this Statement.

In the interest of brevity I will limit repetition and rely on the two supporting documents.

The proposal has a twenty-year plus planning history which can fairly be described as unhelpful. There has been opposition from neighbours and misleading evidence given at appeal, the most pernicious having been subsequently withdrawn in writing. Detail is provided by the appellant (who has owned the plot through this period and previously lived nearby) in document B.

The appellant also provides an illustrated and knowledgeable history of the site and the Cambridge Park Estate of which it is a part.

Refusal of planning permission was for the following reasons

1. Design/Loss of Openness

The proposed residential development, would by reason of its siting, scale, design, relationship with adjacent trees and direct loss of open space that forms an integral part of the Cambridge Park Estate, result in an unsympathetic and obtrusive form of development, deleterious to the well-established open and verdant nature of the site and spatial characteristics of the area. The application is contrary to the NPPF and in particular policies LP1, LP12, LP16 and LP39 of the Adopted Richmond Local Plan (2018), policies 15, 16, 28, 34 and 42 of the emerging Local Plan (Regulation 19 Version), Policies G1 and G4 of the Adopted London Plan (2021), and the East Twickenham Village Planning Guidance.

2. Trees/Ecology

The proposed development, by reason of its siting, scale, design, and relationship with the close proximity of a line of mature horse Chestnut Trees, which form a cohesive group, and insufficient information on indirect impacts, is not considered reasonable or sustainable, would be deleterious to the ecological >>>

value of the site and is likely to result in significant pressure to prune or remove these trees entirely which are making a significant contribution to the environmental quality and amenity of the area, contrary to the NPPF and in particular Policies LP15 and LP16 of the Adopted Richmond Local Plan (2018), London Plan policies G6 and G7, and emerging policies 39 and 42 of the Publication Local Plan (Regulation 19 version).

3. Affordable housing

In the absence of a binding obligation securing an appropriate financial contribution towards the provision of affordable housing within the borough, the proposal would be prejudicial to meeting the Council's affordable housing objectives contrary to policy LP36 of the Adopted Richmond Local Plan (2018), adopted Supplementary Planning Document: Affordable Housing and emerging policy 11 of the Publication Local Plan (Regulation 19 version).

The first [and principal] reason

Counsel was asked to review the officer's approach to the principle of developing the site. In Document **A** he summarises his opinion thus:

"12. It follows that, in summary, my view is that:

(1) The Officer is wrong to suggest (so far as they actually do) that the site forms open space; and

(2) If it is not open space, then it is not correct to approach the principle of development on the basis that there is a presumption against development – the policy framework clearly allows for developments of this kind provided they comply with LP 39;

(3) Even if it were open space, the officer does not consider the degree of public amenity value which the Site actually offers. This is a significant deficiency because it prevents either

(a) recognition that the future proposals will offer better public amenity in terms of quantity and quality (which shows that it is acceptable under the NPPF tests) or

(b) weighing of any residual harm against the acknowledged benefits of developing an underutilised site for high quality housing."

It is my view and that of the appellant that had it not been for two now deceased and removed protected cedar trees on the plot when the estate was developed [see the OS extract from 1935], then a maisonette block in a similar form to that now proposed would have been built here.

As Document **B** demonstrates, the cedar trees were symmetrically located alongside the carriage drive of the mansion which pre-dated the estate as part of a landscape scheme. The drive crossed the appeal site which today contains the remnant of the stone gateway which was at its entrance. Time may have diminished the site's categorisation as Previously Developed Land but the estate development allocated no active purpose to the land and, given its redundancy over the past 20 years or so (since removal of the dead trees), it is only logical to make beneficial use of the land in the spirit of the 1990 T&C Planning Act.

Planning announcements and imminent changes to the NPPF and housing development policies are material considerations and add to the weight which might be given to the provision of three new dwellings on this small site, particularly given London's demonstrable housing need.

The new SoS spoke to parliament on 30 July 2024 making these points amongst others:

She introduced the Government's plan to get Britain building; she said "We are facing the most acute housing crisis in living memory; there are simply not enough homes; this will require local authorities to plan for homes proportionate to the size of existing communities, and it will incorporate an uplift where house prices are most out of step with local incomes; The London plan has a target of around 52,000, and around 35,000 were delivered in London last year. The target we are now setting for London of roughly 80,000 is still a huge ask..."

Policies

The current (or recently) relevant policies are fully set out in the officers' report and my Planning

Statement with the application, so I do not repeat them here.

The proposed design

The appellant is also the architect and I provide an extract from his distinguished CV as a footnote to this statement. He is well placed to respond to the implied criticism and even dismissal of his design in the officers' report. This he does in detail in Document **B** and I refer you to his section **5.0 Regarding the proposed design**. His scheme meets the standards called for by policy LP1: Local Character and Design Quality.

It is over 60 years since those maisonettes were built and it seems to be not only reasonable, but most appropriate that some of the elements, details and selection of materials should reflect current requirements including sustainability and energy efficiencies as they do without challenging the character and scale of the neighbouring buildings.



The proposed development completes the composition of Roseleigh Close

OS Map from 1935 with later buildings shown shaded in 'green' and site superimposed to show location of the two Deodar Cedars located parallel to the front of Cumberland House on the edge of the carriage drive

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The officers' report says: "Issue ii- Design and impact on heritage assets

It is considered that the development is compliant against NPPF (2023) Paragraph 209 and has adequately addressed policies LP3, LP4 and emerging/Submission Policy 30 in directly addressing the relationship of the development to the setting of identified heritage assets...

... it is acknowledged that the proposed development does generally seek to reflect the existing height, style and pattern of development and although not directly in line with the immediate neighbour to the north (as is also the case on the other side of Roseleigh Close), the building generally fits with the proportions of others This seems to be at odds with the first reason for refusal.

I too am an architect and support the appellant's assessment and his design, noting how respectful it is to the pattern of development of the Cambridge Park Estate in terms of scale and proportion.

There is a degree of subjectivity in this kind of judgement and the appellant defers to the opinion of the Inspector and would accept conditions requiring detail changes such as the proportion of a window or the selection of a material if that was considered to be desirable.

The second reason for refusal

Document B addresses these issues in careful detail and provides a convincing rebuttal. Please refer to this at 6.0 Trees and Ecology. The summary is repeated here in full:

- It is refuted that there would be direct or indirect impacts on the horse chestnuts along the south side of the site as the building would be located outside the crown and root protection areas of these trees and suitable protection would be afforded during the construction period in accordance with detailed guidance provided in the Tree Survey and Arboricultural Impact Assessment.
- It is refuted that with respect to these trees the proposal would be deleterious to the ecological value of the site. On the contrary, as a cohesive group the horse chestnuts are a primary feature of the site, identified as its most valuable ecological asset, carry TPOs, and would accordingly be protected as such.
- Furthermore, two further shade trees are proposed that would increase tree cover and enhance the ecological value provided by these trees.
- It is refuted that shading by the horse chestnuts along the south side of the site will necessarily be perceived as being problematic; shading of the south façade and amenity space would be welcomed, with reduced shading during winter months due to loss of leaves. LP16 also encourages the planting of shade trees in response to climate change.
- It is thus furthermore refuted that there would be pressure to significantly prune or remove these trees for the above reasons. All south facing rooms with the exception of one bedroom have a dual aspect. In any event, any proposed tree works would require the consent of a number of stakeholders, including the Council with respect to the TPOs.

- It is questionable whether large windows would emphasise negative perceptions of the trees by occupants. Large windows are proposed to enable occupants to engage more closely with their natural surroundings which together with more natural light has been shown to improve psychological health and physical well-being.

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- Potential light spillage onto the trees would be controlled through the installation of advanced glazing and automated night blinds to control the level of night time light emissions from inside to outside. No fixed external lighting is proposed that would impact on the trees. These measures would enable a balanced and comfortable co-existence to be established between the occupants of the maisonettes and nocturnal wildlife.
- It is disputed that the aerial imagery indicates that the canopies (of the horse chestnuts) extend between two and three metres beyond the building line as defined. Aerial imagery is an unreliable basis for estimating the extent of a tree canopy as shadows can be misleading when the sun is not directly overhead (as in this case). Furthermore, Google aerial views can be digitally manipulated so that the viewpoint appears to be directly above the view that is shown, but this may not be the case.
- The northern fringe of the existing tree canopies is approximately in line with the south façade of the existing maisonettes at 34 Cambridge Park as shown in the views from Roseleigh Close looking eastwards along this line, as well as when looking westwards along the face of 34 Cambridge Park.
- Provision would be made for the relocation of foxes if required (the only mammals found on the site) together with the translocation of yellow meadow ant colonies and dead wood under the guidance of a qualified ecologist. These measures would aid the re-colonisation of invertebrates.
- Existing wildlife, insects and birds found on the site would be provided for, whilst many species not currently present would be attracted by the new pond, wildflower meadow, native trees, planting and pollinators. A 100% native landscape planting scheme of recognised value to wildlife, including pollinating insects and birds that currently do not visit the site, would be provided in varied locations such as the planted beds, extensive and intensive green roofs, living wall, wildflower meadow and wildlife pond. It is thus disputed that that the proposal would not adequately retain or re-provide much of the features important to wildlife.
- It is disputed that the proposed wildflower meadow would be heavily shaded under the horse chestnut trees and would be unlikely to successfully function as a valuable habitat. Native wildflower meadows providing valuable habitats exist in shaded woodland areas throughout the UK. Furthermore, the proposed location of the wildflower meadow at the western end of the horse chestnuts is not 'heavily shaded'. Having an open aspect to the west which is partly outside the area of tree cover means that it would be exposed to lengthy periods of afternoon sunlight.
- No evidence was found on the site of acid grassland as alleged. Following further soil tests carried out by a qualified ecologist on the site in December 2023, the test results showed that the grassland is pH neutral.
- The Urban Greening Factor (calculated by the Appellant) for the proposed development is 0.57 which exceeds the London Plan 2021 Residential Target Factor of 0.4.
- The questions of 'retaining' what is on the site, or 're-providing' what was on the site should be examined. There is an expectation that the site should be returned to the condition existing prior to 2006, which (together with the horse chestnuts) was largely mown improved grassland matching the adjacent lawned perimeter areas. That would be more detrimental to the biodiversity of the site than proposed in the planning application.

The last reason

The draft Statement of Common Ground quotes the Council's report:

"Issue v – Affordable Housing

The LPA does acknowledge the costs involved in undertaking this work [viability appraisals] for applicants and in the event the application is refused and an appeal to the Secretary of state is made, this particular issue could be resolved at that point and an independent review undertaken of the Applicant's viability information as supplied. The applicant is advised to contact the Council to progress this at such time as an appeal is progressed."

[This is in hand. The appellant has submitted his expert's appraisal and has agreed to pay the Council's consultant's fee].

The case for granting consent

Context and circumstances have changed in the last nearly 20 years. There is a need to weigh up the benefits of the additional housing by a small developer as supported by current government and London Plan policy at all levels on what was once a 'brownfield' site, against any harm that is considered to be relevant in reducing the very limited openness afforded by the site. The NPPF [at December 2023] says:

11. Making effective use of land

123. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

A consultation draft NPPF issued in July includes the aim to: include changes to promote small sites, amongst other criteria and says the changes are designed to support our objectives of a more diverse housing market, that delivers homes more quickly and better responds to the range of needs of communities."

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The reality is that the close line of magnificent horse chestnut trees along Cambridge Park and the close-boarded fencing at the rear of the site greatly reduces any continuing sense of openness which may have been there in the 1960s when the trees were smaller and there were substantial Cedar trees within the site itself.

To the extent that developing an open site can be considered harmful, completing the form of Roseleigh Close is, to me as an architect and planner, an additional offsetting benefit. Putting this on the scales with the provision of housing should offset any perceived harm.

Development inevitably represents change, and it is understandable if local residents resist change, but we are not in a world where w ent.

Yours faithfully

Brian Waters

MA DipArch(Cantab) DipTP RIBA MRTPI ipresident ACA FRSA

FOOTNOTES:

Oddly, the officers' report indicates a decision to grant full planning permission:

Official

I therefore recommend the following:

1.	REFUSAL	<input type="checkbox"/>
2.	PERMISSION	<input checked="" type="checkbox"/>
3.	FORWARD TO COMMITTEE	<input type="checkbox"/>

CV for the appellant/architect

Deon Lombard

Architect, Urban Designer and Project Director

Deon Lombard Architects, 63 Rivermeads Avenue, Twickenham, TW2 5JF

M.Sc Architecture (Building and Urban Design in Development), Bartlett Graduate School of Architecture and the Development Planning Unit, UCL

MBA (Project Management), University of the Witwatersrand Graduate School of Business, Johannesburg

B.Arch, University of Natal, Durban, South Africa

Registered with the Architects Registration Board

Member of the Royal Institute of British Architects

Member of the Association of Consultant Architects

Deon has in-depth experience over a 40 year period as an architect, urban designer, and masterplanner covering a range of urban contexts and building types, in particular mixed-use developments, and large and small scale residential projects.

Project experience includes being the lead architect, urban design and masterplanning co-ordinator with HLM Architects in the mixed-use and residential development of island and waterside sites at Brentford Lock;

Project Director in tpbennett architects with responsibility for the design development of a new office, residential and retail centre in Derby (won in competition).

Design Team Leader with Pascall+Watson Architects in a competition winning proposal to provide 1000 units of student accommodation for the University of Sussex on two sites of the Falmer campus.

Consultant to the BRE working with MacFarlane Wilder (Landscape Architects) in the development of a prototype zero carbon Innovation Centre at Ravenscraig in Scotland.

A range of private residential projects in the United Kingdom, Canada and South Africa, and hotel projects in the United Kingdom, Ghana, Lithuania and East Timor.

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