IN THE MATTER OF

Proposed maisonettes at

Land At Junction Of Roseleigh Close And Cambridge Park, TW1 2JT

LPA Ref: 23/2401/FUL

ADVICE

Introduction

1. I am instructed by the Boisot Waters Cohen Partnership to provide advice to Mr Deon Lombard in relation to a refusal by London Borough of Richmond of an application by Mr Jacobus Lombard for planning permission for development at Land At Junction Of Roseleigh Close And Cambridge Park, TW1 2JT ("**the site**") comprising@:

> "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"

2. In particular, I am asked to review the officer's approach to the principle of developing this site.

Principle of development

3. The main issues identified by the officer in relation to the principle of development were

   (1) whether the 2004 Inspector's conclusions about the role of the site in providing informal open space and recreation could be overcome ("**the Open Space issue**"); and

   (2) the acceptability of infill development ("**the Infill issue"**).

4. The first thing to observe is that even on the officer's analysis there is no in principle objection to infill development in this location.

   (1) The adopted Local Plan addresses such development at LP39. This policy recognises that sites with street frontages (such as this site) are potentially

acceptable – including "*side garden plots*" (see 9.6.1) – subject to consideration of the detailed townscape factors listed.

(2) This site has a street frontage and is plainly not a backland location of the kind the policy weighs against.

(3) As for the detailed townscape issues, these are a matter of planning judgement which I am not qualified to address but I note that the officer accepted that the requirements of LP39 were generally met – subject to some detailed points which my client has rebutted.

5. As such, it seems to me that the only true in principle objection raised is the question of whether the land is "open space" within the meaning of what was PPG17 and now the NPPF.

6. On open space, it is important to start by recognising that (as it seems to me the officer fails to do) that in 2004 the Inspector considered that the site fell within the PPG17 definition of "open space" on the basis that the land was being actively used as communal amenity space by local residents and that, due to it continuing recreational and visual amenity value, it could not be considered surplus to requirements.

7. These evidential assumptions have now been firmly rebutted and, it seems to me, can no longer be safely relied upon.

(1) As the officer accepted, the site no longer has any recreational amenity value. It comprises an area of scrubland, fenced off from the wider context of the Cambridge Park Estate. Existing residents of the Estate and the wider public have no right of access.

(2) Further the site can only be said to have very limited visual amenity value (if any). While it does contain the line of TPO trees (which will be retained and protected) any other visual role is unsightly and reflects its lack of valuable public use.

This suggests that it has no public value (whether recreational or visual) so as to meet the definition of "open space" for the purposes of the NPPF or Local Plan.

8. The officer's position is also further confused by their approach to the policies – where there is a tendency to elide policies about respecting townscape and local character,

with policies about protecting greenspace or open space. As a result, it seems to me that it is not entirely clear whether the officer thought this was actually open space of public amenity value or not.

9. So, the officer cites LP1 and LP12 and the NPPF, along with London Plan policies G1 and G4 and emerging Policies 28 and 34 but:

   (1) LP1 is a local character and design quality policy. It contains no prohibition on building on open space or greenspace provide local character and quality is maintained and improved. This Scheme will improve local townscape including the quality and quantity of accessible greenspace.

   (2) LP12 relates to Green Infrastructure, but this policy says that green spaces will be protected where *they are part of the wider green infrastructure network"* and open spaces in accordance with a hierarchy. There is nothing in the officer's report which identifies how the site plays any role as part of a green infrastructure network and the officer accepts in terms that it does not fall within any of the categories of public open space – including the most limited (Linear Open Spaces).

   (3) The relevant NPPF policies relate to open space but, as set out above, this Site fails to meet that definition.

   (4) The London Plan and emerging plan add nothing further.

10. Further, in my view there is an even more fundamental issue in that the officer refers at a number of points to the idea that there is a presumption against the loss of greenfield sites. This is, it seems to me, entirely wrong for a site like this as a matter of construction of the applicable policy framework:

   (1) First, the language relied upon to suggest a "*presumption"* is not an actual policy test but comes from explanatory text within the Plan. It can therefore be relevant to the policies' interpretation but it is not policy: ***R (Cherkley Campaign Ltd) v Mole Valley DC*** [2014] EWCA Civ 567.

   (2) The Council does not say which <u>policy</u> creates the presumption in question and – as already set out – the reality is that there is nothing in LP1 or LP12 which will prevent development of the Site.

(3) Second, the idea of a "presumption" (and the application of policies like LP1 or LP12) also needs to be understood in the context created by LP39 – which is an explicit policy dealing with infill plots like the site.

(4) LP 39[1] does create a policy presumption but this is against "*loss of back gardens*". In relation to side garden plots or other undeveloped spaces with street frontages, LP 39's explanatory text makes clear that there is now no "*automatic presumption*" in favour, but does provides through LP 39 (A) a clear route-map for such sites to demonstrate their acceptability.

11. In my view, it is unworkable to interpret the policy framework as creating a presumption against use of side garden plots on the basis that they are (generically) greenfield. Such an interpretation would be directly contrary to the language of LP39.

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.

[1] Emerging Policy 15 is in similar terms.

Conclusion

13. As presently instructed I have nothing further to add.

Matthew Dale-Harris

Landmark Chambers

5 August 2024.