

The Planning Inspectorate

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Mr P Freer (Environmental Protection)
Richmond Upon Thames L B C
The Civic Centre
44 York Street
Twickenham
Middx
TW1 3BZ

Your Ref: DC/AJD/04/2420/OUT
Our Ref: APP/L5810/A/04/1169000
Date: 30 January 2006

Dear Sir

**TOWN & COUNTRY PLANNING ACT 1990
APPEAL BY MR J J G LOMBARD
SITE AT JUNCTION OF CAMBRIDGE PARK &, ROSELEIGH CLOSE, CAMBRIDGE PARK,
TWICKENHAM, MIDDLESEX, TW1 2JT**

I enclose a copy of our Inspector's decision on the above appeal.

The attached leaflet explains the right of appeal to the High Court against the decision and how the documents can be inspected.

If you have any queries relating to the decision please send them to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
Bristol BS1 6PN

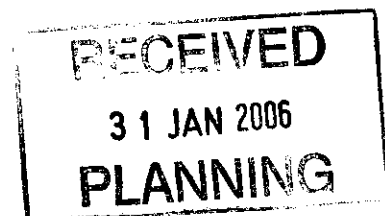
Phone No. 0117 372 8252

Fax No. 0117 372 8139

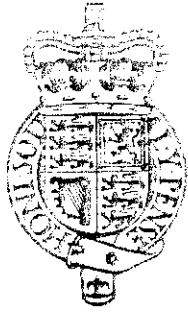
E-mail: Complaints@pins.gsi.gov.uk

Yours faithfully

RP
Miss Victoria Williams



COVERDL1



Appeal Decision

Hearing held and site visit made on 17 January 2006

by **B Barnett BA MCD MRTPI**

an Inspector appointed by the First Secretary of State

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Date

30 JAN 2006

Appeal Ref: APP/L5810/A/04/1169000

Site at the junction of Cambridge Park and Roseleigh Close, Cambridge Park, East Twickenham, TW1 2JT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Jacobus J G Lombard against the decision of the Council of the London Borough of Richmond-upon-Thames.
- The application Ref DC/AJD/04/2420/OUT/OUT, dated 27 July 2004, was refused by notice dated 20 September 2004.
- The development proposed is two new semi-detached three bedroom maisonette units.

Summary of Decision: The appeal is dismissed.

Procedural Matter

1. It was agreed at the hearing that approval is sought now only for the siting of the building and the means of access to it. Landscaping, external appearance and design are reserved for consideration later.

Main Issue

2. The main issue in this appeal is the effect of the development on the character and appearance of the area.

Planning Policy

3. The development plan includes the London Borough of Richmond-upon-Thames Unitary Plan: First Review March 2005. Policy ENV9 refers to trees. Policy BLT11 seeks to ensure, among other things, that development is compatible with the scale and character of existing development and its setting. Policy BLT16 addresses privacy and visual intrusion.

Reasons

4. The appeal concerns a corner site at the entrance to a small estate built in the 1950's. It is open on two sides to Cambridge Park and Roseleigh Close. Most of it is grassed, but in the corner furthest from the roads there are some bushes and the land is less well looked after. The buildings on the estate are two storey blocks of flats. The areas in front of and behind them are also largely grassed and communally maintained. These areas, combined with the appeal site, give the estate a distinctive and attractive openness. There are five large chestnut trees along the Cambridge Park frontage of the site which add considerably to the attractiveness of the area.
5. The proposed building would be sited well back from the road frontages and occupy only about a quarter of the land. However, in my judgement it would substantially reduce the

contribution which the site now makes to the character of the estate. Its openness would be considerably reduced and views across it would be restricted. This would be particularly apparent from Cambridge Park and Roseleigh Close but the openness of the area behind the buildings facing Roseleigh Close and Beaulieu Close would also be affected.

6. I heard conflicting evidence about the extent to which residents use the site for informal recreation. The applicant accepted that there is no impediment to such use, but indicated that it occurs only rarely. On the other hand, several local residents asserted that they use the area from time to time for dog-walking, sunbathing or other purposes and one claimed that his daughter plays there on most days. It is clear to me that this land is regarded by local residents as a communal amenity space and is actively used as such. It is of value both for its contribution to the appearance of the area and for the opportunity which it provides for recreation in an area which is not directly overlooked from adjoining buildings. The open area in front of the proposed building would be less extensive, less enclosed and, above all, more overlooked. Even if no fences were erected around it, it would take on the character of a semi-private area and be of much less recreational value.
7. I am satisfied that it would be possible to erect a building in the location proposed without harming the trees on the site. Occupants of the building might seek to remove or severely prune these trees to improve their light or reduce problems from leaves, but this seems unlikely as it would harm their otherwise attractive outlook. In any event, it would be open to the Council to control such work by use of its tree preservation order powers. Even though it would not be in line with the adjacent structures, the building could fit in well with others in the area and have an acceptable impact on the living conditions of neighbours in respect of their privacy and the light reaching their property.
8. Nonetheless, however well it is designed, the building would reduce the value of the land as an area for informal recreation. It would also reduce the openness of the site and the area. These factors would make the estate a less attractive place in which to live and I conclude that because of them the development would have an unacceptable effect on the character and appearance of the area and be inconsistent with Policy BLT11.
9. I consider that the site falls within the definition of open space in Planning Policy Guidance Note 17 *Planning for Open Space, Sport and Recreation*. This Guidance indicates that such space should not be built on unless it is surplus to requirements. As the land continues to be of recreational and visual amenity value, I do not consider it to be surplus to requirements. Consequently, its development in the manner proposed would be inconsistent with the guidance in PPG17. This reinforces my view that the development is unacceptable.
10. The appellant argued that the development would be consistent with Planning Policy Guidance Note 3 *Housing* which encourages full use of accessible previously developed land. Curtilage is defined as the area of land attached to a building, but this site is not attached to, and does not have an intimate association with, any individual building. It serves the estate as a whole and, although I note that the Council does not share this view, in my judgement the site does not fall within a curtilage and so is not previously developed land. The fact that it may have been in the curtilage of a building over 40 years ago before the present estate was built is of no consequence. There is no longer any obvious trace of that building. Even if I had come to a different conclusion on this matter, there is nothing in PPG3 to suggest that development of previously developed land should proceed where it would harm the character and appearance of an area.

11. It was also argued that the proposed building would improve the appearance of the area by screening the flanks of the adjacent buildings and closing off views between the roads and the area behind the flats. The adjacent buildings are established features of the area and, to my mind, are not unattractive. I see no advantage in them being screened, and loss of the ability to see through the site to the land behind would, in my view, not be beneficial but would contribute to the harmful loss of openness. Although the part of the site furthest from the roads, and the fences which adjoin it, are poorly maintained, it is not necessary to build on the site in order to improve the appearance of this area.
12. On two previous occasions permission to develop this site has been refused on appeal. However, the appellant considers that circumstances have changed since then. I have attached little weight to these previous decisions but have determined this appeal on its merits and based on the circumstances at the time of my visit.

Conclusion

13. For the reasons given above and having regard to all other matters raised, I conclude that the development should not proceed.

Formal Decision

14. I dismiss the appeal.


INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J G Lombard BArch MSC Appellant
RIBA MBA

Mr M Scott BA DipTP MRTPI ESB Planning Ltd., 24 South Road, Twickenham, TW2 5NU

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Freer BA MRTPI Team Leader, Richmond Borough Council

INTERESTED PERSONS:

Mrs M Gladwish	Flat 5, 34 Cambridge Park, Twickenham, TW1 2JS
Mrs D Devanney	25 Roseleigh Close, Twickenham, TW1 2JT
Mr C Browne	Flat 1, 34 Cambridge Park, Twickenham, TW1 2JS
Mr R L Sharpe	48 Princes Road, Teddington, TW11 0RU
Mrs J Ingram	6 Roseleigh Close, Twickenham, TW1 2JT

DOCUMENTS

Document	1	List of persons present at the hearing
Document	2	Council's letters of notification and list of those notified
Document	3	Letters from 20, 23, 25 Roseleigh Close; 7 and 9 Haversham Close; 42 Hill Street; Flats 1 and 5 at 34 Cambridge Park and 27 Cambridge Park Court in response to the notification
Document	4	Arboricultural Impact Assessment and Method Statement
Document	5	Appendices to the Council's statement

PLANS

Plan	A	Drawings 2004/01,02,03 and 04 forming part of the application.
Plan	B	Location plan
Plan	C	Drawing showing previous development on the site

PHOTOGRAPHS

Photo	1	Two sheets of photographs of the site
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The Planning Inspectorate

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An Executive Agency in the Office of the Deputy Prime
Minister and the National Assembly for Wales

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the Inspector's judgement. For a challenge to be successful you would have to show that the Inspector misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" - In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land - other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this - see Further Information).

"How much is it likely to cost me?" - An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees - see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" - This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" - Not necessarily. The Court can only require us to reconsider the case and an Inspector may come to the same decision again but for different or expanded reasons.

"What can I do if my challenge fails?" - The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Further information about challenging the decision

Further advice about making a High Court challenge can be obtained from the Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London WC2 9LL, telephone 0207 9476655, Website: www.courtservice.gov.uk

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Council on tribunals

If you have any comments on appeal procedures you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.

Contacting us

High Court Section
The Planning Inspectorate
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Phone: 0117 372 8962

Website

www.planning-inspectorate.gov.uk

General Enquiries

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E-mail: enquiries@pins.gsi.gov.uk

Complaints

Phone: 0117 372 8252

E-mail: complaints@pins.gsi.gov.uk

Cardiff Office

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: Wales@pins.gsi.gov.uk

The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0845 0154033

Website: www.ombudsman.org.uk

E-mail: opca-enqu@ombudsman.org.uk



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The Planning Inspectorate

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Our Complaints Procedures

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held.

The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear, straightforward language, avoiding jargon and complicated legal terms. We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future. Minor slips and errors may be corrected under Section 56 of the Planning & Compulsory Purchase Act 2004 but we cannot amend or change in any way the substance of an Inspector's decision.

Who checks our work?

The Government has said that 99% of our decisions should be free from error and has set up an independent body called the Advisory Panel on Standards (APOS) to report on our performance. APOS regularly examines the way we deal with complaints and we must satisfy it that our procedures are fair, thorough and prompt.



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Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"So what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds whether these views justify refusing planning permission.

"What do the terms 'Allowed' and 'Dismissed' mean on the decision?" – 'Allowed' means that Planning Permission has been granted, 'Dismissed' means that it has not.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have submitted.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. It can investigate and has discretionary powers to take action if a condition is being ignored.

Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see 'Contacting us'). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or on the ODPM website - www.odpm.gov.uk/

Contacting us

Complaints & Queries

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The Parliamentary Ombudsman

Office of the Parliamentary
Commissioner for Administration
Millbank Tower, Millbank
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Helpline: 0845 0154033
Website: www.ombudsman.org.uk
E-mail: opca-enqu@ombudsman.org.uk