

Appeal Decision

Site visit made on 8 February 2017

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 05 April 2017

Appeal Ref: APP/Z5630/W/16/3160906

43 Richmond Road, Kingston upon Thames KT2 5BW

- 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 Harris & Company against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/12582/FUL, dated 1 June 2016, was refused by notice dated 8 September 2016.
 - The development proposed is described as demolition of the existing building and redevelopment with a 'car-free' five-storey mixed use scheme with retail premises (A1/A2) at ground floor level (approximately 104 sq.m) and seven (1x3, 3x2 and 3x1 bed) residential flats above.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are:
 - the effect of the proposed development on the character and appearance of the site and of the surrounding area;
 - the adequacy of provision for family housing;
 - the adequacy of provision for cycle parking.

Reasons

3. The appeal site occupies a corner position at the junction of two roads that form part of the main traffic circulation route to the north of Kingston upon Thames town centre. The plot has a narrow frontage to Richmond Road, which is predominantly lined on both sides by shops and small businesses, and a much longer frontage to Kingsgate Road, which has a more open, large scale character. On the opposite corner of Kingsgate Road is a new building housing Kingston College, next to which a major redevelopment is in progress. To the rear of the appeal site is an open public car park.
 4. The site is currently occupied by a part two-storey, part single-storey building with use as a night club. Permission is sought to replace this with a five-storey block covering the entire footprint of the site, with the top floor recessed slightly from the Kingsgate Road frontage. The accommodation would comprise a shop at street level with fronts to both roads and seven apartments on the upper floors.
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5. Planning permission was granted on appeal¹ in 2011 for the redevelopment of the site to provide a night club/bar at ground level and four flats on two floors above. It appears that this permission has now lapsed, so that it would no longer provides a viable fallback position, as claimed by the current appellants. Nevertheless the judgement made by the previous Inspector is of relevance to the current appeal.
6. The previous decision had regard to the Kingston Town Centre Area Action Plan ('AAP') adopted in 2008, which continues to form part of the development plan, along with the Kingston Core Strategy ('CS') adopted in 2012 and the London Plan ('LP'), as consolidated with alterations to 2016.
7. The AAP sets out a vision for the future development of a widely drawn area in and around the town centre. The AAP pre-dates the publication of the National Planning Policy Framework ('NPPF'), but its focus on town centre regeneration remains consistent with the NPPF, so that its policies are not outweighed by any later change in national emphasis. Policy P20 identifies the terrace fronting onto Richmond Road and the open car park to the rear as a potential redevelopment site, suitable for mixed uses. The uses now proposed would accord with this policy. Richmond Road is identified as 'gateway route' to the town centre.
8. The Council has subsequently provided more detail of its intentions for this site and adjoining land to the south of Kingsgate Road by the preparation of the North Kingston Development Brief ('NKDB'), which was formally adopted shortly after submission of the appeal. The draft Brief was subject to public consultation while the application was under consideration, and was taken into account by the Council in reaching its decision. A Stage One Brief, covering land use and spatial parameters, had been adopted in 2013, and a draft Stage Two Brief had been consulted upon in 2014, but these are now superseded.
9. In submitting final comments on the appeal, the appellants have had the opportunity to make representations on the implications of the final adopted NKDB. They consider that the appeal proposal complies with the aims and objectives of the NKDB, and that any areas of difference were the subject of comments made on the draft, which have not been adequately reflected in the final document. While noting this concern, I consider that it is very difficult for a document such as this to reconcile all perspectives to the satisfaction of every interest. Some weight must be attached to the NKDB as a formal statement of the Council's approach to the development of the area, that has been subject to consultation.

Character and appearance

10. The first reason for refusal of the application was based on the potential adverse effect on the character and appearance of the site and surrounding area, owing to the proposal's bulk, scale, height, density, design and lack of setback from the front elevation.
11. The appeal building would form the end of a long unbroken terrace fronting onto Richmond Road. This stretch of the road has the character of a traditional high street, with a regular rhythm of frontages occupying a width of one or two units of the historic plot pattern. The buildings are low in height, generally two-

¹ Ref APP/Z5630/A/11/2148985

storey with a limited amount of three-storey, giving a considerable degree of consistency. The existing building on the appeal site fits with this pattern, being made up of a two-storey front block with a conventional gabled roof and a single-storey rear wing occupying the tapering portion of the plot on the Kingsgate Road side. The buildings on the opposite side of Richmond Road are slightly taller, being mainly of three storeys.

12. In this context, the appeal building's tall narrow form would stand out as an incongruous feature. Its five storeys would rise well above any other building in the row, and would appear out of character with the remainder of the terrace. There can be justification in some circumstances for an end of terrace building providing a taller 'bookend'. But in this instance the two buildings immediately to the south are only single-storey at the street front with their upper floor set back by some way. As a result the appeal building would present a large expanse of blank flank wall, which would form a bulky intrusive element in the street scene. Seen from the north, the building's overall height would be more appropriate to the width of the junction and the height of the College building on the opposite corner. Replacement of the utilitarian single-storey wing would be a benefit, as would the screening of the largely blank side of the adjoining building. Nevertheless, in views down Richmond Road, the conjunction of the tall new building with its much lower neighbours would appear incongruous.
13. The AAP notes the potential for taller buildings on the Policy P20 site, possibly referring to the more open car park part of the site, and subject to detailed designs demonstrating a satisfactory relationship with the surrounding area. The NKDB envisages a gradation of building heights from south to north along the Richmond Road frontage, with the appeal site to be in the range of 1-3 storeys. It is not entirely clear why this has been reduced from the 4-storey limit set out in earlier iterations of the brief, but the appeal proposal would clearly conflict with this requirement.
14. The NKDB calls for the location and design of taller buildings, 'landmarks' or 'gateways' to be fully justified by a thorough townscape appraisal. In this case, justification for the proposed height is sought by reference to the similar overall height of the new College building. However, that building achieves a civic scale appropriate to its communal significance, with only three tall storeys. By contrast, the appeal proposal would include five essentially domestic-scale storeys within the same height. The proposal would tend to compete with, rather than complement, the College building.
15. In allowing the previous appeal for a three-storey scheme with a prominent corner gable the Inspector concluded that a building taller than others in the terrace would relate well to the width of the road junction. But that falls some way short of justifying a five-storey proposal. Furthermore, should the NKDB achieve its objectives, the road would be replaced by a public open space, with pedestrian and cycle routes, so that the character of the junction would be fundamentally altered.
16. The Council refers to the absence of the type of design features endorsed by the Inspector. It appears to me that these were stylistic features of the previous design and that there should be no requirement for a similar treatment to be insisted upon in the current case. Nevertheless, while noting the intention to use high-quality materials, I find that the proposed design would not be well resolved even in its own terms. In particular, I find some

tension between the treatment of the top floor, with its axial gabled roof, and the floors below. As a result of the offset alignment of the top floor and roof, the Richmond Road elevation would appear rather unbalanced, especially as the setback along the side elevation would not be carried round to this front, as was indicated in the explanation of the genesis of the design in the submitted Design and Access Statement ('DAS'). The strong horizontal layering provided by the projecting full-width balconies would be at odds with the otherwise vertical proportions of this elevation. From the side, the setback would be modest in depth and, without more differentiation in materials, would have limited effect in mitigating the visual impact of the building from street level. The full-height glazed stairwell, which would breach the setback, would not successfully achieve the desired articulation of the built form.

17. For the above reasons, I consider that the need for a landmark building on this corner has not been shown and that the proposed design would not justify landmark status.
18. The building's size is a reflection of the proposal's high density. While recognising the need for high densities, neither the AAP nor the NKDB is prescriptive on appropriate density levels. The appellants argue that the predicted density of 1117 habitable rooms per hectare (hr/ha) would only slightly exceed the range set for Central areas by LP Policy 3.4. However, that range is broad (650-1100 hr/ha), and there seems little reason why a small scheme such as this should seek to exceed the upper limit.
19. Having regard to the pressing need for housing in London, the policy calls for development to optimise housing output, but taking into account local context and character, as well as good design. While the site's location would meet the definition for Central areas by being within 800m of a Metropolitan centre, it is not currently within an area of 'very dense development (and) large building footprints'. The comprehensive redevelopment outlined by the NKDB might well support increased densities. But when redevelopment of an individual plot is involved, I accept the Council's interpretation that the correct density range should be more akin to that for Urban areas (200-700 hr/ha). The appeal proposal would be significantly in excess of that level.
20. The NKDB is clear in seeking a comprehensive redevelopment of the entire Policy P20 site. The ability to achieve a greater degree of transformation in terms of density would support this. However, I agree with the appellants that there is a degree of tension between this prescriptive approach and the desire to respect the diversity of the existing terrace. There would also be clear issues to resolve in terms of site assembly and delivery, including the potential need for compulsory acquisition outlined in the NKDB.
21. The appellants argue that, because of its corner position, development of the appeal site in isolation would not necessarily frustrate later redevelopment of the remainder of the terrace. But piecemeal development would still be contrary to the Delivery Principles of the NKDB, despite the suggestion that single ownership of the appeal site would meet the principle of 'comprehensive' development, and that the design of the building would address 'integrated' development, which is actually drafted to embrace issues of connectivity, permeability and linkages with the wider area.
22. Piecemeal redevelopment of the terrace would also be likely to hamper co-ordinated delivery of enhanced provision for cyclists and pedestrians on

Richmond Road. Despite the appellants' claim of some confusion over the identification of 'safeguarded' areas, the NKDB is clear that widening of the road corridor will be required to allow greater ease of movement, which would have an inevitable effect on frontage development. While making comparisons with other roads of similar scale, the appellants have not shown how this objective could be reconciled with standalone development covering the full extent of the appeal site or of other plots in the terrace. As currently proposed, the development would be slightly set back at upper floor levels but would not allow for widening of the footway and cycle track on Richmond Road and would frustrate this objective of the NKDB.

23. To conclude on this issue, I find for the reasons set out above that the appeal proposal would provide a form of development that would not accord with the vision of the AAP, as amplified by the NKDB, and would have an adverse effect on the character and appearance of the site and of the surrounding area, contrary to AAP Policy P20 and to CS Policies DM10 and DM11 and to LP Policy 3.5, each of which seeks high quality design that takes account of context and local character.

Family housing

24. The mix of accommodation proposed would include one 3-bedroom flat, as well as three 2-bedroom and three 1-bedroom. CS Policy DM13 requires a minimum of 30% of units to be of 3 bedrooms or more, unless it can be robustly demonstrated that this would be unsuitable or unviable. The proposal would need to provide a second 3-bedroom unit in order to comply.
25. The appellants state that an offer was made to the Council during consideration of the planning application to alter the mix to include two 3-bedroom units. It appears that by then the Council had already decided to refuse permission for other reasons and the potential amendment was not pursued. The appeal must be determined on the proposal as submitted and decided by the Council. However, the offer does tend to confirm that viability was not seen as an obstacle.
26. The fact that one 3-bedroom unit is proposed also tends to confirm that the appellants do not see the site as inherently unsuitable for family-size units. Instead it is suggested that a town centre location is likely to be more attractive to one- or two-person households. But the CS policy requirement is expressed as a minimum, without any distinction for town centre locations, which must have been taken into account when the policy was drafted. Instead the policy seeks a higher proportion on sites particularly suited to larger units, which could include more suburban locations.
27. The appellants also raise concern that a reduction in the overall number of units to allow a second large unit would reduce the density to an unacceptable degree. But in the light of my conclusions on density earlier in this decision, a revised mix would be within the acceptable range and would not represent under-provision.
28. I conclude that robust justification has not been provided for the mix of accommodation and that the proposal would not adequately provide for larger units, contrary to CS Policy DM13.

Cycle storage

29. The third reason for refusal of the application was that insufficient space would be provided for the secure covered provision of 6 cycle parking spaces. The officer report had concluded that the ground floor space shown on the plans would be insufficient to allow for 6 Sheffield cycle stands in accordance with the Council's Sustainable Transport Supplementary Planning Document ('SPD').
30. The submitted Transport Statement outlines the policy requirement for cycle parking of the LP, CS, AAP and SPD, and concludes that the maximum required provision would be 11 spaces for the proposed flats and 2 for the ground floor commercial unit.
31. The plans allow for the provision of 14 spaces on vertical stands in a secure covered space. The only issue appears to be the Council's preference for Sheffield stands. As the appellants point out, this type of stand is normally capable of accommodating two cycles, which may explain the Council's confusion over the number required. Contrary to the appellants' reading, a preference for the Sheffield stand, or a Camden type, is stated in the SPD², but the document goes on to say that other types may be acceptable when assessed on a case by case basis.
32. I consider that this is a matter of detailed specification, which could have been resolved by means of a condition. The proposal would not conflict with the sustainable transport objectives of CS Policy DM9 or with the more specific cycling-related requirements of LP Policy 6.9 or of CS Policy DM8 and AAP Policy K18 and Appendix 4, which are not referenced in the reason for refusal.

Other matter

33. The second reason for refusal was based on a concern over increased parking pressure, in the absence of any commitment to secure the proposal's stated intended 'car-free' credentials.
34. Since the submission of the appeal, the appellants have provided a completed Unilateral Undertaking ('UU') as a planning obligation that would seek to prevent future residents from applying for residents' parking permits. The Council has confirmed that the submitted UU would satisfy its concerns, and that it no longer seeks to defend this reason for refusal.
35. The National Planning Policy Framework outlines three tests to be applied before a planning obligation can be taken into account³, and the CIL Regulations⁴ require that an obligation may only constitute a reason for granting planning permission if three equivalent tests are met. However, in this instance, as the proposal fails in other respects, the need to support a grant of permission does not arise, so that it is not necessary for me to consider whether the submitted UU would meet the required tests.

Conclusion

² Para 2.74 Table 4

³ NPPF para 204

⁴ Community Infrastructure Levy Regulations 2010, Reg 122(2)

36. I recognise that the appeal site is in a highly accessible location and that the proposal would provide a suitable combination of commercial and residential space, making a modest but not unimportant contribution to the provision of new housing. However, for the reasons set out above, I have concluded that the proposal would have an unacceptable effect on the character and appearance of the area, contrary to the development plan and the aspirations of the adopted NKDB, and would not provide the mix of accommodation sought by development plan policy.
37. Therefore, having taken all representations into account, my overall conclusion is that the appeal should be dismissed.

Brendan Lyons

INSPECTOR