

Appeal Decisions

Site visit made on 3 April 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 26th April 2017

Appeal A Ref: APP/Z5630/W/16/3167586

36 Tolworth Rise South, Tolworth, Surrey KT5 9NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr C Evans against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/16149/FUL, dated 1 February 2016, was refused by notice dated 13 September 2016.
 - The application sought planning permission for erection of three storey side and three storey rear extensions to facilitate conversion of existing maisonette to two 2 bed flats without complying with a condition attached to planning permission Ref 09/16392/FUL, dated 9 December 2009.
 - The condition in dispute is No 3 which states that: Provision shall be made within the curtilage and off the highway for 2 parking spaces in accordance with the Council's standards and with details which shall be submitted to and approved in writing by the Local Planning Authority. The spaces are to be made available before the residential units are occupied and thereafter kept available for parking purposes at all times for these residential units.
 - The reason given for the condition is: To ensure the provision of adequate off-street parking accommodation and to avoid the congestion of surrounding roads by parked vehicles in accordance with Policies T1 (Transport Safety) and T20 (Compliance with Car and Cycle Parking Standards) of the Royal Borough of Kingston upon Thames Unitary Development Plan.
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Appeal B Ref: APP/Z5630/W/16/3167587

36 Tolworth Rise South, Tolworth, Surrey KT5 9NN

- 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 C Evans against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/16505/FUL, dated 3 May 2016, was refused by notice dated 15 September 2016.
 - The development proposed is erection of two 1 bedroom maisonettes with undercroft parking for two vehicles to rear of vacant hardstanding at rear of existing flats at 36 Tolworth Rise South.
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Decisions

1. Appeal A is dismissed.
 2. Appeal B is dismissed.
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Procedural Matter

3. As set out above there are two appeals on the site. Appeal A seeks the release from a condition requiring that two parking spaces be retained within the curtilage for the existing upstairs two 2-bedroom flats at No 36. Appeal B relates to the refusal of planning permission for a scheme for two one-bedroom flats with undercroft parking for two cars within this curtilage space. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two proposals together, except where indicated otherwise.

Main Issues

4. The main issue in Appeal A is the effect on local highway and on-street parking conditions.
5. The main issues in Appeal B are the effects on local highway and on-street parking conditions and on the character and appearance of the surrounding area and whether acceptable living conditions would be provided for existing and future occupiers, with particular regard to outdoor living space.

Reasons

Local highway and on-street parking conditions

6. No 36 is a three-storey property comprising three two-bedroom flats. It is at the northern end of a three-storey terrace of residential accommodation which, apart from at No 36, mainly provides a commercial ground-floor frontage onto Tolworth Rise South. This road is a one-way, two-lane exit from the A3 Kingston Bypass and part of a grade separated junction with the A240 leading onto a roundabout at its southern end. There is a delivery bay along this section of Tolworth Rise South which provides only temporary parking.
7. In common with the majority of properties along this terrace, No 36 has a quite long, hard-surfaced rear curtilage, with access onto Barnsbury Lane, which provides car parking and bin storage for the flats. There is reference to this area accommodating up to 6 cars and having been used for a van hire operation. Although its width would limit capacity due to the restricted manoeuvring space this area currently meets the car parking requirements of the condition. There were two cars parked at the site when I visited.
8. There is a small amount of on-street parking provision along this side of Barnsbury Lane, which was fully occupied at my mid-morning site visit. However, most of this side of the street is taken up by the series of entrances to the rear parts of the terrace properties, which are occupied by varying amounts of garaging or other single-storey buildings, many in commercial use.
9. Paragraph 206 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In respect of the Appeal A considerations, the condition in question remains necessary to provide on-site parking for the occupiers of the flats in an area where on-street provision is clearly limited and under pressure. Removal of this condition would lead to an increase in on-street parking pressure and congestion in the surrounding area. The condition to retain two on-site parking spaces at

No 36 would be a reasonable requirement to satisfy the Council's car parking standards. Therefore, I consider that condition 3 would continue to meet the paragraph 206 tests and be appropriate in this regard.

10. The length of time the Council took to determine the applications is not relevant as the appeals are over the eventual decisions. There is no firm guarantee that the 10 year rental offer for parking in two nearby lock-up garages at the rear of No 20 could be permanently secured and so this factor lends limited weight in favour of the appeals. I have considered the draft Section 106 obligation agreeing to the allocation of one off-street parking space per flat within a reasonable distance of the appeal site. This has not been signed by the Council and, even if it had been, I have strong doubts over its enforceability and whether the measures are legally achievable under Section 106. Therefore I give this document limited weight.
11. I agree with the Council that the appeal address has a Public Transport Accessibility Level (PTAL) of 3. This indicates a moderate level of accessibility to public transport consistent with that shown for this part of Tolworth in the map on page 128 of the Council's Core Strategy¹ (CS). Policy CS 6 supports and encourages the use of public transport, cycling and walking and the text in paragraph 6.59 supports the policy approach of PPG13 (now superseded by the Framework) and the London Plan not to over-provide for parking and undermine the use of sustainable modes of transport. The text in pages 268-269 of the London Plan 2016 provides advice for Boroughs setting their own parking requirements but does not override the standards in Table 6.2. These apply maximum parking standards for 1-2 bed flats of less than 1 space per unit.
12. As a starting point, the Council's Sustainable Transport Supplementary Planning Document² (STSPD) applies the parking standards for class C3 residential developments set out in Table 6.2 of the London Plan. Paragraph 2.55 then seeks that proposals are considered on a case-by-case basis to suit local circumstances. The STSPD states that adverse local impacts, such as on-street parking issues, can require increased parking provision and in PTAL 1-3 locations reduced parking spaces will not normally be acceptable. In combination this advice would support the retention of one space per flat in this case.
13. Although Tolworth rail station is a short walk from the appeal site and there are nearby bus stops providing regular services to other destinations it is likely that a proportion of residents at No 36 would own a private car. There is only a limited amount of available, unrestricted on-street car parking in this area. I am not persuaded that the variation in the condition sought through Appeal A would gain material support through the requirement in CS Policy DM 10(r) that proposals ensure car parking has minimal impact on design and layout and avoids environments that are unduly dominated by cars. The Appeal A proposals would permit the removal of two on-site parking spaces for the existing flats. The Appeal B scheme would remove all existing on-site parking and provide only 2 new spaces associated with and meeting the requirements for the additional two 1-bedroom units proposed.

¹ Royal Borough of Kingston Upon Thames Local Development Framework – Core Strategy - adopted April 2012.

² Royal Borough of Kingston Upon Thames Local Development Framework – Sustainable Transport SPD – adopted May 2013

14. For a location with moderate accessibility to public transport, and as assessed on a case specific basis, I am persuaded that both appeal proposals would provide for inadequate on-site parking. As such neither proposal would be supported under CS Policy DM 10 (n) in providing car parking that would meet London Plan standards. Consequently, both appeal proposals would increase the pressure on the limited amount of unrestricted on-street parking provision in the surrounding area. This would add to local parking stress and highway congestion, contrary to CS Policy DM 9.

Character and appearance of the surrounding area

15. The built form in this location is characterised by the strong edge provided by the three-storey terrace which fronts onto Tolworth Rise South and dominates views from Barnsbury Lane. The long rear curtilages of the properties along this terrace offer a weaker, less unified and rather unattractive built character, dominated by hardstanding, some with boundary fencing but other parts open, containing a sporadic mix of less substantial, low-level development, comprising garages and workshops.
16. The proposed block of flats, with undercroft parking at the front that would only partly conceal two vehicles and an asymmetrical roof hipped to the front and rear, would appear of a rather contrived design. It would be a prominent and contrasting development situated between the series of hardstanding sites and the low-level block of garaging serving the flats to the north. In this position the building would be an isolated housing scheme within a frontage containing no adjacent residential development. The design would neither adequately reflect the character of the taller terraced development to its rear or the more conventional suburban housing on the other side of Barnsbury Lane. The rather idiosyncratically-designed building proposed would appear both obtrusive and incongruous.
17. The building would make efficient use of an area of hard-surfacing but not reinforce any existing developed character which it would be largely at odds with. The surface water capture opportunity provided by a small area of greened amenity space would provide only a very minor benefit. The design and access statement notes this development could serve as a precursor for development along this frontage, which is currently not visually attractive. However, this proposal does not form a part of any workable comprehensive scheme and so limited weight can be given to this eventuality.
18. I am persuaded less by the appellant's case that this proposal would provide a new, clean form of development which would tidy up an existing semi-industrial and commercial built typology and more by the Council's view that it would be a dominant and incongruous structure, detrimental to the Barnsbury Lane street scene. Consequently, I consider the proposal would be out-of-keeping and harm the character and appearance of the surrounding area contrary to CS Policies CS 8 and DM 10 and the Council's Residential Design Supplementary Planning Document (RDSPD) of 2013.

Living conditions for existing and future occupiers

19. The proposed flats would provide acceptable internal living space that exceeds the Government's Nationally Described Standards. On-site cycling storage would also be provided to support travel by this means and discourage car use,

but this would not obviate the need for adequate on-site parking space provision. The proposal would be secure and discourage crime.

20. RDSPD Policy Guidance 16 states that all new residential development should provide and protect acceptable levels of amenity for both existing and future residents and recommends that a separation distance of no less than 21m shall normally be maintained between facing windows of habitable rooms. The rear facing lounge windows of the proposed ground-floor flat and the kitchen and dining rooms windows of the existing ground-floor flat at No 36 would be only slightly more than 10m apart, substantially less than the separation distance recommended in the RDSPD.
21. Policy Guidance 16 also recommends that a separation distance of 7.5m be maintained between new habitable room windows and the boundary to neighbouring properties. The appellant wrongly quotes this 7.5m as the recommended distance between facing windows of habitable rooms. Consequently, the proposal would not provide the separation distance recommended which would have adverse implications for privacy, outlook, noise and disturbance in respect of the amenities of occupants and neighbours which CS Policy DM 10 (k) requires regard be given to in the assessment of development proposals.
22. The proposals would therefore not be ideal in respect of outlook and privacy between the existing and proposed dwellings, although the planting separating the areas of amenity space would ameliorate this. Regarding private and communal amenity space Policy Guidance 16 provides standards, recognising that these might not always be feasible in locations demanding a high built density, such as in town centres. The standard for new flats would require 10m² of private amenity space per unit, plus 50m² of communal amenity space. The proposal indicates an improved amenity area for No 36 which appears would be private space for the ground-floor flat. However, the scheme would not meet the RDSPD amenity space standards for the new development and would conflict with CS Policy DM10 (h) as a consequence.

Conclusions

23. With regard to Appeal A, condition 3 of planning permission Ref 09/16392/FUL is necessary to provide adequate on-site car parking for the approved two 2-bedroom flats. In the absence of a satisfactory means to secure alternative off-street provision the lifting of this condition would result in material harm, due to a likely increase in on-street parking, exacerbating stress and congestion in the local highway network. With regard to Appeal B, whilst on-site parking for the two new 1-bedroom flats would meet adopted standards, the development would remove all on-site parking available to the existing occupiers of No 36 and consequently the same harm as identified in Appeal A would arise.
24. Furthermore, in respect of Appeal B, the proposed new flats would be visually out-of-keeping and be of material harm to the character and appearance of the surrounding area. The new flats would not provide adequate living conditions for future and existing occupiers, mainly in respect of the amount of outside amenity space and the separation distances necessary to offer adequate privacy and a reasonable living environment. These factors would outweigh the benefits provided by the increased supply of new housing in a moderately accessible location.

25. For the reasons set out above, and having taken into consideration all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

Jonathan Price

INSPECTOR