
Appeal Decision

Site visit made on 29 March 2017

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 27 April 2017

Appeal Ref: APP/Z5630/W/16/3161409
88 Leatherhead Road, Chessington KT9 2HY

- 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 and Mrs G Alexander against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/10211/FUL, dated 10 May 2016, was refused by notice dated 19 August 2016.
 - The development proposed is change of use from tyre shop and ancillary buildings to residential to form 3 No 1 bed units.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice makes reference to the London Plan Consolidated with Alterations since 2011 (March 2015). Since 2015 this plan has been modified. I have taken into consideration the most up-to-date version of the London Plan which is entitled the London Plan The Spatial Development Strategy for London Consolidated with Alterations since 2011 (March 2016) (London Plan) in my Decision, as well as other development plan policies which are set out below.

Main Issues

3. The main issues in this case are the effect of the proposal on:
 - the supply of employment land in the area;
 - the living conditions of the intended future occupiers of the new residential units, having particular regard to outlook, privacy and outdoor amenity space;
 - the character and appearance of the area, having particular regard the relationship of the proposal to nearby properties; and
 - whether or not the proposal provides for a suitable mix of dwelling types.

Reasons

Employment Land

4. Policy DM 17 of the Local Development Framework Royal Borough of Kingston upon Thames Core Strategy (CS) seeks to protect existing employment land
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and premises. Although the appeal site is not located within a designated employment location, criteria E of this policy seeks to protect employment uses to meet business needs and provide employment. The policy however provides for alternative uses of such sites but only where it has been demonstrated that there is no quantitative or qualitative need for a range of employment uses. Reference is made to sound evidence being provided and a rigorous marketing exercise being undertaken for up to two years to demonstrate such matters.

5. Although not referred to within the Council's decision notice, the appellants have drawn my attention to the Mayor of London's Supplementary Planning Guidance (SPG) entitled Land for Industry and Transport which provides guidance on ensuring that an adequate stock of industrial capacity is provided and that surplus industrial land is released so that it can better contribute to strategic and local planning objectives, including new housing.
6. CS Policy DM 17 and the SPG broadly accord with the National Planning Policy Framework's (the Framework) core planning principle to support sustainable economic development, whilst recognising that where there is no reasonable prospect of a site being used for employment use, the long term protection of sites for such use should be avoided (paragraph 22).
7. The appellants acknowledge that the business has not been openly marketed. It is submitted that discreet enquiries have been made in respect of the future use and ownership of the site, however due to a number of factors including its size and availability of car parking, the appellants have been unable to find somebody to take the business over. The appellants have submitted a letter from Hurst Warne to support their case which asserts that the premises are not suitable for retail or other employment uses and that given the number of people employed at the site (1 full time position and 1 part time position), the loss of these jobs would not be critical in this case.
8. Whilst noting the appellants' submissions, both national and local planning policies and guidance contained within the SPG make it clear that only where there is no reasonable prospect of employment land being used for that purpose should an alternative use be considered. In this case it has not been demonstrated that there is a surplus of employment land in the area or that there is no demand for employment floorspace. The comments made the appellants and Hurst Warne regarding these matters are not substantiated. Whilst the existing use does not employ a high number of employees, this would not necessarily be the case for an alternative business operating from the site. I consider that the inability to find a suitable occupier has not been sufficiently demonstrated to justify an exception to these policies.
9. In the absence of substantive evidence to demonstrate that there is no quantitative or qualitative need for a range of employment uses in the area, I conclude that the proposal conflicts with CS Policy DM 17, the Framework and the SPG.

Living Conditions

10. CS Policy DM 10 requires new development to incorporate principles of good design. This includes ensuring that adequate private and/or communal amenity space is provided and that regard is had to the amenities of occupants in terms of, amongst other matters, privacy and outlook. London

Plan Policy 3.8 has similar objectives requiring a choice of homes to be provided in high quality environments. Further guidance in respect of these matters is provided within the Council's Residential Design Guide Supplementary Planning Document (SPD).

11. The proposal involves the conversion and extension of the ground floor of the premises fronting Leatherhead Road into a 1 bedroom unit (unit 1). It would have windows to the front and side elevation facing onto Sienna Close, which the Council considers to be acceptable. I have no reason to disagree.
12. Units 2 and 3 would be constructed to the rear of unit 1. They would have a galleried kitchen and dining area at first floor level served by roof lights with a lounge, bedroom and bathroom at ground floor. The new units would be single aspect with ground floor windows looking out over the proposed gardens. I note the Council's concerns in respect of outlook from the proposed kitchen/dining area of these units. However, given the galleried nature of the first floor, with an open outlook into the lounge, I am satisfied that this space would not be unduly oppressive to a level that would be harmful to living conditions. It would be well lit by roof lights, would not be unduly enclosed and would be likely to be a pleasant place to use.
13. Furthermore, units 2 and 3 would have a reasonably pleasant open outlook from their proposed lounge and bedroom over their garden areas. Although the rear of unit 1 would be in close proximity to the rear of unit 2, I am satisfied that there would be sufficient space between the respective buildings to ensure that unit 1 would not be overbearing on the outlook from the windows of unit 2.
14. The Council has expressed concern that the rooms serving unit 2 would not have adequate levels of sunlight or daylight. It is also asserted in the second reason for refusal that there would be a lack of privacy. However, neither of these matters is substantiated. It is reasonable to assume that given the orientation and design of unit 2 that it would benefit from daylight and sunlight. In terms of privacy, this is an urban environment where there is likely to be a degree of mutual overlooking, particularly from first floor windows. On the basis of the evidence before me and from my observations, I am not convinced that these matters would result in a level of harm to living conditions which would make the scheme unacceptable.
15. In light of my findings I am satisfied that the proposal would provide acceptable living conditions to the intended future occupiers of units 2 and 3.
16. However, the Council's SPD requires that a minimum of 10 square metres of outside amenity space is provided per new flat (Policy Guidance 13). Both units to the rear of the site would comply with this requirement, but no outdoor amenity space would be provided for the intended future occupiers of unit 1 to enjoy. Although this unit would only be likely to be occupied by a single person or a couple, there would be nowhere that the occupiers could sit outside or hang out their washing. This would result in a poor quality living environment. A good standard of amenity would not be provided. This would be in conflict with CS Policy DM 10, London Plan Policy 3.8 and the SPD.

Character and Appearance

17. CS Policy DM 10 also requires new development to respect, maintain or enhance the character or local distinctiveness of a street or area. Space between buildings is recognised as a contributing factor to such matters, as is scale, layout, height, form and massing. CS Policy CS 8 has a similar purpose and amongst other matters requires new development to relate well to its surroundings. Further guidance is given at Policy Guidance 24 of the SPD.
18. The Council is concerned that the design of units 2 and 3 to the rear of the site would result in a poor relationship with Sienna Close, having only entrance doors on the elevation facing this road. I observed on my visit that this part of Sienna Close is characterised by blank elevations of the existing buildings upon the site and tall boundary treatment to No 84 Leatherhead Road. There is no active street frontage in this regard. Although the design of the new building would be taller than the existing workshop, it would be set back in part, such that it would not be of a mass or scale that would be overly imposing on this road. The design of the building would not be unduly harmful to the mixed architectural character and appearance of the area. In this regard there would be no conflict with the purpose of CS Policies DM 10 or CS 8 or with the SPD.

Mix of Dwelling Types

19. Amongst other matters CS Policies CS 10 and DM 13 seek to ensure that a broad mix of accommodation options are available to residents and that a range of local housing needs are met. Policy DM 13 states that proposals for new residential development will be required to incorporate a mix of unit sizes and types and provide a minimum of 30% of dwellings as 3 or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable. The supporting text to this policy states that a high proportion of recent residential schemes have been in the form of 1 and 2 bed flatted developments, raising concerns about the availability of family housing. The Borough's Strategic Housing Market Assessment (SHMA) identified a significant requirement for family housing over the lifetime of the CS. This is not disputed by the appellants.
20. I note that taken with the existing 2 bedroom unit upon the site, the proposal would provide for a mix of dwelling types. However the new 3, one bedroom units would fail to comply with the requirements of CS Policy DM 13 in that none of the units would have 3 or more bedrooms.
21. The appellants consider that family housing in this location would be financially unviable and unsuitable, and a letter from Home and Away Lettings supports this view. Whilst noting the appellants' case, no detailed documentary evidence has been put forward in support of these assertions, which would amount to the requisite robust justification for a reduction below 30% of new dwellings being provided as 3 bedroom units. Accordingly, the proposal would not provide the housing mix as required by CS Policy DM 13 and there would be conflict with this policy as a result.

Other Matters

22. The appellants submit that the proposal would accord with the Framework's core planning principle which seeks to encourage the effective use of land by reusing land that has been previously developed. The proposal would also result in 3 new residential units. These matters are not disputed. I have found that the proposal would respect the character and appearance of the area, and that acceptable living conditions would be provided to the intended future occupiers of units 2 and 3.
23. However, these benefits are not in my view outweighed by the conclusions I have reached with regard to the effect of the proposal on the supply of employment land in the area, the living conditions of the intended future occupiers of unit 1 and the mix of residential units proposed.
24. For the reasons given, and having regard to all other matters raised, I find nothing compelling to alter my conclusion that the appeal should be dismissed.

R C Kirby

INSPECTOR