
Appeal Decision

Site visit made on 9 August 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 31st August 2017

Appeal Ref: APP/L5810/W/17/3175004

301A Richmond Road, Kingston Upon Thames KT2 5QU

- 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 M Samyani against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/4490/FUL, dated 23 November 2016, was refused by notice dated 14 February 2017.
 - The development proposed is conversion of existing flat into 2 No. studio flats with rear dormer.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Further to the first and third reasons for refusal the appellant has submitted an executed Unilateral Undertaking (UU) pursuant to Section 106 of the Act. The UU would oblige the appellant to make an affordable housing contribution of £12,846.00. The UU would also preclude occupiers of the development from having parking permits if a controlled parking zone (CPZ) is introduced in the area. I shall make further reference to the UU's terms in my reasoning below.
3. The reasons for refusal cite conflict with the Council's Publication Local Plan, which was subject to public consultation in January/February 2017. As the emerging Local Plan does not form part of the extant development plan I consider very limited weight can be attached to it in the determination of this appeal. I shall therefore make no further reference to the emerging Local Plan.

Main Issues

4. The main issues are: the effect of the development on the character and appearance of 301A Richmond Road (No 301A) and the surrounding area; whether the development would make adequate provision for affordable housing; and the effect of the development on on-street parking and the operation of the public highway.

Reasons

Character and Appearance

5. The development would involve the conversion of a maisonette into two studio flats with the construction of a flat roofed rear dormer. The dormer would have a very boxy form and it would occupy much of the rear roof slope, with its base springing from the property's eaves line. The dormer would dominate No 301A's rear roof slope and because of that it would fail to appear as a subservient addition to No 301A. I consider that the dormer, given its size and box like form, would be of a very poor design, which would be unsympathetic of the character and appearance of No 301A and the terrace of seventeen properties that No 301A forms a part of. The appellant accepts that the size, bulk, proportions and design of the dormer would not accord with the Council's supplementary guidance concerning roof additions¹.
6. There is a dormer at No 303 of a very similar size and design to that proposed for No 301A. However, No 303's dormer is the only one in the rear roofscape of this terrace. No 303's dormer is therefore very much an exception and I consider it does not justify the construction of a second dormer that I have found would be of a very poor appearance.
7. I therefore conclude that the development would unacceptably affect the character and appearance of No 301A and the area. There would therefore be conflict with Policy DM DC1 of the London Borough of Richmond Upon Thames Development Management Plan of 2011 (the DMP) because the development would not be of a high design quality.

Affordable Housing

8. Policy CP15 of the London Borough of Richmond Upon Thames Core Strategy of 2009 (the Core Strategy) and Policy DM HO6 address affordable housing provision. Policy CP15 states that all new housing schemes will be expected to make some form of contribution to the supply of affordable housing, with the requirement for schemes of up to nine dwellings being the making of financial contributions. Policy DM HO6 elaborates on Policy CP15 and sets out the methodology for calculating affordable housing contributions.
9. To be complaint with Policy DM HO6 it has been calculated that this development should make an affordable housing contribution of £12,846.00. The UU would obligate the appellant to pay that sum and I conclude with its payment that the development would make adequate provision for affordable housing. Accordingly with an appropriate affordable housing obligation having been entered into there would be no conflict with Policy CP15 of the Core Strategy and Policy DM HO6 of the DMP.

Parking and the operation of the public highway

10. In a location with fairly good access to public transport I consider the parking need arising from the occupation of two studio flats would be unlikely to be much different to that of the existing maisonette. The Council is critical of the parking survey evidence submitted by the appellant, however, it has provided no evidence of its own demonstrating that the appellant's evidence should not

¹ The London Borough of Richmond Upon Thames Local Plan Supplementary Planning Document House Extensions and External Alterations of May 2015

be relied on. On the available evidence I consider that this development would generate a level of on-street parking that would not be harmful to the free and safe flow of traffic in the area.

11. The UU's parking obligation would require the occupiers of the flats to cease their occupation of this accommodation, unless they were served with a notice stating that they would not be entitled to receive a parking permit, in the event of a CPZ being introduced within the locality of No 301A. There is judicial authority² that has established that the prevention of parking on the public highway would not be a restriction on the use of land comprising an application/appeal property for the purposes of Section 106. I therefore consider that the parking obligation would not be enforceable and I have therefore attached no weight to it.
12. I conclude, on the available evidence, that the on-street parking associated with the development would not be harmful to the operation of the public highway. There would therefore be no conflict with Policy CP5 of the Core Strategy, Policies DM TP1, DM TP2 and DM TP8 of the DMP or section 4 (Promoting sustainable transport) of the National Planning Policy Framework. That is because the development would be of a scale that would not have an unacceptable impact on on-street parking and local traffic conditions.

Other Matters

13. I accept that there would be no conflict with the development plan policies concerning the safeguarding of shopping areas, the living conditions for the occupiers of the flats and the living conditions of the neighbouring properties. While compliance with those policies weighs for this development I find this to be outweighed by the harm and the conflict with the development plan that I have identified.

Conclusions

14. I have found that the development would make adequate provision for affordable housing and would not have an adverse effect on on-street parking and the operation of the public highway. However, the dormer would be of a poor design and would be harmful to the character and appearance of No 301A and the area. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR

² Westminster City Council v the Secretary of State for Communities and Local Government and Mrs Marilyn Acons [2013] EWHC 690 (Admin) and R (oao Khodari) v Royal Borough of Kensington and Chelsea and Cedarpark Holdings Inc [2017] EWCA Civ 333