



Appeal Decision

Site visit made on 4 June 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Appeal Ref: APP/Z5630/W/19/3225052

Castleton Court, 13 Surbiton Hill Park, Surbiton KT5 8EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Kingston Homes Ltd against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 18/16734/FUL, dated 22 October 2018, was approved on 28 January 2019 and planning permission was granted subject to conditions.
 - The development permitted is described as application submitted under Section 73a of the Town and Country Planning Act 1990 (as amended) to carry out development without compliance with condition 1 of planning permission 4684 (erection of a three-storey block of 12 flats and 12 garages) to amend the layout of garages 1-9.
 - The condition in dispute is No 2 which states that: The garages hereby permitted shall not be used for any purpose other than for the garaging of private motor vehicles by the occupants of the flats at 13 (Castleton Court) Surbiton Hill Park, Surbiton and for the storage of domestic paraphernalia by the residents of the aforesaid flats.
 - The reason given for the condition is: In order to retain car parking spaces and protect the residential amenity in accordance with Policy DM10 of the Royal Borough of Kingston upon Thames Council LDF Core Strategy, 2012.
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Decision

1. The appeal is allowed and the planning permission Ref 18/16734/FUL, for application submitted under Section 73a of the Town and Country Planning Act 1990 (as amended) to carry out development without compliance with Condition 1 of planning permission 4684 (erection of a three-storey block of 12 flats and 12 garages) to amend the layout of garages 1-9 at Castleton Court, 13 Surbiton Hill Park, Surbiton KT5 8EG granted on 28 January 2019 by the Council of the Royal Borough of Kingston-upon-Thames, is varied by deleting condition No 2 and substituting it for the following condition:

Condition 2: The garages hereby permitted shall not be used for any other purpose other than for the garaging of private motor vehicles and for the storage of domestic paraphernalia.

Preliminary Matter

2. I observed that only seven of the twelve garages permitted under planning permission 4684 have been constructed on the site.

Main Issue

3. The main issue is whether or not the occupation of the garages at the rear of Castleton Court should be restricted to the occupiers of Castleton Court.

Reasons

4. Castleton Court is a three-storey block of 12 flats located within the Surbiton Hill Park Conservation Area. The surrounding area is mainly in residential use with three and four storey buildings, predominantly in use as flats. The block of seven garages are located to the rear of Castleton Court.
5. The Council imposed condition 2 in the granting of planning permission to prevent the uncontrolled use of the garages by the wider population and to alleviate the pressure for on street parking. The appellant submits that the disputed condition would not meet the tests of paragraph 55 of the National Planning Policy Framework (the Framework).
6. The Council state that the appellant company has failed to robustly demonstrate that the garages are not viable or that there would be no demand from the residents of Castleton Court for vehicular parking or for the storage of domestic paraphernalia. As a result, the Council say that conflict would arise with policy DM10 of the Royal Borough of Kingston-upon-Thames Council Local Development Framework Core Strategy (2012) (CS), which seeks schemes to provide car parking provision and to have regard to the amenities of occupants and neighbours in terms of noise and disturbance.
7. Whilst policy DM10 of the CS provides no further advice or guidance as to what evidence would be considered adequate for a robust demand assessment, the appellant submitted evidence to demonstrate that five of the existing garages have been vacant since 2015 and only one of the occupied garages is from a resident of Castleton Court. Moreover, the appellant has not received any responses from the occupiers of Castleton Court to correspondence outlining the terms being offered for the approved garages. Advice from a local commercial agent also indicates that due to the occupancy restriction, it would make the sale of the garages highly unlikely.
8. I conclude from the evidence before me that there would continue to be limited demand from the occupiers of Castleton Court and that the restricted occupancy of the garages would act as an inhibitor on future demand for the garages. Together, these matters would be likely to have an adverse effect on the viability of the amended layout to the garages 1-9 being proposed.
9. The Council states that allowing the uncontrolled occupancy of the garages to the wider community would increase noise and disturbance through additional comings and goings, which would be detrimental to the living conditions of the residents of Castleton Court.
10. I note that the existing garages have no occupancy restriction and are currently open to use by the wider community. There is no evidence before me that demonstrates that the existing unrestricted occupancy of the garages has caused a noise or disturbance problem. Further, there is no other basis on which to conclude that the amended layout of the garages 1-9 and unrestricted occupancy would result in any significant change in the circumstances to that which exists under the current arrangements. Hence, the disputed condition is not reasonable in all other aspects, and given the minor amendments granted planning permission, the condition would also not satisfy the test of being relevant to the development to be permitted.

11. The Council states that the occupancy restrictions set out in condition 2 would ensure that the occupants of Castleton Court would have available off-street parking and as a result this would alleviate the stress to on-street parking. Given the actual and perceived lack of demand by the residents of Castleton Court there is no substantive evidence before me to conclude that the occupancy restriction would alleviate the stress to on-street parking, which at the time of my site visit was not evident. However, I acknowledge this may occur at other times of the day or at weekends, and by allowing the wider community to occupy the garages I conclude that this would provide some relief to on-street parking in accordance with CS Policy DM10.
12. Consequently, I conclude that condition 2 is necessary and relevant to planning. I also agree with the Council that condition 2 is precise and enforceable in the interests of retaining car parking spaces. Nevertheless, I conclude that condition 2 does not meet all the tests of Framework paragraph 55. In this regard, I conclude that condition 2 is not reasonable in all other aspects and relevant to the development to be permitted. Thus, I will replace the version of condition 2 that is subject of the appeal with one that does not link the garages solely to the occupants of Castleton Court. The development would accord with Policy DM10 of the CS which seeks the provision of car parking. The effect of the change to condition 2 is to allow the appeal.
13. I conclude that on the basis of the evidence before me and for the reasons set out above, the appeal should be allowed.

Paul Wookey

INSPECTOR