
Appeal Decision

Site visit made on 17 September 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2019

Appeal Ref: APP/P3610/W/19/3232157

17 High Street, Epsom KT19 8DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mrs Angelina Muralidarane of Iceking Group against the decision of Epsom & Ewell Borough Council.
 - The application Ref 19/00445/FUL, dated 18 April 2019, was refused by notice dated 13 June 2019.
 - The development proposed is change of use of second floor and loft space at third floor level from ancillary retail (Use Class A1) usage to create a 3 bedroom (5 person) residential flat, including new door in rear elevation and associated external steel staircase at 1st floor level and alterations to ground floor level wall to rear.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would provide adequate living conditions for future occupiers in terms of private amenity space.

Reasons

3. The site relates to the upper floors of a terraced building within Epsom town centre. It fronts onto the High Street which is a busy shopping area and main road. At the time of my site visit the ground floor was in use as a hot food takeaway restaurant, following a recently allowed appeal¹.
4. The proposal would result in the conversion of the two upper floors of the building to form a three bedroom flat. Access would be via an external staircase at the rear, leading to a flat roof, with a further staircase to access its entrance door. It would not include any private or communal amenity space for future occupiers.
5. Policy DM12 of the Epsom and Ewell Development Management Policies Document 2015 (DMPD) requires that new dwellings provide appropriate external private and/or communal amenity space to meet the needs generated by the development. It should be of a sufficient size to meet the needs of the likely number of occupiers, and provide for the needs of families with young children where the accommodation is likely to be occupied by such. The supporting text sets out minimum space standards for private amenity provision, which are also applicable to dwellings within converted buildings.

¹ Ref APP/P3610/W/18/3205266

Where developments are in town centres and there is insufficient space to provide private external amenity space due to site constraints, applicants will need to demonstrate that alternatives have been considered and incorporated wherever possible, which could include balconies and roof terraces.

6. Due to the size of the flat, it is reasonably likely that it could be occupied by a family with young children. The lack of any outdoor amenity space would not adequately provide for the day to day needs of occupants for outdoor living space. While there is public open space at Roseberry Park, this would be a short walk away and would not be an adequate substitute.
7. The appellant has provided information regarding the alternatives they have considered in order to provide private amenity space. I am aware that the site is within the Epsom Town Centre Conservation Area, and constrained by the proximity of neighbouring flats, but I have seen no detailed evidence that the appellant has made reasonable attempts to develop a scheme that incorporates private amenity space, whether through a balcony, roof terrace or other means. I am therefore not persuaded that the appellant has demonstrated that alternatives have been properly considered.
8. I acknowledge that 8 flats have been provided in the adjacent converted office building at 13-15 High Street², only two of which have private amenity space. However, I note that this decision predates the current policy. Moreover, the flats are considerably smaller, being studios or one bedroom flats, and are therefore less likely to accommodate young families. I do not find that these flats indicate that a more flexible approach should be followed in this case.
9. I therefore conclude that the proposal would not provide adequate living conditions for future occupiers in terms of private amenity space. Accordingly, it would conflict with DMPD Policy DM12, insofar as it seeks to ensure that new dwellings provide appropriate external private amenity space to meet the needs generated by the development.

Planning Balance and Conclusion

10. The Council states that it cannot currently demonstrate a five year housing land supply. As a result, in accordance with paragraph 11 of the National Planning Policy Framework (the Framework), the most relevant policies for determining the application should not be considered up to date. Paragraph 11 states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, from the evidence before me, there are no specific policies in the Framework that indicate that development should be restricted.
11. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. DMPD Policy DM12 seeks to restrict new housing where it does not provide adequate private amenity space, which could affect the delivery of housing. However, it is broadly consistent with the Framework and so still carries moderate weight.
12. In terms of benefits, the proposal would make good use of vacant floorspace in a highly sustainable location, and would contribute to the Council's supply of

² Application ref 13/00021/FUL

housing. However, due to the small scale of the proposal, providing only one dwelling, these benefits attract limited weight.

13. Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impact of the proposal, to which I attach moderate weight, significantly and demonstrably outweighs the benefits of the proposal, which I have afforded limited weight. This material consideration indicates that the appeal should be dismissed.

Conclusion

14. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR