
Appeal Decision

Site visit made on 8 October 2019

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/Z5630/W/19/3233208

18 Eversley Road, Surbiton KT5 8BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Sodha against the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 19/00530/FUL, is dated 28 February 2019.
 - The development proposed is demolition of existing house and erection of new 3-storey residential building housing 1 replacement dwelling and 5 new dwellings with associated parking, drop kerb, bins and cycle store.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matter

2. Policy 6.13 of the London Plan, Policy DM9 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy (Core Strategy) and the Sustainable Transport Supplementary Planning Document (SPD) were considered as part of the previous appeal at the site¹. These relate to highway safety and parking which are matters also raised by the Council in this appeal.
3. While not included in the Council's appeal submissions, both main parties have been given an opportunity to comment on them with reference to this scheme. Where any comments have been received, I have taken them into account in my reasoning. Against this backdrop, no injustice would be caused to any appeal party or third party if I were to take these policies into account. I have considered the appeal on that basis.

Main Issues

4. The main issues of the appeal are the effects of the proposed development on;
 - Highway safety, with particular regard to on street parking; and
 - The character and appearance of the area.

¹ APP/Z5630/W/19/3221757

Reasons

Highways Safety

5. Policy 6.13 of the London Plan states that the maximum parking standards are the basis for considering planning applications. Areas with Public Transport Accessibility Level (PTAL) 0-1 are considered to have low public transport accessibility. The supporting text to this policy highlights that account should be taken of residents' dependency on the car in such areas and that higher levels of parking provision should be considered to avoid generating unacceptable pressure for on-street parking.
6. Policy DM9 of the Core Strategy seeks to ensure that new development does not contribute to congestion or compromise highway safety. This includes by restricting eligibility for on-street parking permits for residents of new development located in Controlled Parking Zones CPZs. The Sustainable Transport Supplementary Planning Document (SPD) states that where developments within CPZ's that provide parking spaces below the adopted standards, the Council will remove the right to apply for on-street parking permits. Policy DM10 of the Core Strategy requires developments to have regard to local traffic conditions and highway safety.
7. The existing property has some off-street parking. Nevertheless, while there would be 2 off street parking spaces provided with the appeal scheme, it would replace an existing 2-bedroom dwelling with 6 flats. Therefore, it is likely that there would be an increase in the number of occupants at the site. There are some shops and community facilities within walking distance of the site and the evidence before me indicates that the PTAL level increases within a short distance. Nonetheless, the appeal site itself is in a location where the PTAL is rated as 1b. As such, car ownership for the appeal development is likely to be high.
8. There were a small number of pay and display on-street parking spaces available close to the site at the time of my visit. Notwithstanding this, spaces were limited, and many parts of the nearby roads have double yellow lines and pavement crossovers. This along with permit holder spaces would limit opportunities for parking cars on-street. The site is within a CPZ and the Inspector on the previous appeal found it to be heavily subscribed. From the details before me and my observations on site I have reached the same finding.
9. As there are limited parking spaces proposed within the appeal site, the cars associated with the scheme would be likely to park on the street. In light of the parking restrictions in the nearby streets limiting the on-street spaces available, I consider this would lead to increased instances of dangerous and obstructive parking such as on yellow lines, at road junctions, on footways or across driveways. This would contribute to highway congestion and as a result would compromise highway safety.
10. It is not disputed by the main parties that car free housing is necessary in this case. The appellant has submitted a Unilateral Undertaking (UU) that aims to secure the development as car free outside of the 2 on-site parking spaces. However, I have some concerns about the document itself, its execution and thus whether the Council could rely on it to have the desired effect.

11. Certificate A was completed on the application form and appeal form. The UU states that the owner has submitted the appeal. However, the UU is not signed by the appellant. There is no accompanying documentation to show that ownership of the site has changed. Moreover, it is unclear what, if any, interest in the land EMA Eversley Rd Ltd, who have signed the UU, have. In addition, reference is made to the consent of the mortgagee. Nonetheless, their details are not provided and there is no indication that they have signed the UU.
12. A planning obligation is enforceable by the local planning authority against the person entering into the obligation and any person deriving title from that person. It follows that an obligation will not be enforceable against successors in title of those who were not a party to it. Given the uncertainty over whether all relevant parties have been included, I cannot be sure that the UU is enforceable and therefore carries little weight.
13. Consequently, I am not satisfied that the submitted UU would make adequate provision to prevent increased on street parking and highways safety concerns that would arise from this. Therefore, the proposal would be contrary to Policy 6.13 of the London Plan, Policies DM9 and DM10 of the Core Strategy and the Sustainable Transport SPD where they seek to resist development that would adversely effect highway safety.

Character and Appearance

14. The appeal site is located on the corner of Cheyne Hill and Eversley Road. The existing property does not replicate the scale or design of the 2 storey bay window semi-detached dwellings along Cheyne Hill. Nor does it reflect Eversley Road where there is considerably more variation to the appearance and type of dwelling. There are examples of properties in the area that feature accommodation over 3 storeys, within the roof space and rows of properties that result in large blocks of development. This includes on Eversley Road itself and its corner with Guildford Avenue.
15. The townhouses adjacent to the site are set down from the road with a different layout and appearance to the proposed building. Nonetheless, while far taller than the existing property at the appeal site, the proposed building would not be substantially taller than the adjacent townhouses.
16. The appeal building would project further down the garden than the existing property. Nevertheless, it would continue the staggered building line of the adjacent properties and would not be substantially closer to 73 Cheyne Hill than them. The proposed building would be set close to the pavement along Cheyne Hill, forward of the building line on that road. However, this would not be considerably different to the current circumstances and there are instances of properties abutting the pavement, including at nearby corner locations.
17. The flats would have windows on both street facing elevations. This would be visually better than the largely blank gable wall of the end townhouse that features in many views towards the site at present.
18. The proposed building would be prominent and increase the mass on site from the existing situation. Nonetheless, the hipped roof would assist in reducing the bulk of the building and street facing elevations are further broken up with gable features. In many views it would be seen with the built form along Eversley Road of a comparable scale and its appearance would be partly

softened by the retention of the onsite trees. Therefore, while larger than buildings on Cheyne Hill, it would not visually dominate in either streetscene.

19. Outdoor space would be comparable to that of the adjacent properties and the building would be set back behind frontage parking. As a result, the site would not appear cramped or overdeveloped.
20. The building would be a single block accommodating flats rather than a row of individual properties. Notwithstanding this, the presence of built form of a comparable mass, height and position would not be unique in the area. The overall scale and position of the building would not be at odds with that of the existing built form in the nearby area.
21. The surrounding streets are primarily residential. As a result, there are already a number of comings and goings both from pedestrians and vehicles close to the site. It is likely that there would be a greater number of occupants at the site than at present. Notwithstanding this, the intensification of activity as a result would not significantly impact on the character of the area.
22. Therefore, the proposal would not be harmful to the character and appearance of the area. It would comply with Policies CS8 and DM10 of the Core Strategy. These, in part, aim to achieve developments with high quality design that relate well to its surroundings and respect local character.

Other Matters

23. Even if I were to consider that the Council do not have an up-to-date 5 year housing land supply, that the site is within a Key Area of Change and be a more efficient use of land, this would not automatically lead to the granting of planning permission.
24. The National Planning Policy Framework (Framework) seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. An additional 5 residential units, including 3 bedroom properties, would contribute to the mix and supply of local housing in the area. There would also be benefits associated with energy efficiency. However, given the size of the development these benefits would be modest.
25. The Council have not raised concerns with regard to the effect of the proposal on the living conditions of nearby residents, flooding, ecology or indoor and outdoor space provision. Cycle and refuse storage have also not been questioned. While I note third party comments to the contrary to some of these matters, as I am dismissing the appeal, there is no need for me to consider them any further. In addition, I have found the scheme would not harm the character and appearance of the area. Nevertheless, the absence of harm would be a neutral factor.
26. The evidence presented regarding the restrictions that flooding and heritage assets put on development elsewhere in the Borough is limited. Therefore, this attracts little weight.

Planning Balance

27. While the scheme would not lead to harmful effects with regard to the character and appearance of the area, the impact on highway safety is

decisive. The scheme would provide modest benefits. Nonetheless, the adverse impacts of the development would significantly and demonstrably outweigh these benefits when assessed against the policies in the Framework as a whole.

Conclusion

28. I conclude that the appeal should be dismissed, and planning permission refused.

Stuart Willis

INSPECTOR