



Appeal Decision

Site visit made on 30 September 2019

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2019

Appeal Ref: APP/Z5630/W/19/3232830

Links Cottage, 26 Galsworthy Road, Kingston Upon Thames, KT2 7BS

- 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 Shah (Lets Invest) against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 19/00817/FUL, dated 24 March 2019, was refused by notice dated 2 July 2019.
 - The development proposed is described as full planning permission is sought for the demolition of an existing house and garage and erection of a detached three storey building + basement with parking, bins and cycle provision.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the determination of this appeal are as follows:
 - The effect of the proposed development on highway safety; and,
 - Whether the development makes sufficient provision for off-street parking.

Reasons

3. The Council has granted permission for redevelopment of the appeal site to provide two five-bedroom houses¹. This permission establishes that the principle of residential redevelopment of the site is acceptable, and is a consideration in the determination of this appeal.

Highway safety

4. The appeal site comprises a detached house and garden to the rear of Badminton Court, a block of flats with which it shares a common access. The access is a single-width driveway of approximately 60 metres in length with a junction onto Galsworthy Road opposite the main entrance to Kingston Hospital. There is a pedestrian crossing to the north of the junction, and bus stops to the north and south. The site falls within a controlled parking zone (CPZ). Parking for Badminton Court is provided in a garage court at the rear of the block, and in a car park at the front of the block.

¹ Ref 18/14913/FUL

5. During the course of my site visit I observed multiple instances of traffic on Galsworthy Road being backed up and obstructing the junction serving the site and Badminton Court. Buses stopping at the bus stop outside Badminton Court and a refuse lorry emptying bins all caused tailbacks of several vehicles in length, each of which obstructed vehicle access to the site.
6. The proposed development would result in a significant increase in the volume of traffic entering and leaving the site. While permission has been granted by the Council for two houses, the traffic associated with six separate households would result in additional deliveries as well as pedestrian and cycle traffic.
7. All traffic associated with the proposed development would be restricted to using the shared single-width driveway. Based on the evidence before me, this is no more than 3 metres wide, and the verges to either side offer no passing place for vehicles if traffic conflict arises between vehicles, or vehicles and pedestrians. Vehicle traffic entering the site may be forced to reverse onto Galsworthy Road if faced with a vehicle coming from the appeal site, which would be an unsafe practice due to traffic levels on the road. While this problem already exists with the current traffic levels generated by the existing house and Badminton Court, the proposed development would make this worse.
8. Pedestrians may be able to stand aside on the grassed area to the rear of Badminton Court, but this may not be possible in all instances, and in any case is reliant on private land outside of the appellant's control. Residents of Badminton Court can cross the grassed area to reach their garages, and have a separate footpath from the front of the block to Galsworthy Road, so do not have to use the driveway on foot.
9. The appellant has suggested that there would potentially be little difference in the traffic levels generated by the approved scheme, in comparison to the proposed development of 4 two-bed and 2 three-bed flats, especially if the approved houses were occupied entirely by adults. I do not consider that this is likely to be a common scenario. Family housing is generally occupied by a mix of ages, while flats are typically most commonly occupied by adults. Notwithstanding this, the appellant acknowledges that the proposed development is likely to be occupied by more people than the approved development. This would result in additional traffic from the proposed development.
10. The proposed development would therefore be harmful to highway safety along the driveway and at the junction with Galsworthy Road. The proposals are therefore contrary to policies DM9 and DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy April 2012 (the CS), which taken together seek to ensure that new development does not compromise highway safety. These policies are broadly in accordance with the highway requirements of the National Planning Policy Framework (the Framework) and the development is therefore also contrary to national policy.

Parking

11. The proposed development would provide 3 parking spaces. Policy 6.13 of the London Plan recognises that in a location such as this with good public transport accessibility a proposed development of this size should provide up to 5 parking spaces.

12. The appellant has provided a Unilateral Undertaking dated 23 September 2019 addressing parking at the site. The Undertaking would restrict occupation of the proposed flats so that occupants would not be able to apply to the Council for parking permits in the CPZ. The Council has been provided with the Undertaking but has not commented on it.
13. The Undertaking is made under Section 106 of the Town and Country Planning Act 1990 (as amended) (hereafter the 1990 Act) and section 16 of the Greater London Council (General Powers) Act 1974 as amended (hereafter the London Act). The Undertaking does not restrict the development or use of the land, rather it would control how residents will act. The Undertaking is therefore not a valid planning obligation under the terms of the 1990 Act. However, the London Act allows obligations to be made binding the owner of land or their successors and therefore the Council could enforce the Undertaking under that legislation.
14. I am therefore satisfied that the proposal would not add to parking stress in the area as future occupiers would be aware of the restricted on-site parking, and that no permit for parking in the CPZ would be issued. The development would therefore be in accordance with policies DM9 and DM10 of the CS and policy 6.13 of the London Plan, which taken together require developments to comply with car parking standards, implement parking management schemes and restrict parking permit eligibility for new developments located in a CPZ.

Other matters

15. The Council's first reason for refusal cites the lack of provision of dedicated disabled parking. If I was minded to allow the appeal, provision of a disabled parking space could be required by condition. Sufficient space would be available within the site to enlarge one of the proposed spaces without a significant impact on the value of the soft landscaped space.
16. The appellant has referred to other permissions granted by the Council or allowed on appeal. However, I do not have the full details of these cases so cannot be sure that they represent a direct parallel to the appeal proposal on matters such as highways issues, the access arrangements and the form of accommodation proposed. The Council has also drawn to my attention previous decisions for proposed developments on this site, but similarly I do not have the full details of those cases. In any case, each appeal must be determined on its own merits, which is what I have done.

Planning Balance and Conclusion

17. The Council has not disputed that it cannot demonstrate a deliverable 5 year housing land supply in accordance with paragraph 73 of the Framework. As such paragraph 11 of the Framework applies to the determination of this appeal, and 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.
18. The appeal site is accessed via a narrow driveway that would result in unacceptable harm to highway safety arising from conflict between users. Policy DM9 requires that new development does not compromise highway safety. Policy DM10 requires that development have regard to local traffic conditions and highway safety and ensure that they are not adversely affected.

I find that both of these policies accord with the current Framework, which states that development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety.

19. The appellant submits that the development would deliver a number of benefits. Permission has previously been granted for 2 houses on the site. This is a matter of fact, and I do not consider that it is a benefit in itself in considering this appeal.
20. The appellant further suggests that the proposed development would provide a mix of more affordable flats rather than the approved 2 houses of 300m² or the existing single house, and the development would provide 3-bedroom dwellings for which there is a need in the Borough. The proposed development would make more efficient use of a small site to deliver additional housing. I attach significant weight to this considering the housing land shortfall.
21. The appellant submits that the site is well located for residential development, being close to a major employer in Kingston Hospital, and well-sited for access to public transport. I attach limited positive weight to this, as there is no guarantee that the development would be occupied by employees at the hospital, while access to public transport is generally good throughout London.
22. The appellant states that the development would be well-designed and optimise an under-used site to deliver high-quality dwellings with a significant amount of amenity space, and which would provide suitable access for all occupants. There would be no harm to the living conditions of neighbouring occupiers from the proposed development. The development would address concerns regarding emergency service access by including sprinklers within the building. However, a lack of harm with regard to these points is not a benefit, and these matters are neutral in the planning balance.
23. The appellant suggests that there is little difference on highways ground between the approved scheme for 2 houses and the proposed development. However, I do not consider this to be the case. While the shared access and on-site turning space would be suitable to allow vehicles to enter and leave in forward gear, I have identified harm from the likely conflict with other vehicles entering and leaving the site, and I afford this substantial weight.
24. I have considered the points raised by all parties, and I am mindful of the benefits that would arise from the proposal, including the provision of additional housing when the Council cannot demonstrate a five year supply of housing land. I also recognise that the submitted Undertaking would overcome the Council's parking reason for refusal. Nonetheless, I consider that the proposal would conflict with the development plan and the Framework as a whole with regards to an unacceptable impact on highway safety. I conclude that the substantial harm arising from the development with regard to highway safety would significantly and demonstrably outweigh those benefits arising from the proposal, and it is this matter which is determinative in this appeal.
25. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

M Chalk

INSPECTOR