
Appeal Decision

Site visit made on 19 November 2019

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019.

Appeal Ref: APP/Z5630/W/19/3234734

Flat 2, 74 Kingston Hill, Kingston Upon Thames KT2 7NP

- 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 Charles Johnson against the Council of the Royal Borough of Kingston-upon-Thames.
- The application Ref 18/14886/FUL, is dated 21 February 2019.
- The development proposed is the division of a singular maisonette into two separate flats.

Decision

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

Background and Main Issues

2. This appeal has been lodged following the Council's failure to determine the application within the relevant timescale. The Council in their submission include reasons for refusal had they been in a position to determine the application. This includes reference to those development plan policies that the Council considers to be relevant to each of the refusal reasons put forward.
3. In light of the above, the main issues are:
 - The effect on the supply of family housing within the Borough;
 - Whether the proposal makes adequate provision of internal and external space for occupants with reference to local and national policy;
 - The effect of the proposed parking arrangements on highway safety.

Reasons

Supply of family housing

4. The appeal property comprises a two storey, 3-bedroom maisonette located within a larger flat complex. The maisonette is accessed via a side access door and an internal door from within a central atrium, from which other flats within the complex obtain their access. The ground and first floors will be converted into two one-bedroom flats.
5. Policy DM 14 of the Council's Local Development Framework Core Strategy, Adopted 2012 (the CS) states that the Council will resist the loss of existing housing accommodation of all types, particularly dwellings which are suitable for family accommodation. No definition of what comprises family accommodation is

provided in the policy. However, with 3 bedrooms the existing appeal property would be likely to fall into this category and adequately cater for the space needs of a family. The policy's explanatory text recognises that the current shortfall in family accommodation is unlikely to be addressed through new build schemes, therefore particular weight will be given to protecting existing family accommodation.

6. There is evidence which suggests that there is an under supply of family accommodation compared with 1 and 2 bed flatted development. A further two one-bedroom flats would therefore exacerbate this and undermine the mix of housing in the Borough. Although I recognise the general need for further housing, while acknowledging the net gain of one residential unit, I have not been presented with any compelling evidence to demonstrate that the proposal justifies the loss of a unit of family accommodation.
7. I acknowledge that the first floor flat's bedroom would exceed the national space standards¹ for a 2 bed space room. However, this is marginal, and it remains that it would only have one bedroom and a level of accommodation that I consider would fall short of the spatial requirements and needs of a family unit.
8. The proposal would have a detrimental effect on the supply of family housing within the Borough. It will therefore conflict with Policies DM13 and DM14 of the CS, that amongst other considerations, requires new residential development to incorporate a mix of unit sizes and safeguard existing units suitable for family accommodation. The proposal would also be contrary to the National Planning Policy Framework (the Framework), where it requires amongst other considerations a mix and supply of suitable housing sites.

Internal and external space

9. Policy DM 13 of the CR requires new housing to be designed in accordance with the London Plan. Table 3.3 of the London Plan, March 2016 (the London Plan) sets the context for housing standards for new development, which follows the National Space Standards¹. The minimum gross internal areas (GIA) for a one bed/one-person dwelling would be 39 SqM, or 37 SqM if such a flat would have a shower room rather than a bathroom. For one bed/two person dwellings the National Space Standard sets a minimum of 50 SqM. These are considerations to which I attach great weight in the overall planning balance.
10. The proposed first floor flat would have a GIA of 47SqM. In this case, the proposed unit would fail the National Space Standards for a one bedroom/two person dwelling, albeit to a marginal degree; but even so the Standard is clearly expressed as a minimum. I recognise that the proposed flat's only bedroom would have an internal floor space that exceeds the minimum required for a bedroom with two bed spaces¹. However, there would still be a shortfall in living space elsewhere in the flat that would fail to meet the day-to-day needs of future occupants. That the Appellant suggests that the first floor flat could be used by a small family further asserts my view that the living space would not meet the needs of future residents.
11. Notwithstanding this, the proposed ground floor flat would have a gross internal floor area that complies with the standards for a one bedroom, one bed space flat.
12. The Council's Residential Design Supplementary Planning Document (July 2013) (the SPD) provides minimum space standards for private and

¹ Department for Communities and Local Government, Technical Housing Standards – Nationally Described Space Standard, March 2015

communal amenity space for new flats. No private space details have been provided, however, I observed from my site visit that this would be difficult to achieve within the existing envelope of the site. In this event the SPD requires the shortfall in private space provision to be added to communal amenity space requirements.

13. During my site visit I observed that there was an access to a large communal garden area to the rear of the flat complex via the central atrium and also a side walkway. The proposed flats could reasonably access this area through the existing and proposed access points. The garden has an area of 200SqM, which is in excess of the 50SqM required for the whole flat complex. It could also adequately cover the proposal's shortfall in private amenity space. This would therefore be in excess of the minimum standard required by the SPD and therefore would satisfy external communal space requirements.
14. Although the external space provision would be acceptable, while the GIA of the proposed ground floor flat would meet the relevant standards, this would be outweighed by the inadequate internal space for occupants of the proposed first floor flat. Consequently, the appeal scheme would conflict with Policies DM 10 and DM 13 of the CR and Policy 3.5 of the London Plan, which require, amongst other considerations, new residential development to meet internal space standards and incorporate principles of good design.

Parking

15. The proposed subdivision of the maisonette would result in one of the proposed flats not having an off-street parking space.
16. Kingston Hill and the nearby streets are subject to parking restrictions. This includes yellow lines and resident parking areas. The site is located in an area with a public transport accessibility rating of 3, and I observed during my site visit a bus stop adjacent to the site and a train station a short walk away.
17. Policy DM 9 of the CS seeks to manage vehicle use for new development and to ensure that it does not lead to congestion or compromise highway safety. This would be done by restricting eligibility for on-street parking permits for new residents located in controlled parking zones.
18. At my visit, which I appreciate is only a snapshot in time, I saw that many parking spaces in surrounding streets were occupied. The proposal only accommodates 1 parking space on a site that would create 2 separate residential units. This is likely to lead to an increased demand for on street parking. Any further parking demand would only serve to exacerbate the existing situation. I consider that in order to comply with the policy in the CS some form of control is needed to ensure a restriction is placed on one of the proposed units restricting eligibility for an on-street parking permit. Yet I have not been provided with any mechanism that would secure this.
19. I acknowledge that some future residents may not own a car and could utilise the nearby public transport provision. However, I cannot be certain that this would always be the case.
20. Therefore, I have no means of control before me to ensure that the development would not exacerbate parking in the area. There is an absence of compelling evidence to demonstrate that the scheme would maximise opportunities for alternative modes of transport. Furthermore, no convincing case has been made that it would not result in unacceptable parking stress and lead to additional congestion as drivers seek a parking space, or park illegally.

21. Consequently, the effect of the proposed parking arrangements would have a harmful effect on highway safety in the area. Therefore, the scheme would fail to accord with Policies DM 9 and DM 10 of the CS. In particular where they require to restrict eligibility for on street parking permits in controlled parking zones and to have regard to highway safety.

Other Matter

22. I note the Council's concerns relating to the provision of a front door serving the first floor flat. The Appellant indicates that they would address this issue on the plans, but this has had no bearing on my decision.

Planning Balance

23. The Council accept it cannot demonstrate a 5 year supply of deliverable housing land. As such, relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 of the Framework should therefore be applied.
24. In the context of the development plan I have found that the proposed development would be contrary to Policies DM 9, DM 10, DM 13 and DM 14 of the CS. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework and whilst they can act to restrict the supply of housing, I attach substantial weight to them. Although, I have found no harm in terms of the external space provision and the internal space for one of the flats, the proposal would not accord with the development plan when considered as a whole.
25. The Framework refers to boosting significantly the supply of housing, however, the provision of one additional unit would make little meaningful difference. When judged against some of the core planning principles the proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. There would be a small social benefit in providing an extra housing unit. Economic advantages would also arise from the construction and occupation of a new flat. However, the harm that would result from the internal space shortfall, additional parking stress and the loss of family accommodation would be significant, and as a result the environmental and social role of sustainable development would not be achieved.
26. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

R. E. Jones

INSPECTOR