



Appeal Decision

Site visit made on 25 February 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 30 March 2020

Appeal Ref: APP/Z5630/W/19/3241605

3 Long Walk, New Malden KT3 3EJ

- 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 Messrs Jacek and Wojtek Slonopas against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 19/01527/FUL, dated 12 June 2019, was refused by notice dated 20 August 2019.
 - The development proposed is conversion of a single-family house into two self-contained flats – (1X1 bed and 1X2 bed flats) with provision for private amenity space and cycle and refuse storage (application for retrospective permission).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a single-family house into two self-contained flats – (1X1 bed and 1X2 bed flats) with provision for private amenity space and cycle and refuse storage at 3 Long Walk, New Malden KT3 3EJ, in accordance with the terms of the application, 19/01527/FUL, dated 12 June 2019, subject to the following condition:-

- 1) Unless varied by other conditions of this decision, the development hereby permitted shall be carried out in accordance with the following approved plans:

Title	Drawing No
Location Plan	RO-092_005
Proposed Floor Plans, Cross Section and Elevations	RO-092_003 REV A
Proposed Site Plan	RO-092_004

- 2) Unless within six months of the date of this decision the development hereby permitted shall have been implemented in full in accordance with the approved plans the use of the site shall cease until such time as the scheme is implemented in full.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained in perpetuity.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the

time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Notwithstanding the details shown on the approved plans, within 6 months of the date of this permission the windows to the bathrooms at first and second floor level shall be fitted with obscure glazing in accordance with details that have previously been submitted to and approved in writing by the local planning authority. This glazing shall be retained in perpetuity thereafter.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

2. At the time of my site visit the development had already been commenced and the dwelling subdivided into two flats. However, there was still a wall in place separating bedrooms 2 and 3 on the second floor. The Council, in their assessment have had regard to the existing layout of the property, laid out as one two bedroom flat on the ground floor and one three bedroom flat on the upper floor. However, in determining this appeal I have considered the proposal before me as described in the application and on the accompanying proposed plans.

Main Issues

3. The main issues are: -
 - The effect of the proposal on the availability of family sized dwellings in the area;
 - Whether the proposed development would provide acceptable living conditions for future occupants, with regard to the provision of internal space; and: -
 - The effect of the proposed parking arrangements on parking pressure in the area.

Reasons

Effect on availability of family sized dwellings

4. The appeal site lies within an established area of predominantly residential development and is a mid-terrace dwelling house set within a terrace of four dwellings. The dwellings in the vicinity are two-storeys in height, and are predominantly a mix of short terraces and semi-detached properties, some of which have been extended to provide additional accommodation.
5. The proposal would reduce the number of bedrooms in each of the flats from those within the current layout to create a one bedroom flat on the ground floor and a two bedroom flat on the upper floors.
6. Policy DM 14 of the Royal Borough of Kingston upon Thames Kingston Local Development Framework Core Strategy -2012-(the Core Strategy) states that the Council will resist the loss of existing accommodation (of all Types) and, in

particular, dwellings which are suitable for family accommodation. The sub text for the policy explains that “the council will give particular weight to the protection of existing family units”.

7. Policy 3.5 of the London Plan -2016- (the LP) requires that local development frameworks should incorporate requirements for, amongst other things, minimum space standards, as set out in Table 3.3 of the LP. Similarly, Policy DM 13 of the Core Strategy requires that new residential development should provide adequate internal space appropriate to the intended number of occupants in accordance with LP policies. The Royal Borough of Kingston Upon Thames Local Development Framework Residential Design Supplementary Planning Document -2013- (the SPD) sets out, in Policy Guidance 28 and Table 3, the requirement to adhere to minimum space standards for new development and the relevant requirements. Similarly, the Technical Housing Standards – Nationally Described Space Standard -2015- (the THS) sets out minimum internal spaces for dwellings and dimensions for bedrooms.
8. Whilst the existing layout of the upper flat does not meet the requirements for a 3 bedroom flat set out in Table 3, following the amalgamation of two of the bedrooms to form one, it would meet the minimum space standards required for a 2 bedroom 3 person flat within Table 3 of the SPD, Table 3.5 of the LP and the THS.
9. The Council has concerns regarding the loss of the dwelling house as a family residential unit and the proposal would sub-divide that unit to create two smaller units. However there is no definition within the policy of a family dwelling and a two bedroom flat providing three bedspaces could provide accommodation for a small family.
10. Taken as a whole, the proposal would deliver a unit of accommodation that could be used by a small family, together with a smaller flat. However this would result in the loss of an existing larger family unit.
11. I therefore conclude that, whilst the proposal would provide adequate internal space for the upper flat, and therefore comply with Policy DM 13 of the Core Strategy and Policy 3.5 of the LP, it would result in the loss of existing accommodation, specifically a larger family sized dwelling. It would, therefore, be contrary to Policy DM14 of the Core Strategy.
12. The proposal would accord with the National Planning Policy Framework -2019- the Framework, in as much as, internally, it provides a well-designed place in which to live and would provide a range of homes to meet the needs of present and future generations.

Living conditions of future occupants

13. The 1-bedroom flat falls below the required minimum internal space set out within Table 3 of the SPD, Table 3.5 of the LP and the THS. However the plans before me show practical layouts of rooms with adequate circulatory space for future occupants.
14. As discussed above, the 2-bedroom flat provides slightly over the minimum internal floor space. Therefore, on the evidence before me, I do not identify any harm to the living conditions of future occupants that would result.

15. I therefore conclude that the proposal would provide acceptable living conditions for future occupants, with regard to the provision of internal space and is therefore in accordance with Policy DM13 of the Core Strategy and Policy 3.5 of the London Plan in as much as they relate to provision of living space within residential development and quality of design. Similarly, the development would accord with Paragraph 124 of the Framework in as much as, internally, it provides a well-designed place in which to live.

Parking arrangements

16. At the time of my visit, albeit that this provides only a snapshot in time, there was parking available on street in the area. However, as my visit was during the daytime, when many residents are out at work or away from their homes for other reasons, this would not coincide with peak parking demand.
17. Having regard to the car parking standards set out within Table 6.2 of the LP, the original dwelling would have generated a demand for a maximum of 2 car parking spaces. The two flats forming the proposal, of one and two bedrooms respectively, would generate the same maximum demand. There would, therefore, be no net increase in demand from the development when compared to the use of the site as a single dwelling.
18. Further, the appellant has, subsequent to the determination of the application provided a parking beat survey, carried out overnight within two minutes walking time of the site. This survey has demonstrated to my satisfaction that the level of parking stress on-street is such that there is spare capacity to park on-street.
19. I therefore conclude that the proposal would not result in an adverse effect on parking pressure in the area. The proposal would therefore comply with Policy 6.13 of the LP, and Policies CS7 and DM9 of the Core Strategy in as much as these seek to ensure compliance with parking standards and manage on-street parking provision to promote residential amenity. The proposal would comply with those parts of the framework that seek to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

20. Concerns have been raised that the internal layout of the proposal results in an inappropriate use of the site, leading to noise disturbance. However, the property was a residential dwelling prior to the commencement of the development, and would remain in residential use. Further, concerns have been raised about the external design. However, no external alterations to the building are proposed.
21. I am aware of apprehensions that the refuse bins would be stored next to the front door of the building, close to the front door of the neighbouring property. However, the drawings show bin storage provision being made against the shared boundary away from the doors of either property.

Planning Balance

22. Paragraph 11 of the Framework requires that decisions should apply a presumption in favour of sustainable development. However, where, for applications involving the provision of housing, the Council is unable to

demonstrate a five year supply of deliverable housing sites, the policies which are most important for determining the application are considered to be out-of-date. The parties agree that the Council is unable to demonstrate a five year supply of deliverable housing sites and so Paragraph 11 d) of the Framework applies. In this case Policies DM13 and DM14 of the Core Strategy, which relate to the provision of housing, must be regarded as being out-of-date and I allot them limited weight. Therefore there is a presumption in favour of granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

23. The development would provide benefits in terms of delivering an additional home to boost housing supply, more so in light of the agreement between the main parties that the Council is not able to demonstrate a five year supply of deliverable housing sites. Nevertheless, a single additional home would still only have a limited benefit. There would be minor benefits to the local economy in relation to short term employment in the construction industry and longer term support for local shops and businesses, although due to the limited scale of the development these benefits, taken together, carry only moderate weight.
24. I have found that the proposal would result in the loss of existing accommodation, specifically a larger family sized dwelling, which is a type of housing that the Council are particularly seeking to protect. However, this loss would be offset by the increase in overall dwelling numbers, and include the provision of a smaller family home, and so this negative impact would be limited. This disbenefit therefore carries limited weight.
25. As such the benefits of the development would not be significantly and demonstrably outweighed by the adverse impacts, when assessed against the policies in the Framework taken as a whole. Therefore the presumption in favour of sustainable development is a material consideration which provides weight in support of the proposal.

Conditions

26. The development has already commenced and so the standard condition limiting the lifespan of the planning permission is superfluous. However, a condition requiring completion of the development within a set time scale is necessary to ensure that the development will meet the space standards for accommodation and I have also specified the approved plans. The purpose of these conditions is to require the appellant to comply with a strict timetable for dealing with the removal of the partitioning wall between bedrooms 2 and 3 of the upper flat, which needs to be addressed in order to make the development acceptable.
27. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the development by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.

28. The Council state that, had they been minded to approve the application, they would have added a condition requiring the bathroom windows on the first and second floors to be obscure glazed. I have added such a condition as this is necessary to ensure the privacy of the occupants when using these facilities. Similarly, they say that had they been minded to approve the application, enclosure details for the refuse/storage spaces would have been secured by way of a condition. I have little evidence before me to substantiate the need for such a condition to protect either the living conditions of occupiers of neighbouring properties or visual amenity. I do not consider that it is necessary in order for the development to proceed.

Conclusion

29. For these reasons, and having taken into account all other matters raised, I conclude that the appeal should be allowed, subject to conditions.

I Dyer

INSPECTOR