
Appeal Decisions

Site visit made on 21 May 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2020

Appeal Ref: APP/Z5630/W/19/3241018

Land to the rear of 1 Fassett Road, Kingston upon Thames KT1 2TD

- 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 Stephen Donovan against the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 18/00214/FUL, is dated 5 November 2018.
 - The development proposed is the development of land to the rear of No1 Fassett Road involving the erection of a two storey building with basement for use as student accommodation with 10 en-suite student rooms and communal areas, recreational land to the rear, disabled parking with cycle provisions.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Stephen Donovan against the Royal Borough of Kingston upon Thames. This application is the subject of a separate decision.

Main Issues

3. Based on the reasons as to why the Council would have refused the planning application, as set out in the Council Statement of Case, the main issues are:
 - The effect of the development on the character and appearance of the area, including the effect on the significance of the Grove Crescent Conservation Area.
 - The effect of the development as proposed on the living conditions of future occupiers.
 - The effect of the development on the local highway network, including the issue of highway safety, as a result of parking provision.

Reasons

Character and Appearance

4. The site is set to the rear of No 1 Fassett Road, which is currently an ancillary space to this property, seemingly used as garden and parking space. Being as

No 1 is on a corner plot, the site itself fronts Grove Lane, near its junction with Springfield Road opposite.

5. This is primarily a residential area, although in close proximity to the University of Kingston. The site is also within the designated Grove Park Conservation Area (CA). This is a heritage designation which derives its significance from the special architectural and historic housing and other fine older buildings (such as the Grade II listed St John's Church near the site), which includes a planned mid-Victorian estate of various styles and sizes.
6. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) is relevant to this appeal as it requires special regard as to whether to grant planning permission for development which affects a listed building or its setting. Also, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions.
7. The proposed detached building to be used for student accommodation would have the appearance of a single large dwelling and would, to some extent, reflect some of the characteristics of neighbouring houses within the CA. The proposed building would also be subordinate in scale to No 1 Fassett Road. I do also note the variety of dwelling type in the area, in terms of appearance and scale.
8. The proposed building, in my view, is sufficiently well articulated for its context. There is a proposed railing to the front of the site, which would be prominent in the street scene, but I note there are other railings evident in the surrounding area, within the CA, and so this feature would not be a discordant addition within the street scene.
9. The proposed lightwells to the front of the building as proposed would be set in the ground and would not be prominent additions to the street scene. I recognise that they are not common features within the CA, but their inclusion would not be visually intrusive.
10. Chimneys have been added to the side elevation, seemingly to help the proposed building reflect other large dwellings in the area, where chimneys are a common feature. It may be that these chimneys are primarily cosmetic design additions, although I regard them to be proportionate and suitable from a design perspective.
11. The building would lack depth compared to other dwellings within the area, mainly due to the restrictions of the site such as its shape and also the root protection areas of nearby trees. However, there is some variety of dwelling size and shape within this area. Furthermore, I do not regard the depth of the proposed building as likely to be particularly discernible from many views within the CA. Even when the depth can be viewed, I would not regard this as harmful to the CA.
12. Whilst I do not conclude that the design of the dwelling would be harmful to either the character and appearance of the area or the significance of the CA, the Council has also raised the issue of the siting of the building and its particular impact to the CA in this respect.

13. The proposed two storey building would be positioned on what is largely an undeveloped area of land to the rear of No 1 Fassett Road. When seen from Grove Lane or from Springfield Road opposite there are views of the significant and prominent trees in the rear gardens of properties that face either Fassett Road or Beaufort Road. This view provides both a relief to the built form with the spacing between buildings along Grove Lane, whilst also allowing the view to the pleasing visual backdrop of mature trees. I regard the views down Springfield Road as particularly important as the site appears as a pleasant green termination of views from this perspective, between the buildings that line this street. As such, I would regard this as an important view within the CA and a positive contribution to this heritage asset, which I note is considered valuable as a 'green space' within the Grove Crescent Conservation Area Appraisal.
14. The proposed building would not build over the whole site, but its width is such that it would significantly screen of the backdrop of trees which currently contributes positively to the CA. There would be gaps to the side which could also be landscaped, but much of the frontage would be taken up by the proposed building, particularly when viewed down Springfield Road. Furthermore, while the building is not particularly tall it is still two storeys above ground level and so its height would also obscure much of these views of the trees beyond. The introduction of a sizable building into this plot would erode this 'green vista' and infill an undeveloped area which offers a distinct quality and sense of space which is part of the current pattern of built form within this part of the CA.
15. The proposed building would also screen some of the rear extensions currently visible on the existing buildings, which the appellant considers as unsightly. However, the adverse impact of a building in this location, as described above, would outweigh any such benefits in my view, with the existing extension that I observed being mainly neutral in its visual impact within the CA.
16. The area of the site presently appears to be used for parking and is to some extent an unkempt area of land. However, I would regard the appearance of the site as neutral in its visual impact to the CA character, with it also possible that the site could be kept from being in an unkempt state without the need for the proposed development. Furthermore, as explained above, taking a wider perspective, the site contributes positively as an area of largely undeveloped space with a pleasing backdrop of mature trees and general greenery.
17. On this basis, I regard the proposal as neither preserving nor enhancing the CA character. Paragraph 196 of the National Planning Policy Framework advises that in circumstances such as this, where the harm to the heritage asset would be less than substantial, the harm should be balanced against the public benefits of the proposal. In this case, the harm would be less than substantial.
18. The main public benefits would arise from the contribution the scheme would make to the supply of student accommodation. There would also be short term gains to the local economy during the construction phase. Even taking into account the absence of a five-year land supply and the Government's stated objective to boost significantly the delivery of housing, I consider that the public benefits are outweighed by the harm to the CA.
19. As acknowledged by both main parties, the site is within the setting of the grade II listed Church of St John the Evangelist. The Council have concluded

that the proposed development would have a neutral impact on the setting of this Church. Due to reasons such as the separation distance involved between the site and the Church I would agree that the significance of the setting of this listed building would be preserved.

20. Overall, the proposal would have an adverse and harmful impact to the character and the significance of the CA. Therefore, the proposal is contrary to policies CS8, DM10 and DM12 of the LDF Core Strategy (Adopted 2012) and policy 7.4 of the London Plan (2016). These policies seek to, amongst other things, require development to respect, maintain or enhance the essential elements that contribute to the character of the area; preserve or enhance heritage assets such as Conservation Areas; make a positive contribution to the character of a place; and have regard to the historic environment.

Living Conditions

21. The development includes student bedrooms within the basement of the proposed building. There would be five bedrooms in total within the basement, along with a communal kitchen/dining area. For natural light there are lightwells to both the front and back of the building and a rooflight over the communal room. To address the issue of light in the basement rooms, the appellant has commissioned an 'Internal Daylight and Sunlight Report' by Malcolm Hollis LLP (December 2018).
22. In terms of light received in the communal area, the evidence shows that this would be to a generally acceptable standard. However, the submitted report sets out that three of the bedrooms would be below the BRE criteria for internal daylight standards.
23. Particularly for the bedrooms with the low level of internal daylight, these rooms would be gloomy to a degree which could necessitate artificial light throughout much of the day. I recognise that the BRE criteria is for guidance purposes, but it does demonstrate there would be an issue with lack of natural light to some of these bedrooms. The light coloured rendering of the inside of the lightwells and any possible increase in size of these would be beneficial but based on the plans before me now I would conclude that the levels of light would be poor.
24. The appellant states that the BRE guidance is that bedrooms do not require as much sunlight as living rooms and kitchens. However, this is student accommodation and so I do not accept that these rooms would mainly be used at night for sleeping, thereby not requiring a good level of daylight. As student bedrooms these are likely to be the only private living accommodation areas for the students who have these rooms. It would provide accommodation for studying or general living purposes, which would benefit from good levels of natural light. These bedrooms would also effectively be the private living rooms of students when at university. Therefore, whilst the appellant states that any shortfall is marginal, it is my view that such light levels in these student rooms would be insufficient to provide adequate living conditions for future occupiers.
25. Furthermore, basement rooms which rely on lightwells would also mean that there would be a poor level of outlook for future occupants. Most of the view would likely be of the internal walls of the lightwell rather than the wider outside area. This further compounds the issue of the poor levels of living

conditions, as a result of the gloomy light levels in some of these bedrooms. Any benefit in regard to a summer cooling effect would be outweighed by these adverse impacts to living conditions for students.

26. Overall, whilst the rooms may be of adequate size, the proposed development would not provide suitable living conditions for all future occupants of the basement student rooms due to reasons of poor levels of outlook and natural light, thereby being contrary to policies DM10 and DM13 of the Core Strategy (adopted April 2012). These policies seek to, amongst other things, ensure new development has regard to the amenity of occupants such as outlook and sunlight/daylight as part of a requirement for high quality housing.

Parking Provision

27. The site is near to the centre of Kingston and close to the university. I note that there is a good level of public transport options and that the site is generally in an accessible location. The cycle storage proposed would also help take advantage of the location of the site and promote sustainable transport options.
28. Nonetheless, the adjacent road network appears to be within a 'Controlled Parking Zone' (CPZ), which clearly indicates that there are significant parking pressures in the area, particularly in the daytime when most of the restrictions are in place. I also note the correspondence from some neighbours to the site raising the issue of parking congestion in the area. Indeed, there was not plentiful parking space available on-street, including along Fassett Road, when I visited the site. I have no substantive evidence from the appellant that there is indeed sufficient parking provision in the area should residents obtain parking permits in the future. Furthermore, I am not persuaded that the fact that there are car parks in the area is a solution if someone wanted to keep their car near the site in the future, due to charges for parking for example.
29. Currently, No 1 Fassett Road has the area at the rear of the building which appears to be mainly used for parking provision, as I observed on site. Much of this area would not be available for parking should the proposed building be constructed. The appellant proposes a single disabled bay to the side of No 1 instead. There also appears to be some limited level of parking to the front of No 1. However, the resultant level of parking for No 1 would be less than existing and there would be no general parking provision for the new development.
30. In this location, a car free development could be supported. Indeed, the appellant has stated that the students who occupy the rooms would be compelled to not have their own car kept on site. However, the appellant has not put forward any legally binding or enforceable way of ensuring this will be the case in perpetuity. It could still be that a future student could obtain a resident parking permit as they would live locally. They may indeed cycle and walk primarily, but could keep a car on the adjacent streets, nonetheless. In this regard, policy DM9 of the Core Strategy which requires that there is to be restricted eligibility for parking permits where there is a new development in a CPZ.
31. Therefore, it would be necessary in my view for a legal agreement so that occupants of the new proposed development do not obtain parking permits, thereby not increasing parking pressure to an extent that it could have an

impact to highway safety levels. Whilst there is indication that the appellant during the planning application process would have provided such an agreement, there is no such legal agreement or unilateral obligation submitted by the appellant before me now.

32. As such, there would be no restriction on future occupiers obtaining a resident parking permit to park on the nearby streets within the local CPZ which could be enforceable by the Council. It cannot be sufficiently ensured that this would be a car free development as suggested by the appellant, based on the evidence before me. Therefore, there is the risk of the development increasing parking pressure significantly in the local area, even taking into account the sustainable and accessible location of the site. The proposal is therefore contrary to policies CS7, DM9 and DM10 of the Core Strategy (adopted April 2012), and policy 6.13 of The London Plan (2016). These policies seek to, amongst other things, ensure smooth traffic flow, manage on-street parking provision, and to restrict eligibility for on-street parking permits for residents of new developments within CPZs.

Planning Balance

33. The Council's Written Statement accepts that a deliverable five-year housing land supply cannot be demonstrated. The presumption in favour of sustainable development as set out in paragraph 11 d) of the Framework is therefore engaged. However, in accordance with paragraph 11 d) i), as the proposal would be contrary to heritage policies in the Framework (due to the harm identified to the Conservation Area character and significance) this provides a clear reason for refusing the development despite the deficiency in the housing land supply.
34. Nonetheless, I acknowledge that the proposal would contribute student accommodation in an accessible location, near to the university in Kingston. Whilst this is beneficial the development is of a modest scale and so I give this matter only limited weight. However, such benefits do not outweigh the harm I have identified above, which are significant and demonstrable.
35. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found conflict with saved policies of the LDF Core Strategy (Adopted 2012) and policies of the London Plan (2016) and therefore consider that the proposal conflicts with the development plan as a whole, as well as the National Planning Policy Framework.

Conclusion

36. The development is therefore unacceptable for the reasons set out above and, having regard to all other matters raised, the appeal should be dismissed.

S. Rennie

INSPECTOR