



Appeal Decision

Site visit made on 15 September 2020

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/L5810/W/20/3253278

Kew Grill, 10 Kew Green, Kew TW9 3BH

- 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 The Hartley Sipp, Kew Green Ltd against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 19/1853/FUL, dated 10 June 2019, was refused by notice dated 29 November 2019.
 - The development proposed is "Change of use of ground floor A3 unit into residential use and erection of a first and second floor extension above the existing building and a roof extension to the frontage building to create 5 new dwellings".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following the decision of the Council, the appellant has submitted amended drawings which show amendments to address two of the reasons for refusal. The Procedural Guide to Planning appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the Wheatcroft Principles, the degree of engagement of all parties with the issue, and the interests of fairness and natural justice. I have therefore determined the appeal on the basis of the plans that were before the Council when it made its decision and on which parties were consulted.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, with specific regard to the significance of heritage assets
 - the effect of the proposal on the living conditions of occupiers of adjoining properties, with specific regard to any loss of outlook, overbearing or overshadowing effect, and whether or not the proposal would provide suitable living conditions for future occupiers having regard to internal space
 - whether or not the proposal would adversely affect pedestrian and highway safety as a result of vehicle parking requirements

- whether or not the proposal would achieve satisfactory standards of sustainable design and construction, and
- whether or not the proposal would meet affordable housing objectives in the Borough.

Reasons

Character and appearance

4. The appeal site lies within the Kew Green Conservation Area (the CA), the significance of which is set out in the Kew Green Study Conservation Area no 2 and Kew Green Conservation Area 2 appraisals (the CAAs). The CAAs note that the green is a historic open space at the heart of the CA, surrounded by high quality historic buildings with a strong character. The CAAs note the small range of materials and consistent proportions in the CA and highlight the loss of features to unsympathetic alterations as a threat to the significance.
5. The appeal site itself, as an altered, extended, prominent corner building contributes strongly to the significance of the CA as a heritage asset. It and its neighbours along Kew Green are designated as Buildings of Townscape Merit by the Council, and are therefore treated as non-designated heritage assets. The London Borough of Richmond Upon Thames Local Supplementary Planning Document Buildings of Townscape Merit, 2015 (the BTM SPD) notes that buildings are included on this list for their definite quality and character.
6. Both the original, corner building at the appeal site, the two-storey and single-storey rear projections along Gloucester Road are attractively detailed, with eaves detailing, arched windows and railings, all features which add to the quality and detail of the CA. All of this adds to the sense of the appeal site as a key building, framing the junction of Kew Green and Gloucester Road, and managing the transition in scale from Kew Green through to Gloucester Road.
7. The proposal would increase the height of the appeal site, slightly raising the roof of the main building, but adding an additional two floors to the rearward projection along Gloucester Road. I note that the reason for refusal relates solely to the first and second floor rear extension along Gloucester Road. This rearward projection, in London stock brick and clay tile to match the existing, also features three somewhat irregularly spaced aluminium-clad dormers, the form and style of which is intended to reflect and draw upon elements of surrounding development.
8. The proposal would substantially increase the height, massing and presence of the building in the street-scene. At present, the current Gloucester Road elevation steps down in scale from the principal corner building, through the pitched-roof two-storey element, and down to the single-storey flat-roofed final element. This transitional scale and character continues along Gloucester Road into the two-storey residential terraced dwellings. I also consider that this change in scale frames views from Kew Green into Gloucester Road, and vice versa, acting as a transition between the scale and importance of buildings from one to the other.

9. In my opinion, the increased size of the proposal would destroy this character and step down in scale. It would also, as a result of the substantially increased height, immediately adjacent to the footway, give an unwarranted and uncharacteristic sense of overbearing and overdominance, particularly in comparison to the wider character and appearance of Gloucester Road.
10. I note that the appeal proposal takes design cues from the hotel opposite, particularly with regard to the windows and height. However, that site and the appeal site have different relationships to Gloucester Road. The Gloucester Road element of the hotel is shorter than the appeal proposal, set away from the footway edge and screened by planting. Only a small, single-storey part of the hotel directly adjoins the footway. That building does therefore appear more consistent with the established character of the rest of Gloucester Road and the wider CA.
11. I also therefore conclude that the proposal fails to preserve the character or appearance of the CA and causes less than substantial harm to its significance as a designated asset as a result of its size, appearance, loss of detailing, relationship to and effect on the street-scene. The proposal does have public benefits in the delivery of housing which would contribute towards housing needs in the Borough. However, having regard to the great weight that should be given to the conservation of heritage assets, I do not consider that the creation of five dwellings is a public benefit which would outweigh the harm I have found. I also consider that the loss of detailing in the host building would cause harm to the significance of the site as a BTM, a non-designated heritage asset. Coupled with the wider harm to the CA identified above, this harm further weighs against the proposal.
12. The proposal would therefore be harmful to the character and appearance of the area, with specific regard to the significance of heritage assets, contrary to Policy LP1, Policy LP3 and Policy LP4 London Borough of Richmond upon Thames Publication Local Plan, July 2018 (the Local Plan). These policies seek, amongst other things, to protect local character and design quality, ensuring high quality design which contributes to and maintains local character, with particular regard to views, local grain, scale, height, massing and proportions. These policies also seek to preserve and where possible enhance the significance, character and setting of designated and non-designated heritage assets. The proposal would also fail to deliver overarching aim of the National Planning Policy Framework (the Framework) to conserve and enhance the historic environment.

Living conditions

13. I note that the existing building is already forwards of the building line of the terraced housing on Gloucester Road, and 1 Gloucester Road (No 1) in particular. At present, the outlook from the first-floor front-facing windows of No 1 is relatively open, although I acknowledge that the existing building on the appeal site will be visible. However, the increased height and bulk of the appeal proposal, exaggerated by the relationship of its gable-end adjacent to No 1, would, in my opinion significantly constrain and limit the outlook from the first-floor windows in particular. I consider that the proposal would also increase the sense of enclosure and overbearing to the ground-floor windows, as although the footprint remains the same, the additional height, and loss of the relief at first-floor level would, in my opinion, increase the overbearing

effect of the proposal. I do not consider that this effect would be acceptable simply because the amount of diffuse light entering, or available to the property would meet the BRE test referred to by the appellant.

14. I accept that there is already a tall wall adjacent to the rear amenity space of 12 Kew Green (No 12), and that the upper storeys are already set behind the existing two storey part of the appeal site. However, that does not mean that the proposal would have no effect upon the outlook from that property, or not cause any increased sense of overbearing. The proposal would increase both the height and length of a tall wall and unrelieved roof immediately adjacent to the rear-facing upper-storey windows of No 12. This wall and roof would also extend for the full length of the garden. I consider that this would be significantly and harmfully overbearing to the garden and would have a harmful effect on the outlook from that property. Given the orientation of the appeal site, I consider that the proposal would also cause a harmful increase to the level of overshadowing.
15. The internal space requirements of Policy LP35 of the Local Plan and the Technical Housing Standards – Nationally Described Space Standard, 2015 are minimums. In light therefore of the overarching requirement of the Local Plan and the Framework to ensure that development is of high quality, provides suitable levels of amenity and appropriate living conditions for occupants and provides adequate, functional and suitable space, I do not consider that even a small shortfall against those requirements is acceptable.
16. The proposal would therefore have an unacceptable effect on the living conditions of occupiers of adjoining properties, with specific regard to any loss of outlook, overbearing or overshadowing effect, and would not provide suitable living conditions for future occupiers having regard to internal space. It would therefore be contrary to Policy LP8 and Policy LP35 of the Local Plan. These policies seek, amongst other things, to ensure that development delivers suitable standards of amenity and living conditions for future occupiers of the development, protects the amenity and living conditions of occupiers of surrounding property, and provides suitable levels of internal space.

Pedestrian and highway safety

17. Policy LP45 of the Local Plan set requirements for sustainable travel choices, including the promotion of safe, sustainable, accessible means of transport. Policy LP45 seeks to ensure that development provides suitable and sufficient vehicle parking (including for cycles) to meet its needs and minimise the impact of any related car-based development on the wider road network.
18. The proposed cycle parking falls below the requirements of the Local Plan. Given the PTAL rating of the site and its relative accessibility to non-car means of transport, it would be reasonable for the proposal to exceed the policy requirement for cycle parking spaces. No justification has been provided for the proposal falling to meet the basic cycle parking space requirement.
19. Turning to car parking, the Council notes that the site is not within a Controlled Parking Zone (CPZ) and that the appellant has demonstrated that the level of overnight car parking which the development is expected to produce could be accommodated within surrounding streets. However, representations have been received raising significant concerns around the sufficiency of on-street parking in the area, and from my site visit, the streets did appear to be busy

with parked cars. There does however appear to be agreement of sorts between the Council and the appellant that a condition or other agreement would be appropriate and acceptable, to limit the eligibility of residents of the appeal site for parking permits should the area around the site become a CPZ in future. However, no such agreement was provided, nor was any detailed mechanism suggested by either party. As I have found against the proposal for other reasons, I have not explored this further.

20. I therefore conclude that the proposal would be likely to increase the amount of cars in the area, and would fail to provide sufficient cycle parking. As such, it could adversely affect the movement of traffic in the area and cause harm to pedestrian and highway safety. It would therefore be contrary to Policy LP44 and Policy LP45 of the Local Plan.

Sustainable design and construction

21. In order to establish whether or not the proposal would achieve satisfactory standards of sustainable design and construction, the Council requires the submission of a completed, standard questionnaire, in line with requirements of Policy LP22 of the Local Plan and the London Borough of Richmond Upon Thames Local Supplementary Planning Document Sustainable Construction Checklist Guidance, 2011 (the Sustainable Construction SPD).
22. The appellant has not submitted this, but instead suggests that this can be dealt with by condition. As this requirement derives from Local Plan policies and guidance, I am not wholly convinced that it would be appropriate to defer this information to a condition. I consider that the conditions suggested by the appellants would not necessarily deliver the standards of sustainable design and construction sought by the Policy, as they do not require approval or any other means of ensuring that the Policy aims would be met.
23. As such, I have not been provided with sufficient information to be certain that the proposal would achieve satisfactory standards of sustainable design and construction and make an increased contribution towards local sustainability, delivering development which is adaptable to climate change and making a contribution towards mitigating its effects. As such, the proposal would be contrary to Policy LP22 of the Local Plan and the Sustainable Construction SPD.

Affordable housing

24. The Council has submitted evidence to support its requirement for the appeal proposal to make contributions to affordable housing, in line with the requirements of Policy LP36 of the Local Plan, in spite of the tension with paragraph 63 of the Framework. It appears that there is a demonstrable local need and evidence base for the payment of affordable housing contributions. As such, following the test at paragraph 213 of the Framework, I consider that Policy LP36 is consistent with the overarching aim of the Framework to deliver a sufficient supply of new homes.

25. I note that the appellant does not disagree with this position, and that they have indicated a willingness to enter into a legal agreement to secure the required contributions. However, no such agreement has been received. As such, notwithstanding my findings on the other main issues, the proposal would not meet affordable housing objectives in the Borough, contrary to the requirements of Policy LP36 of the Local Plan and the London Borough of Richmond Upon Thames Local Supplementary Planning Document Affordable Housing 2014.
26. The Procedural Guide Planning appeals - England is clear that any planning obligation should be included with appeal documentation, and that in any event an executed and certified copy must be received by the Planning Inspectorate not later than the 7-week date. In any event, as I have found against the proposal for its effect on character and appearance, the significance of the heritage assets, living conditions and cycle parking, the failure of the appellant to submit a legal agreement to address affordable housing objectives and parking requirements was not determinative.

Conclusion

27. For the reasons given above I conclude that the appeal should be dismissed.

S Dean

INSPECTOR