The Planning Inspectorate

Appeal Decision

Site Visit made on 6 January 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2021

Appeal Ref: APP/Z5630/W/20/3256713
67 Victoria Road, Surbiton, Surrey KT6 4NR

- 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 Roger Kilby of Fleetwood Developments Ltd against Royal Borough of Kingston Upon Thames.
- The application Ref 20/00951/FUL, is dated 7 April 2020.
- The development proposed is demolition of single-storey storage building and construction of two storeys of residential accommodation over the existing car park providing four one bedroom flats.

Decision

1. The appeal is allowed and planning permission is granted for demolition of single-storey storage building and construction of two storeys of residential accommodation over the existing car park providing four one bedroom flats at 67 Victoria Road, Surbiton, Surrey KT6 4NR in accordance with the application, Ref 20/00951/FUL, dated 7 April 2020 and subject to the conditions set out in the schedule below.

Procedural Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council's appeal statement sets out the grounds for refusal had it determined the application. These were that the proposed development does not provide an appropriate mix of housing and that the development should be secured through a legal agreement as 'car free'.

3. The appellant has provided a copy of a signed planning obligation by way of a Unilateral Undertaking (UU) dated 6 January 2021 under Section 106 of the Town and Country Planning Act 1990 (as amended). This deals with securing the development as 'car free'. I will discuss this in more detail later in my decision.

Main Issues

4. The main issues are whether or not the proposed development:

   - provides an appropriate mix of housing; and
   - would contribute unacceptably to parking stress and congestion and, if so, whether car free housing could be secured.

Reasons

Housing mix

5. Policy DM13 of the Royal Borough of Kingston Upon Thames Core Strategy 2012 (Core Strategy) sets out that proposals for new residential development should incorporate a mix of units sizes and types and provide a minimum of 30 per cent of dwellings as three or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable.

6. The proposed development would provide four one-bedroom flats and no family housing. Victoria Road is a busy thoroughfare forming part of the main shopping area of Surbiton. The proposed development would be between Victoria Road and the railway lines, from which it would be separated by a vegetated embankment. It would be located off an access road leading to the rear service areas and a car park serving shops on Victoria Road. Therefore, whilst I accept that the Council has an identified need for larger residential units, the location of the proposed development would not be an appropriate location for family housing.

7. The Council has indicated that the previous proposal in providing two bedroom units would have been able to provide accommodation for a broad mix of households. However, as in the proposal before me, that earlier scheme neither provided larger size dwellings as specified by Policy DM13 nor a mix of unit sizes within the development.

8. My attention has been drawn to a recently dismissed appeal decision[1] in respect of development at Surrey House, 34 Eden Street, Kingston-upon-Thames where the Inspector acknowledged the requirement for a mix of units within a town centre location. However, that appeal scheme was for a significantly larger scheme providing 311 residential units in comparison to the proposal for four units in front of me. The Inspector in that scheme noted that the three bedroom units could also be occupied by sharers, and would not necessarily mean less households being accommodated on site. Whilst I note this point, I have been provided with no substantive evidence of a greater need for two bedroom units over one bedroom units in relation to the appeal site.

9. Furthermore, in the case of the Surrey House appeal, the location was not found to be unsuitable for family living as I have found in the appeal before me. The appeal is not therefore comparable with the appeal before me.

10. I conclude that the proposed development would provide an appropriate mix of housing. It would therefore comply with Policy DM13 of the Core Strategy as referred to above.

Car-free housing

11. The proposed development would not provide any on-site car parking. The appeal site is within a controlled parking zone (CPZ). The Council has indicated that the area has a very good PTAL score of 5 being well served and accessible to public transport links. The Council's statement indicates that in order to ensure the proposal would not lead to overspill car parking and exacerbate existing parking pressures on surrounding streets which would have an adverse impact on highway safety, the development should be secured as car-free. This

[1] APP/Z5630/W/19/3223667

should be secured through a legal agreement which would prevent residents from obtaining parking permits.

12. I have been provided with no evidence of the extent of parking pressures within the vicinity of the appeal site. However, very little on-street parking exists within the immediate vicinity of the appeal site, with most of the parking along Victoria Road being short stay for users of the town centre. I observed some areas allocated for permit holders on side roads off Victoria Road but at the time of my site visit I saw that there were few available spaces. For this reason, it seems likely that any parking arising from the development could exacerbate existing parking pressures on surrounding streets.

13. The appellant has submitted a UU which would prevent, with limited exceptions, occupiers from purchasing or otherwise procuring a resident's parking permit for a resident's parking space within the Council's CPZ. It relies upon the provisions of section 16 of the Greater London Council (General Powers) Act 1974 which does not require a restriction on land, but only that an undertaking or agreement has a 'connection' with the land/property.

14. I consider that the planning obligation is necessary in order to restrict future occupiers of the development obtaining car parking permits without which the development would contribute to parking stress and adversely affect highway safety. The obligation is directly related to the development proposed and would be fairly and reasonably related to its scale and nature. It therefore passes the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the National Planning Policy Framework (the Framework). I am satisfied that the obligation contained in the UU would be effective in securing the development as car free.

15. This leads me to conclude that whilst the proposed development would contribute unacceptably to parking stress and congestion, car free housing could be secured. The proposed development would therefore not conflict with the Framework which sets out that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Conditions

16. The Council has proposed a number of conditions should the appeal be allowed, I have considered these and imposed them where they meet the tests set out in Paragraph 55 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.

17. I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty.

18. A pre-commencement condition requiring a Construction Management Plan is both necessary and reasonable in the interests of the amenities of surrounding occupiers and to safeguard highway safety. In the event that impact piling is required, a condition setting out the details of any such piling to be approved in the interests of neighbouring amenity and the protection of any subsurface infrastructure. A condition restricting the hours of construction is reasonable in the interests of the amenities of surrounding residential occupiers

19. A condition requiring samples of materials to be submitted is necessary in the interests of the character and appearance of the development. In order to protect future occupants of the development, a condition requiring noise

insulation/reduction is both reasonable and necessary. I have imposed a condition requiring details of privacy screens and for obscured glazing to windows in the north-east elevation to be provided, in order to protect the amenities of neighbouring occupiers.

20. I have imposed conditions requiring details of refuse and recycling storage facilities and secure bicycle parking facilities to be provided and maintained in the interests of sustainable living. However, I have not required this as a pre-commencement condition as such details could be provided and implemented in advance of the occupation of the proposed development.

21. A condition requiring the provision and retention of car parking for the existing flats on site and a vehicular access gate, are necessary in the interests of the provision of satisfactory off-street parking that does not harm highway safety.

22. A condition seeking evidence of carbon dioxide emissions and water usage reductions is reasonable and necessary to comply with Policy DM1 of the Core Strategy and Policies 5.2 and 5.3 of the London Plan 2016[2] (LP). A condition seeking compliance with Part M4(2) of the Building Regulations is reasonable in ensuring the development provide accessible and adaptable dwellings in accordance with Policy 3.8 of the LP.

23. I have not imposed a condition requiring details of levels to be provided as this is unnecessary since the car park level is existing and retained and the submitted drawings indicate the height of the development in relation to the adjoining buildings.

Conclusion

24. For the reasons set out above, I conclude the appeal should be allowed and planning permission granted.

Rachael Pipkin
INSPECTOR

[2] The London Plan: The Spatial Development Strategy for London consolidated with alterations since 2011 (March 2016)

Schedule of conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: Site Plan, 1724-15C, 1724-02D and 1724-14C.

3) Prior to commencement of any development on site, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the details and measures approved as part of the Construction Management Plan, which shall be maintained throughout the entire construction period.

4) If any impact piling is required, this shall not take place until a piling method statement (detailing the type of piling to be undertaken and the methodology by which such piling will be carried out, including measure to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme of works) has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

5) The site and building works required to implement the development shall only be carried out between the hours of 0800 and 1800 Mondays to Friday and between 0800 and 1300 on Saturdays and not at all on Bank Holidays and Sundays.

6) Before any construction works above ground level on site are commenced, a sample of the facing materials to be utilised in the development hereby permitted, including details of the balustrading for the rooftop terrace, shall be submitted to and approved in writing by the local planning authority. The development shall then be built in accordance with these approved samples.

7) Before any construction works above ground level on site are commenced, a scheme of noise insulation/reduction shall be submitted to and approved in writing by the local planning authority. This should ensure that the noise level of 35 dBLAeq, 16 hour in living rooms and bedrooms during the daytime (0700 to 2300 hours) and 30 dBLAeq, 8 hour and 45 dBLAmax during the night time (measured with F time-weighting and between 2300 and 0700 hours) in bedrooms in accordance with BS8233:2014 shall not be exceeded.

   Where these levels cannot be met with windows open, appropriate acoustic ventilation should be provided so that the room can be sufficiently ventilated. The acoustic performance of any passive vent, variable speed mechanical air supply unit or whole house ventilation must be sufficient to ensure that the noise level standards given above are not compromised.

   All works which form part of the scheme shall be completed before any part of the development is occupied and retained thereafter.

8) Before any construction works above ground level on site are commenced, details of privacy screens for the proposed balconies shall have been

submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

9) Prior to the occupation of any of the dwellings hereby permitted, any windows in the side (north-east) elevation and situated on the first and second floor shall be constructed so that no part of the framework less than 1.7 metres above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing to a minimum of level 3 on the standard scale. Any film used to achieve the requisite obscurity level shall be non-perishable and tamper-proof, and shall be replaced immediately in the event that it ceases to result in obscurity to level 3.

10) Prior to the occupation of any of the dwellings hereby permitted, details of refuse storage facilities and recycling facilities shall have been submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details. Such facilities shall be permanently retained at the site.

11) Prior to the occupation of any of the dwellings hereby permitted, details of secure bicycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details. These facilities shall thereafter be kept available for the parking of bicycles.

12) Prior to the occupation of any of the dwellings hereby permitted, the car parking accommodation shown upon the approved drawings shall be provided with a hard bound dust free surface, adequately drained and thereafter it shall be kept free from obstruction at all times for use by the existing occupiers of 67 Victoria Road and shall not thereafter be used for any purposes other than the parking of vehicles for those occupiers and their visitors.

13) Prior to the occupation of any of the dwellings hereby permitted, the vehicular entrance gates as shown on the approved drawings shall be provided and permanently retained at the site thereafter.

14) No part of the development hereby permitted shall be occupied until evidence has been submitted to the Council confirming that the development has achieved not less than the CO_2 reductions (Ene 1) and internal water usage (Wat 1) standards equivalent to Code for Sustainable Homes level 4. Evidence requirements are detailed in the 'Schedule of evidence required for Post Construction Stage' for Ene 1 and Wat 1 of the *Code for Sustainable Homes: Technical Guide*. Evidence to demonstrate a 19% reduction compared to 2013 part L regulations and internal water usage rates of 105 l/p/day must be submitted to and approved by the local planning authority, unless otherwise agreed in writing.

15) No part of the development hereby permitted shall be occupied until details of how the residential units as built comply with Part M4(2) of the Building Regulations shall be submitted to and approved in writing by the local planning authority.

End of Schedule of Conditions