



Appeal Decision

Site Visit made on 10 May 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/L5810/W/20/3256715

Four Regions Chinese Restaurant, 102-104 Kew Road, Richmond TW9 2PQ

- 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 Mr S Mak against the decision of the Council of the London Borough of Richmond upon Thames.
- The application Ref 20/1205/FUL, dated 30 April 2020, was refused by notice dated 22 June 2020.
- The development proposed is described as, "Conversion of Existing 2 x Three Bed Maisonettes in C3 Use at First and Second Floors of 102 and 104 Kew Road into 7 No. Self-contained Studio Flats, Internal Remodelling of Existing Four Regions Restaurant on the Ground Floor to create New Front Door and Corridor for access to the flats above, Single Storey Rear Infill, Replacement of Roof with New Flat Red Clay Roof Tiles, Installation of 2 No. Velux Conservation Windows on Front Facing Pitched Roof, 2 No. Velux Conservation Windows and 1 No. AOV Window along with 12 No. Solar PV Panels on Rear Facing Pitched Roof, installation of 4 No. Solar PV Panels on the two Rear Outrigger Flat Roofs and replacement / re-positioning of the existing Extraction Duct at the Rear of the Property".

Decision

1. The appeal is allowed and planning permission is granted for a part change of use of ground floor from A3 to C3 (Residential) and alterations to existing shopfront to create new access door to facilitate the conversion of existing 2 x 3 bed maisonettes into 4 No. self-contained studio and 3 No. 1 bed Flats; Rear Infill between the Outriggers at first and second-floor level; Replacement of Roof with New Flat Red Clay Roof Tiles; Installation of 2 No. Velux Conservation Windows on Front Facing Pitched Roof; 2 No. Velux Conservation Windows and 1 No. AOV Window along with 12 No. Solar PV Panels on Rear Facing Pitched Roof; installation of 8 No. Solar PV Panels on the two Rear Outrigger Flat Roofs; and replacement / repositioning of the existing Extraction Duct at the rear of the property at Four Regions Chinese Restaurant, 102-104 Kew Road, Richmond TW9 2PQ in accordance with the terms of the application, Ref 20/1205/FUL, dated 30 April 2020, subject to the conditions set out in the attached Schedule.

Preliminary Matter

2. The description of development shown above is taken from the planning application form. It differs from that shown on the appeal form and decision notice. The latter identifies the proposed development as the 'Part change of use of ground floor from A3 to C3 (Residential) and alterations to existing shopfront to create new access door to facilitate the conversion of existing 2 x 3 bed maisonettes into 4 No. self-contained studio and 3 No. 1 bed Flats; Rear Infill between the Outriggers at first and second-floor level; Replacement of Roof with New Flat Red Clay Roof Tiles; Installation of 2 No. Velux

Conservation Windows on Front Facing Pitched Roof; 2 No. Velux Conservation Windows and 1 No. AOV Window along with 12 No. Solar PV Panels on Rear Facing Pitched Roof; installation of 8 No. Solar PV Panels on the two Rear Outrigger Flat Roofs; and replacement / repositioning of the existing Extraction Duct at the rear of the Property'. I have used this description in my consideration of the appeal and in my decision since it best describes the proposed development in precise and concise terms. It does not fundamentally alter the development which is the subject of this appeal.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the host property and the surrounding area, including the Kew Foot Road Conservation Area.

Reasons

4. The appeal site comprises the Four Regions Chinese Restaurant, which is located on Kew Road between Selwyn Avenue and Evelyn Gardens in an attractive area which contains residential properties as well as other commercial uses. This 3-storey mid-terrace property contains accommodation on its first and second floors and is classified as a Building of Townscape Merit.
5. The site is situated within the Kew Foot Road Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I observed that the significance of the conservation area, as a whole, as a designated heritage asset derives in part from the traditional forms of architecture embodied in the residential properties, and the high quality of workmanship represented on the facades of restaurants and other commercial properties.
6. The site benefits from an extant planning permission¹ for a very similar development to that proposed in this appeal. The main difference between that planning permission and this proposal relates to a proposed rear infill between the outriggers at first and second floor level. The main parties are in dispute as to the visual impact of this proposed infill.
7. I observed that the rear of the site has a very utilitarian feel, which much exposed pipework, flues, and extraction units being present at the rear of this row of properties. The proposed area of infill would not be large and matching brickwork and sensitive fenestration arrangements are proposed. Its mass would be contained within the dimensions of the existing lightwell. As such, this element of the proposal would blend well with the existing form of the building. The proposed windows would break up the mass of brickwork, which would ensure that the infill would not appear bulky. Therefore, I consider that the proposal would not harm the character and appearance of this Building of Townscape Merit.
8. I observed that there is no clear pattern of architectural rhythm with respect to the outrider elements across the row of properties of which the site forms a part. Indeed, several of the properties are infilled above ground floor level. The proposal would replicate that arrangement and accordingly in my view it would

¹ Local Planning Authority reference: 19/2300/FUL

- appear in-keeping with the row of properties as a whole. Importantly, the proposal would only be visible in glimpsed views from Evelyn Gardens, meaning that its visual impact on the appearance of the conservation area from public vantage points would be limited. The new extraction duct would be placed in a more prominent position, but the appellant has suggested that a condition could be imposed to relocate the duct inside the building. I concur that this would adequately mitigate the visual harm arising from the proposed position of the extraction duct.
9. To the rear of the site are several sets of 3-storey properties. These plots have long rear gardens which stretch horizontally past the site. Views of the site would be possible from the rear windows of those properties, but as those windows are not facing directly towards the site, the proposal would not be a particularly prominent feature. In any event, as the proposed rear infill would fit seamlessly with its host property, there would be no material harm to the pleasantness of their views of the conservation area and its appearance from their viewpoints would be preserved in that respect.
10. I have had regard to the representations submitted with respect to the effect of the proposal on the character of the conservation area, specifically in relation to the prospect of the future occupiers of the proposal being short-term tenants. However, although studio and one-bedroom flats are proposed, it does not necessarily follow that the future occupiers would be transitory, or that they would not contribute to maintaining the village-like character of the area.
11. Taking all of the above into account, I find that the proposal would not harm the character and appearance of the host property and the surrounding area, including the conservation area, and it would not harm the significance of the conservation area as a designated heritage asset. Thus, the character and appearance of the conservation area would be preserved.
12. The proposal would comply with Policies LP1, LP3 and LP4 of the London Borough of Richmond upon Thames Local Plan (adopted 2018) (Local Plan) which collectively provide that, amongst other things, the Council will require development to conserve and, where possible, take opportunities to make a positive contribution to, the historic environment of the borough. It would comply with the advice given in the Richmond and Richmond Hill Village Planning Guidance (2016) which seeks to ensure that local character, historic buildings, architectural features and archaeology are retained and enhanced.

Other Matters

13. The proposal does not propose any off-street parking provision and local residents have referred to parking pressure in the vicinity. However, the site is close to a railway station and bus stops, and has easy access to central London. The proposal also incorporates cycle storage. Hence, the future occupiers of the proposal would have good access to a range of travel options which would not involve the use of a private vehicle. Paragraph 109 of the National Planning Policy Framework (the Framework) provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The evidence does not demonstrate that the proposal would have such effects and therefore it is acceptable on this ground.

14. The potential for overlooking to the gardens and properties to the rear of the site has been raised. I note that the property already contains accommodation and windows to that accommodation above ground floor level and I observed an array of rear-facing windows above ground floor level on the row of properties as a whole. Consequently, the level of overlooking caused by the proposal would not be materially different to the existing situation.
15. The front of the appeal property is separated from the buildings across the road by a wide carriageway, and considering this distance involved, in my view the addition of the windows to the roof of the property would not cause material harm with respect to the living conditions of the occupiers of properties on the other side of the road, with reference to privacy. Conditions could be imposed to ensure that the Council has control over matters relating to refuse storage and collection, and also noise and disturbance in relation to the kitchen extraction system. Noise relating to anti-social behaviour is a matter that falls outside of the planning system.
16. Therefore, none of these matters alters my view as to the acceptability of the proposal and its compliance with the development plan.

Conditions

17. I have had regard to the conditions suggested by the Council. I have considered them against the advice on conditions set out in the Framework and the Planning Practice Guidance (PPG). Conditions are necessary, in the interests of clarity and enforceability, setting out the timescale for the commencement of development and the approved plans, respectively.
18. A condition is necessary requiring a scheme to be approved by the Council for the relocation of the kitchen extraction system (with the extraction duct to be located inside the host property), to safeguard the living conditions of nearby residents with respect to noise, and to safeguard the appearance of the local area. The Council's suggested text for this condition referred to matters of detail which the Council can assess when considering the submitted scheme, and therefore those details have been omitted.
19. Conditions are necessary specifying the style and positioning of the Conservation Roof Windows, and preventing the addition of any new external finishes to the property, to protect the character and appearance of the conservation area. A condition is necessary to ensure that cycle storage is provided, to encourage the use of sustainable modes of transport. A condition is necessary requiring that all residential units achieve a BREEAM Domestic Refurbishment Rating of Excellent, in the interests of promoting sustainable forms of developments.
20. Conditions are necessary requiring schemes to be approved by the Council with respect to noise transmission from the restaurant use (including preventing alterations to the ceiling which would undermine the sound insulation integrity of the partition(s)), and with respect to sound attenuation against externally generated noise sources, to safeguard the living conditions of the future occupiers of the development. Again, the Council's suggested text for these conditions referred to matters of detail which the Council can assess when considering the submitted schemes.

21. A condition is necessary requiring a scheme to be approved by the Council in relation to controlling the emission of fumes and smell from the premises, to safeguard the living conditions of the future occupiers of the development. A condition is necessary requiring a scheme to be approved by the Council in relation to the arrangements for the storage and disposal of refuse / waste, to safeguard the character and appearance of the area. The Council has also suggested a separate condition relating to refuse storage, but this matter can be considered by the Council as part of the scheme to be submitted under the imposed condition. Accordingly, I have not imposed this separate refuse storage condition.
22. A condition is necessary mandating water consumption targets, in the interests of water efficiency, in accordance with Policy LP22 of the Local Plan.
23. The Council has suggested a condition which would restrict the future occupiers of the development from obtaining parking permits. However, this would be a negatively-worded condition, and the PPG advises that such conditions should only be used in exceptional circumstances where there is clear evidence that the delivery of the development would otherwise be at serious risk², which has not been demonstrated in this case. Consequently, I have not imposed a condition relating to this matter.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

Alexander O'Doherty

INSPECTOR

² Paragraph: 010 Reference ID: 21a-010-20190723

Conditions

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (1:1250), Existing and Proposed Loft Plans (102-104KEW/NPA4), Existing and Proposed Ground Floor Plans (102-104KEW/NPA1), Proposed First Floor and Second Floor Plans (102-104KEW/NPA3 Revision C), Existing and Proposed Front Elevations (102-104KEW/NPA5), Existing and Proposed Rear Elevations (102-104KEW/NPA6), Existing and Proposed Roof Plans (102-104KEW/NPA7).
- 3) Notwithstanding condition 2, prior to the residential use hereby approved commencing, a scheme for the relocation of the kitchen extraction system (with the extraction duct to be located inside the host property), including specific details relating to noise compliance, shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and shall be fully implemented in accordance with the approved details before the residential use hereby approved commences, and thereafter shall be managed and maintained in accordance with the approved scheme.
- 4) The Conservation Roof Windows shown on the approved plans shall be black framed, conservation type with a central vertical bar, and shall sit flush with the roofline, and shall be retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 5) No new external finishes (including fenestration), including works of making good, shall be carried out other than in materials to match the existing, unless otherwise indicated on the approved plans or within the submitted application form.
- 6) The proposed cycle storage shown on the Existing and Proposed Ground Floor Plans drawing (102-104KEW/NPA1) shall be made available before the approved residential use commences. The cycle storage shall be retained for the duration of the development.
- 7) All residential units hereby approved shall achieve a BREEAM Domestic Refurbishment Rating of Excellent in accordance with the requirements of the relevant BREEAM scheme. No residential unit hereby approved shall be occupied until a Final BREEAM Certificate has been issued for it and produced to the Local Planning Authority certifying that a BREEAM Domestic Refurbishment Rating of Excellent has been achieved. In the event that such a rating is replaced by a comparable national measure of sustainability for building design, the equivalent level of measure shall be applicable to the approved development.
- 8) Prior to the residential use hereby approved commencing, a scheme detailing the sound insulation of separating partitions, including walls and ceilings, between the restaurant unit and any structurally adjoining residential units

shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and shall be fully implemented in accordance with the approved details before the residential use hereby approved commences, and thereafter shall be managed and maintained in accordance with the approved scheme. No alteration to the ceiling which undermines the sound insulation integrity of the partition(s) shall be undertaken without the grant of a further specific permission / consent by the Local Planning Authority.

- 9) Prior to the residential use hereby approved commencing, a scheme providing construction details for the residential units with respect to sound attenuation against externally generated noise sources shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and shall be fully implemented in accordance with the approved details before the residential use hereby approved commences, and thereafter shall be managed and maintained in accordance with the approved scheme.
- 10) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises (including any fumes and smell generated from cooking or any other activity undertaken on the premises) shall be installed in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 11) Prior to the residential use hereby approved commencing, a scheme providing details of the arrangements for the storage and disposal of refuse / waste shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme and shall be fully implemented in accordance with the approved details before the residential use hereby approved commences, and thereafter shall be managed and maintained in accordance with the approved scheme.
- 12) The residential units hereby approved shall not be occupied other than in accordance with the water consumption targets of 110 litres or less per person per day, and 5 litres or less per person per day for external water use.