



Appeal Decision

Site visit made on 02 June 2023

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2023 22nd June 2023

Appeal Ref: APP/Z5630/W/22/3304009

67 Victoria Road, Surbiton KT6 4NR

- 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 Fleetwood Developments Limited against the decision of Royal Borough of Kingston Upon Thames Council.
 - The application Ref 22/00772/FUL, dated 08 March 2022, was refused by notice dated 20 June 2022.
 - The development proposed is 'Conversion of existing offices Class E (B1) on the first floor into two 1 bedroom flats (C3)'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended following submission of the application; I have utilised the original description, which was clear and differed only in respect of use of parenthesis and expression of quantities.

Main Issues

3. The main issues are:
 - Whether the principle of residential development in this location is acceptable; specifically, in relation to the loss of employment space,
 - Whether the proposal would offer an appropriate mix of housing to meet local need,
 - The effect of the proposal on highway safety in relation to the provision of vehicle parking spaces,
 - Whether the proposal makes adequate provision for refuse and recycling storage, and meets with requirements for internal water use; and,
 - Whether the proposal would provide acceptable living conditions for future occupants of the development.

Reasons

Principle of development

4. The appeal scheme seeks to convert the existing first floor office space of a high-street office unit (currently in use as an estate agency) into two

residential flats. The proposal is that the existing ground floor office use would be retained, likely by the existing estate agency client.

5. The parties agree that the principle of housing development in Surbiton town centre location is supported by the relevant housing policies of the Development Plan. In any case, the parties also acknowledge that there is an undersupply of deliverable housing land; the Council's February 2022 monitoring document states a 2.32 year's supply for the period between 01 April 2021 and 31 March 2026. This is a substantial unmet need. The relevant development plan policies for the supply of housing are to be regarded as out-of-date and the 'titled balance'¹ in favour of sustainable development applies.
6. Policy DM17 of the Royal Borough of Kingston Local Development Framework Core Strategy (CS), adopted 2012, seeks to retain the Borough's supply of available employment land by resisting alternative uses for employment land unless it has been demonstrated by sound evidence and rigorous marketing over a number of years (up to 2 years) that there is no qualitative and quantitative need for a range of employment uses.
7. The appeal proposal would result in the loss of the first-floor office space, whilst the ground floor space is to be retained in office use.
8. Policy CS12 of the CS seeks to enhance the vitality and viability of Surbiton Town Centre, whilst policy E1 of the London Plan (LP), adopted 2021, seeks locally orientated office provision to meet local needs. Policy E1 therefore seeks to preserve existing viable office floor space capacity whilst releasing surplus to other uses including residential use. Policy SD9 of the LP relates to town centres and recognises a projected declining demand for such office space.
9. There has been no marketing of the proposed subdivided space as employment space. Indeed, little evidence has been put before me to identify the appeal site as either contributing to local need or as surplus to it in line with policies CS12 and E1. The Appellant argues that the rear-access arrangement of the space would make it difficult to let; however, the space is currently let as a whole to the existing tenant with access to from the front. No evidence has been provided to show that other tenants would not be interested in either the whole space or the subdivided space. As such, there is a lack of evidence in terms of robust marketing to comply with policy DM17, but there is similarly limited evidence regarding Surbiton Town Centre's local need in line with policies CS12, E1 and SD9.
10. As such, the appeal scheme would directly conflict with policy DM17 and would be neutral in respect of policies E1, SD9 and CS12.

Housing mix

11. Policy DM13 of the CS requires that development accord with the principles of good design to provide quality amenity space and adequate internal space. It further seeks an appropriate mix of housing to meet local needs, with a 30% minimum of 3 or more bedroom family-sized units. The appeal scheme proposes 1 x one bedroom unit and 1 x 2 bedroom unit, which does not comply with the minimum 30% of 3 bedroom units.

¹ National Planning Policy Framework (the Framework) paragraph 11 and FN8.

12. The Appellant has referred to examples of other development which has a similar mix; I have had regard to these but have considered the appeal on its own merits.
13. It appears clear that the site is unsuitable to provide such a mix. It is constrained by its first-floor location and its size so as it would not afford adequate internal living space and amenity space should a larger unit be proposed. In any case, the proportionate mix of units is naturally skewed for very small schemes. As such, whilst the proposal would not provide a 3-bedroom unit, it would provide accommodation to meet a significant unmet housing need for all types of housing.
14. Moreover, the Council's reason for refusal refers to a requirement for units of 2 or more bedrooms to meet an objectively assessed need (OAN) of 93% for this type of accommodation, which does not align with policy DM13. The appeal scheme would provide one x 2-bedroom unit towards this need.

Highway safety

15. The appeal site is in a high-street, with a PTAL rating of 5. It is well located for sustainable modes of travel, and it is thus proposed that the development be car-free. The appeal is supported by a unilateral undertaking (UU) which would prevent future occupiers from obtaining parking permits for on-street parking. This would avoid any undue congestion or parking pressure.
16. The land to the rear of the appeal site is currently under construction to create flats in accordance with a previous planning approval. The appeal scheme would share the secure cycle parking within the existing permitted under-croft parking area.
17. The scheme would therefore accord with policies T5 and T6 of the LP and policies DM9 and DM10 of the CS. These policies seek, among other things, to encourage sustainable modes of travel and restrict car parking in line with accessibility and connectivity.

Refuse and recycling and water use

18. Adequate refuse and recycling storage would be provided within the bin store accessible via the under-croft parking area. The scheme would therefore comply with policy DM10 of the CS, which seeks, among other things, high quality design.
19. Policy SI5 of the LP and DM4 of the CS seek to minimise the use of mains water in line with the Optimal Requirements set out in Building Regulations through the use of planning conditions. I am satisfied that a planning condition could have been imposed to comply with policy SI5 were the appeal allowed.

Living Conditions

20. Policy D6 of the LP and policies DM10 and DM13 of the CS require development to be of a high-quality design which creates comfortable and functional living accommodation which is fit for purpose. Policy DM6 requires a minimum of 5 metres square of private amenity space, and it also requires easy accessibility to communal space.
21. Both new flats would have access to a central courtyard at first floor level, shared with the existing flats. Both flats would also have access to a small

timber deck on the roof, shared communally with the existing flats. Neither flat would have private amenity space, contrary to policy D6.

22. Whilst policy guidance encourages natural surveillance for safety purposes, the communal courtyard would have direct mutual overlooking with the main living areas of Flat 2. This would provide poor quality outlook and little privacy for Flat 2 and would create an awkward arrangement for users of the communal space. As such, the courtyard would not be high quality and fit for purpose.
23. Moreover, to prevent close mutual overlooking between Flat 2 and the existing flat on the other side of the courtyard, it is proposed to put in a frosted privacy screen across the courtyard; greatly reducing the outlook of the existing flat, albeit potentially not the outlook from main living areas, and further exacerbating the awkward arrangement.
24. The roof terrace would be accessed via a large rooflight. It is a small area and would provide little qualitative addition to the living conditions of future occupiers, particularly given that it would be shared between all the existing and proposed flats.
25. As such, the proposal would be contrary to policies D6 of the LP and policies DM10 and DM13 of the CS.
26. There is some public open space at approximately a 5-10 minute walk from the appeal site and the site is located well for onward travel to other recreation facilities, which weighs modestly in favour of the scheme.

Conclusions and planning balance

27. The appeal scheme would conflict with the relevant policies of the development plan when taken as a whole.
28. There is a significant unmet housing need to which the appeal scheme would make a modest contribution which weighs in favour of the scheme.
29. The scheme does not provide the mix of housing most required to meet that unmet local need, however, the strict application of this requirement should be avoided given the extent of unmet need. Moreover, the appeal scheme would contribute two units of much needed accommodation whilst making efficient use of the land and maximising its output.
30. The appeal scheme would result in the loss of employment land. This would not clearly and demonstrably outweigh the benefits of the scheme identified above alone. However, the quality of living accommodation would fall short of the expected standard of living conditions, which erodes the weight to be given to the modest contribution the scheme would make to the unmet housing need, as any such accommodation must be of an adequate standard.
31. Therefore, on balance, the appeal scheme would not amount to sustainable development and the adverse impact of allowing the appeal would significantly and demonstrably outweigh the benefits of doing so, when taken against the Framework as a whole. The appeal is accordingly dismissed.

Kim Langford Tejrar

INSPECTOR