



Appeal Decision

Site visit made on 3 April 2023

by C Harding BA(Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2023

Appeal Ref: APP/Z5630/W/22/3303692

The Regard Partnership, 104 Tolworth Park Road, Tolworth, KT6 7RH

- 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 P Sodha against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03936/FUL, dated 8 December 2021, was refused by notice dated 30 June 2022.
 - The development proposed is described as “demolition of rear extension and erection of part rear ground floor, new first floor extension with roof and conversion from Class C2 to Class C3 to form 5 x self-contained dwellings with associated bin store and cycle provision”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development upon the character and appearance of the area;
 - the effect of the proposed development upon highway safety;
 - the effect of the proposed development upon the living conditions of the occupiers of adjacent properties with regard to sunlight and daylight, and;
 - the effect of the proposed development upon the supply of Class C2 housing.

Reasons

Character and appearance

3. The appeal property comprises a significantly extended property, which the evidence indicates is a former pair of bungalows, located within a residential street. The design of residential properties within the street is varied, with a wide range of approaches evident, although most properties are of two-storeys in height.
4. The proposed development would lead to the addition of a second storey to the footprint of the existing building, with further accommodation provided above, within a mansard roof. This would amount to a considerable level of further extension to the appeal property and would lead to the substantial loss of the character of the property as it currently stands.

5. Furthermore, although the street is varied in character, there is a degree of uniformity in the scale of existing development, with most comprising detached or semi-detached houses of either single or two-storey construction and of a modest domestic scale. In comparison, the proposed development would be of considerable massing and bulk, would be of rigid boxlike proportions, and despite the use of a mansard roof would appear as a significant building within the streetscene in comparison to those buildings around it, particularly as it would also be of a greater height.
6. Although there are other examples of other buildings in the area that incorporate a mansard roof, most notably within a development on Red Lion Road, it is not a form of development that can be found within this part of Tolworth Park Road, and the proposed development would not be viewed in the context of other similar developments. Accordingly, despite the use of a traditional palette of materials, the proposed development would appear incongruous with the street in terms of both its scale and design approach.
7. The proposed development would lead to harm to the character and appearance of the area. It would therefore fail to accord with Policies CS8 and DM10 of the Royal Borough of Kingston upon Thames Local Development Framework ('LDF') which together, and amongst other criteria, requires new development to incorporate principles of good design, to respond to a site's context, and to contribute to the character and local distinctiveness of an area, including in terms of scale, height and form.

Parking provision

8. Although the site is well related to local shops and services, it has a low Public Transport Accessibility Level ('PTAL') 2 rating. The proposed development would provide no parking within the appeal site and the appellant indicates that the proposed development would be likely to generate demand for four parking spaces, which would align with the maximum provision set out in the London Plan. This is not disputed by the Council.
9. Accordingly, future occupiers of the proposed development would be likely to rely upon existing on-street parking in order to meet this demand. Tolworth Park Road is not within a Controlled Parking Zone (CPZ), however, and although only a snapshot in time, I saw on my visit that despite the fact that a number of properties in the street have off-street parking provision, that demand for parking within the street is high, which is consistent with the observations of local residents.
10. As identified by the provided Transport Technical Note¹, the proposed development could facilitate the removal of drop kerbs that currently exist to the front of the appeal site, and this would enable the provision of additional on-street parking spaces. However, it would be unlikely to lead to the formation of four parking spaces, meaning that there would be a residual unmet demand leading to an increased pressure upon existing on-street parking provision.
11. The most recent use of the appeal site would have also been likely to generate a level of on-street parking demand as a result of staff and visitor arrivals and this use could recommence without the need for further planning permission.

¹ "Transport Technical Note, P2207.8.104 Tolworth Park Road, Tolworth, KT6 7RH". Kronen.

However, I have been provided with no substantive evidence with regards to the levels or patterns of demand that could potentially be generated by such a use were it to resume. Accordingly, I do not afford this factor significant weight in my considerations.

12. The proposed development would lead to an increased demand in on-street car parking and at peak times such as in the evenings, in an area where the evidence indicates that there is already a high level of demand at such times. I therefore conclude that the proposed development would be likely to give rise to parking in unsafe positions which could compromise highway safety.
13. The proposed development would therefore be likely to be harmful to highway safety. It would therefore fail to accord with LDF Policies DM9 and DM10 which together, and amongst other criteria, require new development to comply with parking standards and have regard to highway safety.

Living conditions

14. The proposed development would lead to a significant increase in the overall scale of the appeal property. Furthermore, the existing extensions at the appeal property project into the rear garden in close proximity to the shared boundaries with neighbouring properties, and the proposed increase in the height of these elements, which project beyond parts of the rear elevations of the neighbouring properties would represent a significant level of development in close proximity to neighbouring properties.
15. The appellant has provided a detailed assessment² of the proposed development on the daylight and sunlight reaching the windows at 102 and 108 Tolworth Park Road. It is identified that Windows 3 and 11 within the assessment would fail to meet Building Research Establishment (BRE) guidance with regard to Vertical Sky Component, before going on to conclude that these windows would meet the No Sky Line (NSL) test. Whilst it appears that Window 3 relates to a ground floor kitchen window at 108 Tolworth Park Road, the location of Window 11 is less clear. It is suggested within the NSL test that Windows 10 and 11 serve a ground floor kitchen at 102 Tolworth Park Road, however this does not align with the window numbering identified within Chapter 6 of the document, and furthermore, the layout of 102 Tolworth Park Road is based upon assumptions.
16. The provided assessment ultimately concludes that the proposed development would have some effect upon the levels of daylight and sunlight available to occupiers of neighbouring properties, but that this effect would be within acceptable limits having regard to BRE guidance. However, due to the inconsistencies and assumptions that I have identified with the report, the weight I am able to attach to the findings of this document is limited.
17. Therefore, having regard to the orientation of the appeal site and neighbouring properties, and from my site visit, I consider that the proposed development would be likely to have an adverse effect upon the levels of daylight and sunlight available to occupiers of these properties, and the provided detailed sunlight and daylight assessment does not persuade me otherwise.
18. I cannot be satisfied, therefore, that the proposed development would not lead to harm to the living conditions of occupiers of adjacent properties with regard

² "Daylight and Sunlight Assessment, 104 Tolworth Park Road, KT6 7RH" T16 Design, July 2022.

to daylight and sunlight. The proposal would therefore fail to accord with LDF Policies CS8 and DM10 which together, and amongst other criteria require new development to relate well to its surroundings and have regard to the amenities of neighbours including in terms of sunlight and daylight.

Supply of C2 housing

19. Although unoccupied at the time of visit, I understand the property was last in use as a C2 residential care home providing accommodation in six bedrooms.
20. LDF Policy DM14 states that the loss of all types of existing housing will be resisted, and the proposed development would lead to the loss of the existing C2 use. In addition, London Plan ('LP') Policy H12 advocates the retention of supported and specialised housing which meets an identified need.
21. I have been provided with no substantive evidence in relation to the current demand for C2 accommodation within the borough. As the proposed development would result in the provision of five C3 residential flats, the appeal site would continue to provide accommodation, albeit of a different type.
22. As I have been provided with no evidence in relation to the level of demand for the C2 accommodation, I am unable to conclude that the proposal would lead to the loss of supported or specialised accommodation for which there is an identified need, and accordingly, the proposal would not conflict with LP Policy H12. Furthermore, although it would lead to the loss of C2 housing, the proposal would lead to an overall net gain in the general supply of housing. As a result, it would not conflict with LDF Policy DM14 which states that the loss of all types of existing accommodation will be resisted.

Planning Balance and Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires me to determine the appeal in accordance with the development plan unless material considerations indicate otherwise. In this instance, the Council cannot demonstrate a five-year supply of housing sites, and Framework footnote 7 means that paragraph 11 d) ii. of the Framework should be applied.
24. The proposed development would lead to harm to the character and appearance of the area, would lead to harm to highway safety, and would lead to harm to the living conditions of occupiers of neighbouring properties with regard to daylight and sunlight. The proposal would therefore be contrary to paragraphs 112 and 130 of the Framework which together require new development to create places that are safe and attractive, are sympathetic to local character and add to the quality of the overall area, and have a high standard of amenity for existing and future users.
25. The proposed development would make a positive contribution towards boosting housing supply in a location with good access to facilities and services and would also result in some economic benefits during the construction phase and through local expenditure by future residents. In view of the shortfall in housing delivery and the advice within Paragraphs 60 and 81 of the Framework, which highlight the importance of ensuring an adequate supply of housing sites, and the need to support economic growth and productivity, I give these considerations moderate weight. In addition, the proposal would incorporate energy efficiency measures and a green roof, which are further,

albeit minor benefits of the proposal which would accord with Paragraph 152 of the Framework which states that the planning system should support the transition to a low carbon future.

26. Having regard to Paragraph 11 (d) of the Framework and taking all matters into consideration, I conclude that adverse impacts of the development would significantly and demonstrably outweigh the benefits.
27. The proposal would conflict with the development plan as a whole. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR