



Appeal Decision

Site visit made on 19 June 2023

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/Z5630/W/22/3293860

Links Cottage, 26 Galsworthy Road, Kingston KT2 7BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr M Jain against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref: 21/02077/OUT, dated 27 June 2021, was refused by notice dated 28 October 2021.
 - The development proposed is for outline planning permission for the demolition of existing building and the erection of a new student accommodation building housing 29 student rooms and office with associated cycles, bins and drop-off areas.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised *National Planning Policy Framework* (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
3. The planning application was submitted in outline form with all matters other than landscaping reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as indicative and show what may, not necessarily what will be constructed.

Main Issues

4. The main issues in this appeal are:
 - whether there is a need for student accommodation,
 - the effect of the proposal on the living conditions of future occupiers, with particular reference to space standards, communal facilities, daylight and sunlight and ceiling heights,
 - highway safety, including resident parking permits,
 - trees, biodiversity, and air quality; and,
 - design and accessibility.

Reasons

Need for student accommodation

5. The appeal site is an overgrown parcel of land to the rear of the apartment building known as 'Badminton Court' that is accessed from Galsworthy Close via a single lane entrance to the side of the host dwelling. The entrance is found directly opposite a crossover that gives access to the car parks of Kingston Hospital. A Kingston University campus is located at a reasonably short distance from the appeal site and can be accessed by public transport from the wider London area and beyond.
6. As such, there is likely to be at least some demand for student accommodation, including from student doctors and nurses associated with Kingston Hospital. I also acknowledge that Kingston University seeks international status, meaning that university students are drawn from across the world, and that there is competing demand for all types of accommodation in the Borough as identified in the Royal Borough of Kingston-upon-Thames Local Development Framework Core Strategy 2012 (KCS).
7. However, the Council acknowledge, in respect of the demand for student accommodation, that aspects of the KSC are likely to be relatively vintage because of the recent construction of other purpose-built student accommodation in the Borough. Moreover, whether students are part-time or not, Kingston University has reported the necessity for a streamlining and cutting of courses over the last 8 years and has plans for student number reduction. This is likely to result in a lower demand for places and hence student accommodation. I have limited convincing evidence to the contrary.
8. Indeed, whether the proposed accommodation would be modern in style or not, without a written and binding agreement with a relevant institution I am not persuaded that the proposal would be of interest to organisations such as Kingston University or Kingston Hospital.
9. I acknowledge informal contractual arrangements would also be the case for private student accommodation providers. However, the private market can flex to meet changing needs. For example, the reduction in the buy to let market in favour of single-family accommodation. Whereas, in my view, the proposed development would remain, design specific student accommodation for which current or future demand has not been proven.
10. Overall, I conclude that the need for student accommodation has not been proven. It follows then, that the proposal does not meet the aims of Policy H15 of the London Plan 2021 (LP) which says, amongst other things, that student accommodation should be secured through a nomination agreement for occupation by students of one or more higher education provider and Policies CS10 and CS15 of the KCS and the Framework when read as a whole.

Living conditions

11. The appellant has brought to my attention similar schemes to the proposal that are located in Kingston town centre, and the Council's ceiling height requirements of different types of dwellings. However, I have limited details of those schemes and cannot be certain if those dwellings were permitted under the same development plan as the proposal before me or not. Therefore, I have considered the proposed development on its own planning merits.

(a) Space standards

12. The appellant contends that most of the studio flats are relatively generous. However, Policy Guidance 46 of the Royal Borough of Kingston-upon-Thames Residential Design Supplementary Planning Document 2013 (SPD) says that studio flats should have a minimum gross internal area of 20 sqm. Six of the proposed 29 units would not meet these space standards. As such, although the appellant contends that the shortfall would be marginal, in my view, the studio flats would be cramped for the purposes of day-to-day student living, which would include the need for a study area within in a single space.
13. I conclude therefore, that the proposal would be contrary to Policies DM10 and DM13 of the KCS which are clear that development proposals will be required to incorporate principles of good design and Paragraph 130 of the Framework.

(b) Communal facilities

14. The single internal communal space would be relatively modest in size for the purposes of socialising and eating. Therefore, other than outside the building, this would restrict the opportunity for occupants and their visitors to congregate and socialise in numbers, particularly at colder times of the year when the weather is likely to be less attractive for outdoor gatherings. Consequently, even taking the ground-floor visitor toilets into account, the communal space would fail to offset the limitations of the inadequate floorspace in the smaller units.
15. The studios would have private kitchenettes and washing machines. Therefore, the office-type space is likely to be adequate for the sole use of administration and post associated with the scheme. However, even if a collection box would be secured by condition, I am not persuaded that the drop off for larger items and parcels has been satisfactorily resolved by the appellant as the box would be external to the main building.
16. Consequently, the proposed development would not meet the aims of Policies DM10 and DM13 of the KCS which include the requirement to ensure adequate private and/or communal amenity space, and Paragraph 130 (f) of the which is clear that planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

(c) Daylight and sunlight

17. All the studio flats would have an openable window facing onto relatively verdant spaces, and most of the studios would be orientated either to the south, east or west. However, while the remaining north facing studios are likely to be thermally comfortable during warmer periods of the year, they would have reduced light penetration, particularly at certain times of the day and during the darker months of the year. Therefore, while the technical evidence before me related to daylight and sunlight is less than ideal, in my view, the north facing flats would provide gloomy living spaces that would erode study conditions and subsequently harm the living conditions of future student occupiers.

18. For the reasons given above, the proposal would be at odds with Policy D6 of the LP, and Policies DM10 and DM13 of the KCS which say that housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings, and for similar reasons Paragraph 130 (f) of the Framework.

(d) Ceiling heights

19. I acknowledge that the generous and pleasant surroundings would help to provide a sense of spaciousness within the studio flats. However, the fact remains that the ceiling heights of all 29 studio flats do not meet the requirements of Policy D6 of the LP. This would further contribute to the erosion of light quality in the flats and would also be likely to lead to a feeling of oppression for the future occupiers, particularly in the smaller units.
20. I conclude therefore, for the reasons given above that the proposal in respect of space standards, communal facilities, daylight and sunlight and ceiling heights would harm the living conditions of future occupiers.
21. Accordingly, in respect of the living conditions of future occupiers the proposal does not meet the aims of Policy DM10 of the KCS, Policy D6 of the LP which says that housing development should provide adequately sized rooms, and for similar reason, the Framework when read as a whole.

Highway safety and parking permits

22. The appellant has drawn my attention to 3 other urban-type schemes for student accommodation in Kingston-upon-Thames. However, I have limited details of those schemes in respect of highway safety and have considered the proposal on its merits.
23. I noticed at my morning site visit that Galsworthy Road is a well-used highway that runs down to the queuing traffic found at the junction with the A238 (Coombe Road) and that there is a bus stop and pedestrian crossing within a few steps of the main entrance to 'Badminton Court'.
24. The proposal is for 29 studio flats, rather than a previous proposal for two family dwellings on the site¹. Therefore, although there is a parking and turning area to the front of 'Badminton Court', the number of movements of refuse, fire and other emergency vehicles is likely to be higher than those associated with a smaller scheme or the host dwelling alone. Moreover, I have limited evidence before me to demonstrate that larger type vehicles could enter and exit the appeal site in forward gear.
25. In addition, particularly at certain times of the day and at specific points in the academic year, while there would be no onsite parking, the pick-up and drop-offs associated with the development, in combination with the vehicle movements associated with 'Badminton Court' and those visiting Kingston Hospital, would be likely to lead to convoluted and increased ingress and egress vehicular movements.

¹ 18/14913/FUL

26. As such, notwithstanding that some journeys would be likely to be carried out on foot or by bicycle to nearby shops and services, any long-winded movements as vehicles attempted to manoeuvre in and out of the site via the relatively narrow accessway, and in the absence of any recognised passing places within in or adjacent to the appeal site, would be likely to result in conflict between vehicles, pedestrians, or wheelchair users on Galsworthy Lane. Specifically, but not limited to, those making their way from the development to the bus stop or to the nearby pedestrian crossing on this side of the road.
27. Furthermore, even if a 'car-cap' permit type scheme as described in the appellant's draft 'Unilateral Undertaking' or other parking management arrangements were acceptable to the Council, the additional vehicle movements associated with the dwelling in this specific location next to Kingston Hospital would be likely to add to the peak-time congestion at the junction with the A238. I conclude therefore, that the proposal would harm highway safety.
28. Consequently, the proposal does not accord with Policy T4 of the LP and Policies DM9 and DM10 of the KCS, and for similar reasons Paragraph 111 of the Framework which requires, amongst other things, that development proposals should not increase road danger.

Trees, biodiversity and air quality

29. There are a number of trees on and around the appeal site, one of which, at the very minimum, would need to be removed. However, notwithstanding a previous AIA for a two-dwelling scheme mentioned above, the appellant has not submitted an up-to-date Arboricultural Impact Assessment (AIA). As such, I am not certain whether the longevity of the trees on the site would be harmed by this very different proposal to the previous scheme or not.
30. The overgrown appeal site is located adjacent to trees and the Coombe Wood Golf Course which is a Site of Interest for Nature Conservation (SINC). An ecology report appraisal was carried out by the appellant in 2017 as part of the previous application for two dwellings on the site. However, the validity of the assessment has now expired. Therefore, particularly as there is the potential for roosting bats on the site, a Preliminary Ecological Appraisal would now be required by the Council (PEA). I see no reason to disagree.
31. The appeal site is set back from the highway behind 'Badminton Court' near to a golf club. However, as the appellant has not submitted an Air Quality Assessment (AQA), I cannot be certain that the proposal would meet the aims of Policy S12 and S13 of the LP which says that major development should be net zero-carbon.
32. As such, an up-to-date AIA, PEA and AQA would be necessary prior to any permission being granted as they may affect the scheme design. The appellant's suggestion that the AIA, PEA and AQA assessments could be secured by conditions therefore fails to address the issues above.

33. Therefore, the proposal in respect of trees, biodiversity and air quality would be contrary to Policies G6, G7, SI2 and SI3 of the LP and Policies DM6, DM10 and DM12 of the KCS which require that SINCs should be protected and that Borough's in developing Development Plans should use up-to-date information about the natural environment, and Paragraphs 131, 174 and 186 of the Framework.

Design & accessibility

34. The appellant has not submitted an 'Inclusive Design Statement' in support of his case. Nonetheless, he has brought to my attention that the proposal would have a ramped access, a lift and that the ground floor units would be wheelchair compliant.
35. However, notwithstanding Building Regulations, as the proposal is an outline application, I cannot be certain that the proposal would meet building Regulation requirements for M4(2) (accessible and adaptable dwellings) and M4(3) (wheelchair user dwellings) or have a step free access which may affect the scheme design. The suggestion by the appellant that the requirement could be secured by a pre-commencement condition therefore fails to address the issue.
36. Consequently, the proposal would not meet the requirements of Policies D5 and D7 of the LP, which is clear that development proposals should achieve the highest standards of accessible and inclusive design.

Planning Balance and Conclusions

37. Although the main parties agree that the Council cannot demonstrate a five-year housing land supply, and as such, Paragraph 11(d) of the Framework is engaged, in this case, I find the adverse impacts of the proposal significantly and demonstrably outweigh the benefits, which include the short-term construction and employment benefits as well as the public benefits associated with the provision of 29 student studio apartments towards the Council's housing land supply.
38. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR