



Appeal Decision

Site visit made on 15 August 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/Z5630/W/22/3312965

Unit 1, Brooklands Lodge, 93 Potters Grove, New Maldon, Kingston Upon Thames KT3 5DF

- 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 William Togher of Kidbrook Homes Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/01694/FUL, dated 23 May 2022, was refused by notice dated 10 August 2022.
 - The development proposed is the change of use from vacant commercial unit at ground floor level (Class A2), to 2no. apartments (Class C3)
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from vacant commercial unit at ground floor level (Class A2), to 2no. apartments (Class C3) at Unit 1 Brooklands Lodge, 93 Potters Grove, Kingston upon Thames, New Malden, KT3 5DF in accordance with the terms of the application, Ref 22/01694/FUL, dated 23 May 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The appeal is accompanied by a revised ownership certificate. This has had no bearing on the determination of the appeal for which I have had regard only to the planning merits of the proposal. I am satisfied that no parties have been prejudiced as a result of the incorrect ownership certificate submitted at the planning application stage and I have determined the appeal accordingly.

Main Issues

3. The main issues are:
 - Whether the loss of employment floorspace would meet the requirements of development plan policy;
 - The effect of the development on the supply of family-sized accommodation within the borough;
 - The provision of adequate refuse and recycling storage; and
 - The effect of the proposed development on on-street parking in the area.

Reasons

Loss of Employment Floorspace

4. The proposal involves the change of use of premises which form part of a recently completed development consisting of five houses, two self-contained flats and a commercial unit on the junction of Potters Grove with South Lane. It lies within an established area of predominantly residential development.
5. Policy DM17 of the Kingston Upon Thames Core Strategy 2012 (KCS) seeks to protect the supply of employment sites and premises across the borough. Outside of designated areas, which includes the appeal site, the policy states that employment uses will be protected to meet business needs and provide employment. In order to justify the loss of employment floorspace there must be no quantitative or qualitative need for a range of employment uses established through a suitable period of effective marketing for up to two years.
6. The premises have been marketed via a local estate agent (notwithstanding a planning condition on the development to restrict the use of the premises to those falling within former Use Class B1) for a range of uses within new Use Class E, on a long leasehold basis since 2019 with no offers forthcoming. I have no evidence before me to suggest that the asking price is unreasonable or the tenure arrangement unrealistic for a prospective occupier. Whilst I note that the unit has not been offered on a shorthold rental basis, I have no evidence before me which would suggest that the unit would be more attractive to prospective tenants on that basis or that there is an unmet demand for the type of unit on offer.
7. The floorspace on offer is relatively small, and not located close to other similar business premises. It does not form part of a larger commercial site which small or medium sized businesses might be more interested in or indeed has a support network around it, due to its residential setting. Nor do I consider that the unit could reasonably be subdivided into smaller units which would be more attractive to prospective purchasers.
8. From the evidence before me I am satisfied that appropriate marketing of the premises has taken place for up to two years as required by KCS policy DM17 which has demonstrated adequately that there is no qualitative or quantitative need for the business premises on offer. Moreover, given that the premises have never been occupied as a commercial unit, I do not consider that the loss of this space would represent a loss of employment land.
9. I therefore conclude that the proposed change of use would not result in a material or harmful loss of employment land in the borough which would adversely affect its overall supply or subsequent employment opportunities. Therefore, the proposal would not conflict with KCS policy DM17 which seeks to protect employment land and premises in the Borough.

Supply of Family Homes

10. KCS policy DM13 requires new residential proposals to incorporate a mix of unit sizes and types and to provide a minimum of 30% of dwellings as three or more-bedroom units and as such the proposal would not comply with the requirements of the policy. However, this is only a small-scale development, providing two additional dwellings, both of which would be 1-bedroomed flats.

11. Although, in terms of floorspace, the unit would be capable of conversion into one 3-bedroom dwelling which would reasonably be expected to be occupied by a family, the outdoor amenity space that would be provided would be poor both in size and useability for a dwelling of this size and type of occupation. As such, it would be unsuitable as a 3-bedroom dwelling.
12. Furthermore, when taking the development as a whole it initially provided five 3-bedroom units and two 1-bedroom flats. Even taken the current proposal into account the provision of 3-bedroom units would exceed the target set out in the policy. Moreover, I have no evidence before me that there is no demand for 1-bedroom accommodation in the borough and the policy does not preclude the provision of such sized units. Whilst I recognise that there is an acute need for 3-bedroom dwellings in the borough, this is not a reason to provide sub-standard accommodation as a means to satisfy the need.
13. I therefore conclude that the proposal would not demonstrably or adversely affect the supply of family-sized homes in the borough. Consequently, I find no material conflict with KCS policy DM13 which seeks to ensure that housing is of high quality and of an appropriate type and only requires demonstration that the site is unsuitable or unviable (my emphasis) for the provision of 3-bedroom homes.

Refuse and Recycling Storage

14. The Council's Residential Design Guide Supplementary Planning Document 2013 (SPD) sets out guidance on the integration of refuse and recycling storage facilities into the design of residential developments.
15. From my observations on site, I see no overriding reason why refuse and recycling storage provision for the proposed apartments could not be accommodated within the site in an appropriate location in accordance with the guidance set out in the SPD. I am satisfied therefore that such matters could be controlled by a suitably worded condition.
16. Consequently, adequate provision could be made for the storage of refuse and recycling. I therefore find no conflict with KCS policies CS9 and DM8 which seek to ensure that development relates well and connects with its surroundings and requires integrated well designed recycling facilities to be incorporated into new developments. I also find no conflict with advice set out in Policy Guidance 22 of the SPD.

On-street Parking

17. Although the appeal site is located in an area with a PTAL rating of 1b, bus stops are located close by on South Lane and Kingston Road. A nearby cycleway provides a cycle link to New Maldon Railway Station and a range of day-to-day services and facilities are located a short walk or cycle ride from the appeal site.
18. During my site visit, during the day, I observed that on street parking in the locality is unrestricted. Most properties on Potters Grove and South Lane also have off street parking. I also noted that parking spaces were available close to the appeal site. Whilst I appreciate that my observations represent only a snapshot in time, I have no reason to believe that they were not typical for a normal weekday.

19. The scheme has no off-street parking provision. It would be likely to generate a maximum requirement of two car parking spaces, however, a parking survey demonstrates that this could be adequately accommodated on the surrounding residential streets without exacerbating pressure for on-street parking or highway safety. Whilst I have taken representations on this matter into account, I have no compelling evidence before me to disagree with the conclusion reached in the parking survey.
20. I therefore conclude that the proposal would not lead to undue parking pressure in the locality and consequently there would be no conflict with KCS policies DM9 or DM10 which seek to ensure new development does not contribute to congestion or compromise highway safety and support and promote the use of sustainable modes of travel.

Other Matters

21. I have had regard to the comments made regarding pedestrian safety. Given that the appeal site is located in a residential area where vehicle speeds are low, visibility into the car parking spaces on the appeal site are not restricted and there would be no direct access from the proposed dwellings into this space, I have no reason to consider that the proposal would cause an undue risk to pedestrian safety.

Conditions

22. I have considered the Council's suggested conditions in the light of the Framework and Planning Practice Guidance. Commencement and plans conditions are necessary and reasonable in the interests of certainty.
23. In addition, I agreed that a condition regulating construction hours as a means to protect the living conditions of the occupiers of the existing apartments in the building is necessary. Conditions have also been included to require details of cycle and refuse storage provision and a fire safety strategy. These conditions are considered necessary and reasonable to ensure satisfactory provisions are made on site. A condition relating to water saving measures and carbon dioxide emissions are also considered necessary in the interests of sustainability and to comply with KCS Policies CS1, DM3 and DM4.

Conclusion

24. For the reasons set out above, having taken account of the development plan as a whole and all other matters raised, I conclude that the appeal is allowed subject to the conditions set out in the attached schedule.

K L Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development to which this permission relates shall be carried out in strict accordance with the following drawings/documents: 300A Location Plan, Existing and Proposed Block Plan; 301A Existing and Proposed Ground Floor Plan; 303A Proposed Elevations; 225D Proposed Sections; KID21882 11H Landscape Proposal.
- 3) Construction works shall take place only between the hours of 0800 and 1800 on Monday to Friday; 0800 to 1300 on Saturdays and shall not take place at any time on Sundays or Bank Holidays.
- 4) Prior to the occupation of the development hereby approved, details of waste and recycling facilities to serve the development to which this permission relates shall be submitted to and approved in writing by the local planning authority. The refuse and recycling facilities as shown in the approved details shall be provided prior to occupation of the development and shall be permanently retained thereafter. The developer and/or their successors in title shall take all reasonable steps to ensure that all refuse and recyclable materials associated with the development are either stored within these facilities or internally within the building(s) on the application site, and that no refuse or recycling material is stored or placed for collection on the public highway except on the day of collection.
- 5) Prior to the occupation of the development hereby approved, details of secure cycle parking facilities to serve the development to which this permission relates shall be submitted to and approved in writing by the local planning authority. The cycle parking facilities as shown in the approved details shall be provided prior to occupation of the development to which this permission relates and shall be permanently retained for that purpose and kept free from obstruction thereafter.
- 6) Prior to the occupation of the development hereby approved, a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:
 - 1) suitably positioned outside space for fire appliances/ an evacuation assembly point;
 - 2) Appropriate fire alarm systems;
 - 3) Passive and active fire safety measures;
 - 4) appropriate construction details to minimise the risk of fire spread;
 - 5) provision of suitable and convenient means of escape / an evacuation strategy;
 - 6) provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development. The Fire Safety Strategy shall include a statement of competence.

The development shall thereafter be carried out in accordance with the approved Strategy prior to occupation and maintained throughout the lifetime of the development.

- 7) Prior to occupation of the development hereby approved, evidence showing that the development has achieved internal water usage rates of no greater than 105L per person per day have been submitted to and approved in writing by the local planning authority. Once approved, any measures necessary to meet the targets shall be maintained throughout the lifetime of the development.

****End of schedule****