



Appeal Decision

Site visit made on 14 February 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/Z5630/W/23/3324691

98 Maple Road, Surbiton, Kingston Upon Thames KT6 4AL

- 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 Daniel Gabby against the decision of The Royal Borough of Kingston Upon Thames
 - The application Ref 23/00673/FUL, dated 9 March 2023, was refused by notice dated 24 May 2023.
 - The development proposed is demolition of existing two storey building and erection of four storey building, basement excavation with front and rear lightwells and creation of 8 self-contained flats (3 x 3-bed and 4 x 2-bed) all with private terraces and a communal terrace at roof level. Provision on of secure internal refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published a revised Framework in December 2023, replacing the previous version dating from September 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues of this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
3. The appeal has been accompanied by drawings which were not assessed by the Council when it made its decision. These relate to alternative arrangements for the storage of bicycles at the site, the introduction of raised planter beds on rear balconies and a change to the mix of units. In particular, the drawings involve alterations to the third floor layout so that an additional three bedroom unit is proposed, in place of two, two bedroom units. Consequently, there is a reduction in the number of units proposed on site.
4. I have considered these proposed new plans and information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. It is my view that the additional information does not fundamentally alter the scheme in terms of its external design, scale, layout or the location of windows within the proposal. Additionally, the information is not particularly technical in nature given that it relates to alternative spatial arrangements on floor plan drawings, minor alterations to introduce planters on rear balconies and internal alterations to the cycle storage. The Council have had sight of it and had the

¹ 1 *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

opportunity to comment, and I have therefore assessed the appeal on the basis of the new information.

5. I am satisfied that it would not be unfair not to reconsult on the changes or that my acceptance of the revisions would deprive those who were entitled to be consulted on the changes that opportunity, given the nature and extent of the changes proposed.
6. As the drawings which are being considered involve a change to the mix of units, I have edited the description of development used on the planning application form to reflect this.

Main Issues

7. The main issues in this appeal are:
 - the effect of the proposals on the character and appearance of the area with particular regard to the setting of the nearby Cadogan Road Conservation Area;
 - the effect of the proposed car parking provision on highway safety;
 - whether the proposal would provide satisfactory cycle parking;
 - the effect of the proposal on the living conditions of future occupiers of the proposal with particular regard to outlook in the event of future development at the adjoining site; and
 - whether or not the proposal makes adequate provision for family housing, taking account of the relevant policies of the development plan, the location of the site and the housing needs of the borough.

Reasons

Character and appearance

8. Located on Maple Road and the opposite side of the street from the boundary of the Cadogan Road Conservation Area (CRCA), the appeal site comprises a two storey red brick detached house of traditional design.
9. Although no statutory protection for the setting of a CA is present under the requirements of 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, the Framework requires the impact of a proposal on a heritage asset be taken into account, including by development affecting the setting of a heritage asset. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. The Cadogan Road Conservation Area Summary outlines that its special architectural and historic interest is related to the mid 19th century housing development which forms the second stage of the Surbiton "New Town". The significance of the conservation area, insofar as relevant to this appeal, is centred around the predominantly Victorian commercial properties on Maple Road which provide a good illustration of Victorian commercial street scene characteristics. Furthermore, the former Congregational Church at No 103 Maple Road, which is opposite the appeal site, is noted as a building of particular interest, and is a non-designate heritage asset (NDHA).

11. The appeal site is also located within the Maple character area, as identified through the Borough Character Study (2011) which recognises that the appeal site is an area of 'Established High Quality' and notes that Maple Road has a predominantly Victorian character, albeit with some later development, unified by a fine avenue of mature trees.
12. To the left of the site, when viewed from Maple Road, are modern, three and four storey blocks of flats with pitched and gabled roof forms and external balconies. These are located outside of the CRCA and are noticeably larger and more contemporary buildings than those generally found within the CRCA. As a result, the site is within an area that transitions between the larger plots within the northern area and the tighter grain Victorian character to the south within the CRCA. Whilst the appeal site is proximate to the boundaries of the CRCA, it is separated by Maple Road, and is clearly located on the opposite side of the street in a grouping of modern buildings which have a noticeably distinct character to that of the CRCA. Consequently, the appeal site contributes very little to its significance as a designated heritage asset.
13. Whilst there are large buildings on the same side of Maple Road as the appeal site, these are typically located within more spacious plots or have staggered rear elevations. Whilst the proposal's four storey height would not be inconsistent with other buildings in the local area, it would have a noticeably large footprint that would cover a significant proportion of the appeal site and which would be deeper than the neighbouring residential buildings.
14. To the right of the appeal site is a low rise school site which primarily consists of single storey buildings. As a result, the proposal would be particularly prominent in the street scene, in long distance views from Maple Road across the adjoining low-rise school site. The proposal's side elevations would be particularly long and this would highlight both the depth of the building and the extent of its plot coverage. Overall, the proposal would be 'squeezed' onto the site in a manner that would appear cramped. In coming to this view, I have taken into account the inset distance of the proposal's side elevations from the appeal site's boundaries and the fact that they would feature a green wall and angled windows, which would provide some visual interest.
15. Both parties agree that the use of brownfield land for residential intensification is acceptable in principle. I acknowledge that the proposal's front elevation would not project significantly forward of the existing building line along the street. However, its narrow width, when viewed in combination with its height and depth would create a building with markedly different proportions to the neighbouring blocks of flats. Consequently, its built form would not reflect the building typology found in the immediate area and the proposal would not reinforce the local character of the area.
16. Balconies on the front elevations are a feature of other buildings on this side of Maple Road, in particular, the neighbouring block of flats. For this reason, the proposal's balconies would not be an uncharacteristic feature within the street scene.
17. The Framework advises that significance derives not only from a heritage asset's physical presence, but also from its setting. I note the Council's position in respect of the impact of the scheme on the adjacent CRCA. However, whilst it would be visible from some vantages within the CRCA, due to its distinct separation on the opposite side of Maple Road within an area of transition, I do

not consider that the harmful impact the proposed development would have on the appeal site and the local area would undermine the significance of the CA as a whole or the former Congregational Church at No 103 Maple Road which is a NDHA. Notwithstanding that the adjacent CA and NDHA would not be harmed, the proposal would nonetheless have a discordant and jarring relationship with the neighbouring residential buildings. The impact of the proposal would be prominent from vantages along Maple Road where its uncharacteristic depth and excessive site coverage would be apparent.

18. Having regard to the above, the proposal would have an unacceptable adverse effect on the character and appearance of the area in conflict with Policy D3 of the London Plan (2021) (LP) and Policy DM10 of the Local Development Framework Core Strategy (2012) (CS). These policies and national guidance, taken together and insofar as relevant, require that proposals are of a high standard of design and should preserve or enhance the character of the area. As I have not identified any harm to the significance of the CA and NDHA, there would not be any conflict with HC1 of the LP and Policy DM12 of the CS in respect of heritage assets and their settings.

Car parking

19. The site is located within a Controlled Parking Zone (CPZ) and has a public transport accessibility level (PTAL) of 4 which is considered to be good. The proposal would provide no off-street car parking. Given the accessibility of the site, the main parties agree that this would not be harmful.
20. Policy DM8 of the CS requires residential development to develop and implement robust and effective Travel Plans and Policy DM9 states that the Council will restrict eligibility for on-street parking permits for residents of new developments located in controlled parking zones. As such, the requirement for a Section 106 obligation to secure a travel plan and restrictions on future occupiers obtaining resident parking permits in the CPZ is both reasonable and necessary.
21. Although the appellant has confirmed a willingness to enter into a Section 106 agreement, I have not been provided with a planning obligation. In view of the above, without a Section 106 obligation to secure a Travel Plan and restriction on parking permits for future occupiers, the proposal would be contrary to Policies T6 and T6.1 of the London Plan (2021) and Policies DM9 and DM10 of the CS which require that new development does not contribute to congestion or compromise highway safety.
22. The proposal would also conflict with paragraph 115 of the Framework which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Cycle parking

23. The proposal would make provision for 16 cycle stands within an integral store located on the ground floor, accessed via a side alley. The cycle parking would be a mixture of horizontal cycle racks and vertical, wall hung cycle racks.
24. The Council suggest that the provision of vertical cycle racks would not sufficiently promote sustainable forms of transport, has greater potential for damage to bicycles and may make access and storage of bicycles harder for some future occupiers. Policy DM8 of the CS and Policy T5 of the LP require

proposals to make provision for appropriate levels of cycle parking which should be fit for purpose, secure and well-located. However, I have not been directed to any cycle parking standards which specifically preclude the use of vertical cycle racks.

25. Of the 16 cycle racks, only 4 would be vertical racks. This would ensure that the majority of cycle racks would be horizontal and that there would be adequate choice for future occupiers to choose the type of rack which best suits their needs. I have no other contrary evidence to suggest that the floor area allocated for cycle parking would not be of a sufficient size or fit for purpose. Furthermore, additional details related to the final design of the cycle parking is a matter that could be resolved by planning condition in the event of an approval.
26. The evidence provided in this case suggests that the proposal would make adequate provision for cycle storage. Therefore, it would accord with the provisions of Policy DM8 of the CS and Policy T5 of the LP, the aims of which are described above.

Future occupiers

27. Some of the proposed flats would have habitable room windows positioned in close proximity to the boundary with the neighbouring school. Whilst no objection has been raised in relation to the outlook from these flats, based on the school's existing layout, the Council are concerned that the location of the windows could stymie the possible future vertical and horizontal expansion of buildings within the school site.
28. The submitted evidence suggests that the current Headteacher of the school is unaware of any plans to enlarge or redevelop the site. Whilst school place planning is a strategic matter that is considered by educational authorities and not by individual schools, there is no evidence before me of any pending applications for development at that site, or others nearby. Simply waiting for future schemes at neighbouring sites is overly speculative and would prevent, as in this case, the residential redevelopment of accessibly located dwellings coming forward.
29. In the event that the redevelopment of the site did come forward, given the size of the existing site and the current single storey design of the majority of the existing buildings, it seems to me, likely that this could be undertaken without significant encroachment towards the appeal site.
30. In any event, none of the affected units are single aspect, and each have secondary windows with relatively unrestricted views either to the front or rear of the site. Where rear windows within units on the first, second and third floors have privacy louvres or raised planters, a sufficient level of outlook from multiple aspects onto the terraces would be provided. Overall, it seems unlikely that any future redevelopment would encroach on these additional windows to the extent that a person living here would find the level of outlook across the entire unit to be dominated by the neighbouring buildings or feel that the living environment was oppressive.
31. The separation distance to the appeal site's side and rear boundaries would be less than the 7.5 metres outlined within the Council's Residential Design SPD (2013) (SPD). However, I note that this guideline is identified in order to

protect existing and future occupiers' visual and acoustic privacy. In this instance, the proposals' recessed, angled windows on the side elevation and aluminium louvres on the rear elevation windows are sufficient to prevent future occupiers experiencing a harmful loss of privacy in the event that the school site were to be redeveloped.

32. Therefore, the proposal would not have an unacceptable effect on future development opportunities at adjacent sites, as these would be unlikely to have a harmful effect on the outlook of future occupiers. As a result, the proposal would accord with Policy DM10 of the CS and Policy D6 of the LP and the SPD which, amongst other things, require development to incorporate good design principles, including ensuring good levels of outlook for future occupiers, whilst optimising housing output consistent with the local context.

Housing mix

33. Policy DM13 of the CS expects proposals for new residential development to provide a minimum of 30% of dwellings as 3 or more bedroom units, unless it can be robustly demonstrated that this would be unsuitable or unviable. The supporting text to the policy explains that a high proportion of recent residential schemes have been in the form of 1 and 2-bedroom flatted developments, raising concerns about the availability of family housing.
34. The amended drawings submitted with the appeal show that three of the seven proposed units would be 3 bedroom units. This equates to 42% of the units, which exceeds the minimum set by Policy DM13.
35. On this basis, I conclude that the proposal would make adequate provision for family housing, and it accords with Policy DM13 of the CS in respect of this important component of housing need.

Other Matters

36. The Framework seeks to significantly boost housing supply and indicates the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land. The proposal would contribute to local housing supply, including the provision of three family sized homes, for which there is an identified local need. It would also provide four smaller homes and would represent a more efficient use of the appeal site.
37. I acknowledge that residential development in this general location is acceptable in principle and the proposal may be compliant with various other provisions of the development plan, for instance in respect of the standard of accommodation or living conditions of future occupiers. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
38. I understand that the appellant undertook pre-application discussions with the representatives of the adjacent school and local residential occupiers in advance of the submission of the planning application. Whilst early engagement with a wide range of parties is encouraged by the Framework, I am mindful that pre-application discussions are informal, and they will not influence any future decision the LPA may make once a proposal has been subject to the formal planning process.

39. The concerns expressed regarding the Council's conduct during the processing of the planning application are outside the remit of this appeal decision.

Conclusion

40. The appellant and the Council are in agreement that the Council cannot demonstrate a 5-year housing land supply. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
41. The proposal would make a valuable contribution towards the government's target to significantly boost the supply of homes in a Borough. The proposal would help to achieve the Framework objective of making effective use of land, adding to the mix and choice of homes available in the Borough. The construction of the proposed development would deliver temporary economic benefits, through job creation. The delivery of six (net) additional dwellings would result in additional spending within the area and would be located close to a range of services and public transport.
42. Cumulatively, the social and economic benefits that weigh in favour of the appeal scheme would be moderate. On the other hand, the Framework advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Policy D3 of the LP and Policy of the DM10 CS are therefore consistent with the Framework.
43. Given the identified harm to the character and appearance of the area, the proposed development fails to satisfy the environmental objective of sustainable development and runs counter to the Framework taken as a whole, notably those that promote good design. In the absence of a planning obligation in relation to a Travel Plan and to restrict the eligibility for on-street parking permits for future occupiers, the proposal would also contribute to congestion and compromise highway safety. The harm identified and policy conflicts weigh very heavily against the proposals, and overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.
44. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR