



Appeal Decision

Site visit made on 24 April 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd May 2024

Appeal Ref: APP/Z5630/W/23/3327469

142 Richmond Road, Kingston Upon Thames KT2 5EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Chris Boyle against Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/00341/FUL.
 - The development proposed is change of use of existing G floor, use Class A1 (Retail shop) to Use Class C3 (Residential) to form G Floor of new 3 storey house. Demolish existing rear external staircase and existing shop entrance lobby. Construct new single storey ground floor side extension abutting Windsor Road to form new entrance off Richmond Road. Construction new second floor residential roof extension to form a new 3 storey 3-bed house. Construction new rear 3 storey extension to form new 3 bed terrace house with new access off Windsor Road and associated new boundary wall/fence. Adjust the existing common boundary between 140 and 142 Richmond Road.
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Decision

1. The appeal is dismissed and planning permission is refused.

Main Issues

2. The main issues are the effect of the proposed development on
 - The character and appearance of the area.
 - The supply of employment and retail premises.
 - The quality of living conditions for future occupiers with particular regard to floorspace, floor to ceiling height and outdoor space.
 - The living conditions of neighbouring occupiers with particular regard to daylight, sunlight and sense of enclosure to 2 Windsor Road and 140 Richmond Road.
 - Highway safety with particular regard to car parking.
 - Whether the proposed development would support sustainable transport with particular regard to cycle parking.
 - Fire safety.

Reasons

Character and appearance

3. The appeal site is on the corner of Richmond Road and Windsor Road. Richmond Road is characterised by mainly two and three storey development

of a varied appearance, with a mix of commercial and residential properties. No 88 and 90 Richmond Road have a third storey within a mansard type roof, however this is some distance from the site and does not form part of its immediate context. Windsor Road is characterised by mainly modest pairs of semi detached houses with pitched roofs and a consistent and clearly evident front building line. Some properties have been extended at roof level, however these alterations generally appear secondary to the simple roof forms. As such the modest, consistent appearance makes an important contribution to the character of this area.

4. 142 Richmond Road is a two storey property which is similar to the appearance of the neighbouring house at no. 140. Its main elevation fronts Richmond Road with the secondary two storey back addition clearly visible from Windsor Road. The space between the host property and 2 Windsor Road results in a pleasant sense of spaciousness on this corner.
5. The appeal scheme proposes extensions along the Windsor Road elevation. These result in a three storey elevation, with the upper floor within a mansard-type roof, which extends closer to the boundary with Windsor Road than the other properties in this street. It would fill the majority of the gap between the host property and 2 Windsor Road. A third floor within a mansard roof is also proposed to the Richmond Road elevation.
6. The third floor extension would be a large and dominant addition which would not be secondary to the appearance of 142 Richmond Road. As such it would be harmful to the appearance of the host dwelling and the surrounding area in these regards. Furthermore, the disproportionate height of the proposed elevation to Windsor Road and the projection forward of the other buildings would result in a visually jarring and highly prominent addition to this streetscene. Also, it would erode the spaciousness between the appeal site and 2 Windsor Road and consequently would appear unacceptably cramped. It would harmfully erode the consistent pattern of development in this area and would be significantly harmful to the positive characteristics described above.
7. I am not presented with any detail as to how the proposed development could be altered to incorporate a pitched roof and this is not part of the scheme before me now.
8. Therefore, the proposed development would have a harmful effect on the character and appearance of the area. Consequently, in this regard it would be contrary to policies CS8 and DM10 of the Core Strategy (2012) (CS). Together, amongst other things, these seek good design that should respect local character and surroundings.

Supply of employment and retail premises

9. This part of Richmond Road has a mix of commercial and residential frontages. The appellant states that commercial units in this area have closed or are seeking planning permission for a change of use. Nevertheless, the commercial units along the main road provide vitality and employment in this area.
10. In the interests of the economy, employment and retail together policies DM17 and DM19 of the CS seek to protect existing retail and employment uses and require that for an alternative use to be acceptable, evidence including marketing for up to two years should demonstrate that there is no need.

11. The previous retail use was a florist, which closed 4 years ago due to the effects of covid on the business. Taking into account its relatively recent use I am not persuaded that a shop would require an internal ramp in order to operate. Nor has supporting detail been submitted that demonstrates that the size of the retail use within 140 alone would be unsuitably small. The appellant states that it has been marketed for two years, however there is no substantive evidence to support this. Whilst the previous business no longer operates, in the absence of such information I am not satisfied that the shop could not be used for an alternative commercial operator. Consequently, nor that it would be empty if it were not used as a residential property.
12. Therefore, the proposed development would have a harmful effect on the supply of employment and retail premises. As such it would be contrary to policies DM17 and DM19 of the CS, the aims of which are set out above.

Living conditions for future occupiers

13. Policy D6 of the London Plan (2021) (LP) requires that for a four bedroom, seven person dwelling over three storeys 121sqm of floorspace should be provided. Also, that the floor to ceiling height must be 2.5m for 75% of the dwelling. Policy DM10 of the CS requires adequate amenity space and the advice in the Residential Design SPD (2013) (SPD) requires 50-55sqm of private amenity space for each dwelling where the prevailing character of the area allows. Policy D6 of the LP also sets standards for private amenity space where there are no higher local standards.
14. The four bedroom dwelling includes three double bedrooms and has a floor area of 106sqm. This would be noticeably undersized compared to the requirement in the development plan. Nor am I provided with evidence that, in particular, the second floor set within the roof extension, would achieve a suitable floor to ceiling height.
15. Additionally, the appeal scheme includes an extension over an existing garden area. A 33sqm garden would be retained. This would be undersized for the seven person dwelling proposed and would therefore be inadequate. Moreover, the five person dwelling fronting Richmond Road would not have direct access to any private garden space.
16. Due to reasons including the size, immediate proximity to the lounge in the four bedroom unit, and access from the three bedroom unit, the use of the rear garden area as communal amenity space would also not provide suitable outdoor space for future occupiers. There is also public open space nearby however such spaces are not used in the same way as a private garden area and therefore do not provide a replacement for this provision in this case.
17. I am not provided with plans to show how the four bedroom unit could be altered to reduce the number of bedrooms. Also, I am not satisfied that such alterations would not be substantially different to the proposal on which the Council made their decision. As such I have considered the proposals on the basis of the details before me now.
18. The undersized floorspace combined with the inadequate garden area for the size of the four bedroom dwelling and the number of proposed occupiers, along with the absence of any private garden area for the three bedroom dwelling

would be unacceptable. This would result in undersized and poor quality accommodation for these future occupiers.

19. Therefore, the proposed development would result in unacceptable living conditions for future occupiers with particular regard to floorspace, floor to ceiling height and outdoor space. As such, in these regards it would be contrary to policy D6 of the LP, DM10 of the CS and the advice in the SPD the aims of which are set out above.

Living conditions for existing occupiers

20. The appeal scheme would result in a three storey elevation along the full length of the shared boundary with 140 and beyond. It would extend noticeably beyond the rear windows and at a height which, in the absence of detailed evidence to the contrary, would be likely to result in the loss of light to these windows. Along with an unacceptable sense of enclosure to these occupiers.
21. However, the proposed projection forward of 2 Windsor gardens would be at an angle which would be unlikely to unreasonably affect the light or outlook to the front windows of this neighbouring dwelling. Due to their height relative to the proposed development, windows at roof level at no 2 would also be likely to receive adequate levels of light. However, although there would not be harm to the occupiers of no 2, this is a neutral factor which would not outweigh the harm to the occupiers of no 140.
22. Therefore, there would be an unacceptable effect on the living conditions of neighbouring occupiers with particular regard to daylight, sunlight and sense of enclosure to 140 Richmond Road. As such, in this regard, the proposed development would be contrary to policies CS8 and DM10 of the CS. Together, amongst other things, these policies seek high quality design including having regard to the amenities of neighbours and relating well to its surroundings.

Highway Safety

23. Policy T6 of the LP states that car free development should be the starting point, with provision of the minimum necessary parking. For the proposed development in this location, policy T6.1 of the London Plan provides for a maximum of 2 car parking spaces for this development.
24. No car parking spaces are proposed. I am not provided with any legal agreement with respect to on street parking. Therefore, the proposed development would not be car-free and could result in up to 2 additional cars parking on street. The area appears to be heavily parked and I am not provided with detailed evidence, such as in the form of a parking survey, to demonstrate that there would be capacity for these additional vehicles to park on street. Consequently, the additional on street parking could result in congestion or unsafe and unsuitable parking which would be harmful to highway safety.
25. Therefore, the proposed development would be harmful to highway safety. As such, in this regard, it would be contrary to Policy DM9 and DM10 of the CS and Policy T6 of the LP. Together, amongst other things, in addition to the details set out above they require that new development should not compromise highway safety.

Sustainable Transport

26. The submitted plans show the location of 2 cycle parking spaces for each property. Both of these locations are within open areas where there are limited restrictions on the size of the cycle parking that could be provided. Therefore, I am satisfied that two cycle spaces could be provided for each dwelling.
27. As such the proposed development would support sustainable transport with particular regard to cycle parking. Consequently, it would be in accordance with Policy T5 of the LP which requires appropriate cycle parking to be provided.

Fire Safety

28. No details are provided as to how fire safety could be achieved. Without any information as to what strategies may be required, I am not satisfied that such requirements would not require significant changes to the proposal before me now in this case. Consequently, it has not been demonstrated that the proposed development would not result in a risk to fire safety.
29. Therefore, the proposed development would have a harmful effect on fire safety. As such it would be contrary to Policy D12 of the LP which seeks the highest standards of fire safety.

Other Matters

30. Prior approval was granted in 2020 for the change of use to a dwelling¹ and in 2015 for a part change of use to a dwelling². These sought prior approval rather than planning permission and did not seek permission for extensions or conversion to two dwellings. Therefore, they are notably different to the scheme before me now and do not alter my conclusions.

Planning Balance

31. The Council cannot demonstrate a 5 year housing land supply. Therefore paragraph 11(d) of the Framework is engaged which requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the National Planning Policy Framework (2023) taken as a whole.
32. The proposed development would provide two new dwellings in an accessible location which are said to be for the occupant's children, and there is no dispute with regard to the energy efficiency of the proposal. This would help meet the challenge of climate change and support the government's target to significantly boost the supply of homes and would be in accordance with the appellant's statement that there is local support for more housing, albeit this scheme does not propose affordable housing. However, due to the scale of the appeal scheme these would be important but modest benefits.
33. On the other hand, the proposed development would result in poor quality living conditions for occupiers which would not provide a high standard of amenity for existing and future users, unacceptable fire safety, would have an unacceptable impact on highway safety, and would be harmful to the character and appearance of the area. The proposed development would therefore not

¹ 19/02995/PAR2R

² 23/01845/CPU

create a development that functions well or a high quality, beautiful and sustainable place which is fundamental to what the planning process should achieve. Together these multiple harms are significant.

34. These significant adverse effects would therefore significantly and demonstrably outweigh the modest benefits set out above. Therefore, the presumption in favour of sustainable development would not apply in this case.

Conclusion

35. The proposal would not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR