



Appeal Decision

Site visit made on 20 May 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Appeal Ref: APP/L5810/W/23/3329957

12 Priory Road, Richmond Upon Thames, Kew TW9 3DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Heffner against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is: 23/1650/FUL.
 - The development proposed is for the amalgamation of 2 flats into 1 dwelling by removal of internal wall.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs in relation to this appeal was made by Mr Paul Heffner against the Council of the London Borough of Richmond-upon-Thames. This application is the subject of a separate decision.

Preliminary Matters

3. The Council has referred in its decision to policies within the emerging Publication Local Plan (PLP). I note that the draft plan is at Regulation 19 and may be subject to modifications. Further, although the PLP is at an advanced stage and is a material consideration, at the current time it does not form part of the statutory development plan. As such I give it only limited weight in my assessment of the appeal.

Main Issues

4. The main issues are:
 - whether the reinstatement of the building as a single dwelling is justified in relation to planning policy; and
 - whether or not the proposal would provide a suitable contribution to affordable housing.

Reasons

5. The appeal relates to a two storey semi-detached property currently divided into self-contained flats. The building is of light brown brick construction and has a two storey bay with a gable serving accommodation in the attic above and is similar in design to the neighbouring properties on the southern side of Priory Road. It is located within the Kew Green Conservation Area 2.

Reversion to a single unit

6. The proposal is for the reversion of the two one bedroom self-contained flats on the ground floor into a single family dwelling. In light of the requirements to meet housing targets and an identified need for additional housing the Council is resistant to the loss of existing residential units.
7. Criterion B of Policy LP 38 of the London Borough of Richmond Upon Thames Local Plan 2018 (LP) states that 'proposals for reversions and conversions should assess the suitability of the property and design considerations.' The supporting text for this policy elaborates on the principle of reversions stating that they may be acceptable provided that the loss of the unit 'will be outweighed by environmental, street scene, transport or parking benefits which could not be easily achieved without the reversion. Evidence of tangible benefits are required from an applicant to justify an exception on this basis.' Although the supporting text is not part of the policy, it sets out how the policy should be implemented and defines a clear expectation that evidence of specified tangible benefits are required in order to comply with this policy.
8. Within the Design and Access Statement submitted as part of the application for planning permission the appellant stated that there would be 'no environmental impact.' Notwithstanding this, in the appeal statement reference is made to the proposal being in accordance with the aims of the Framework's overarching environmental sustainability objective and cites the that the proposal would achieve a BREEAM rating of excellent and improvement of the dwelling to modern building regulation standards. However, no information has been provided regarding the current condition of the building which would allow an assessment of the extent of any environmental benefits, over and above what is existing. As such there is no substantive evidence before me to demonstrate that the proposal would result in tangible environmental benefits that could not be easily achieved without the reversion.
9. No external alterations are proposed and while the reversion would preserve the historic environment, it would not represent a benefit to the existing street scene of Priory Road. Also, no change in transport or parking is proposed and I am not satisfied that the reversion of two one-bedroom properties in to a three bedroom property would represent a meaningful deintensification of the existing use. As such there I am not convinced there is a tangible benefit upon transport or parking, sufficient to warrant the loss of an existing unit.
10. The appellant contends that Policy LP38 provides an open list of potential benefits that the loss of a housing unit could be weighed against, and they provide an example¹ of where the Inspector took this stance. However, in my view the supporting text to this policy includes a closed list limited to only environmental, street scene, transport or parking benefits.
11. In conclusion the reinstatement of the building as a single dwelling is not justified in relation to planning policy and would be harmful to the supply of housing in the Borough. As such the proposal fails to comply with the requirements of Policy LP 38 of the LP which allows for the reversions of subdivided properties only when the loss of existing housing units would be outweighed by environmental, street scene, transport or parking benefits which could not be easily achieved without the reversion.

¹ APP/L5810/W/18/3215027

12. The proposal also fails to comply with Policy 14 of the PLP which states that proposals should avoid a detrimental impact on existing housing supply. However, for the reasons detailed above, I attach only limited weight to policies in the emerging local plan.

Affordable housing contribution

13. As the proposal would result in the reversion of existing flats Policy LP 36 of the LP states that in this instance a developer contribution of 4% would be required. It is acknowledged that Policy LP 36 does not reflect paragraph 65 of the National Planning Framework 2023 which states that 'affordable housing should not be sought for residential developments that are not major developments.' However, a previous appeal decision² submitted by the Council as part of their response to the appellants claim for costs notes that the requirements of LP 36 were found to be justified at examination due to an exceptional need for affordable housing in the Borough.
14. The appellant does not consider that the proposal could viably contribute to affordable housing, and this is supported by a Viability Assessment prepared by Viable Placemaking, dated July 2023. However, Policy LP36 requires that the developer underwrites the costs of a Council commissioned economic viability assessment, in order for this evidence to be tested. Although the appellant has asserted a willingness to do so, this has not taken place. Regardless of the reasons why, the requirements of Policy LP 36 of the LP remain unfulfilled.
15. In conclusion the proposal would not provide a suitable contribution to affordable housing. In this regard, the proposal would conflict with Policy LP36 of the LP and the Affordable Housing Supplementary Planning Document (adopted 2014).
16. The proposal also fails to comply with Policy 11 of the PLP which requires contributions for affordable housing from all small housing sites on a gross basis. However, as detailed above, I attach only limited weight to the emerging local plan.

Other Matters

17. The appellant states that they are aggrieved that the submitted Viability Assessment was not fully assessed as part of the application for planning permission. Based on the submitted evidence the Council did not request a fee for an independent appraisal of the Viability Assessment as they were refusing the scheme for other reasons.
18. The method and calculations for a Viability Assessment for a different scheme may reflect that of the Viability Assessment submitted as part of the Appeal. However, the independent review for a different scheme is not sufficient to demonstrate compliance with the requirements of LP 36 of the LP.
19. My attention has been drawn to several applications for planning permission in the Borough for reversion of housing units to family dwellings, which were assessed to be in accordance with the LP. However, without full details of these applications I cannot be certain that they reflect the circumstances of the appeal before me. In any event I have assessed the appeal on its own merits.

² APP/L5810/W/22/3290206

20. The appeal site is located within the Kew Green Conservation Area 2 (CA). Section 72 (1) of the Planning (Listed Buildings and Conservations Areas) Act 1990, requires special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation area. The significance of CA is derived in part by its character as an historic open space and the quality of the architecture. The proposed scheme would not involve any external alterations and as such the character and appearance of the CA as a whole would be preserved.

Planning Balance

21. Both Policy LP35 and the Council's Local Housing Market Assessment Updated Report (April 2023) (HMA), identify a need for family sized accommodation, with the HMA stating that 45% of market housing should be 3 bedrooms. The provision of an energy efficient, three bedroom family home is a material consideration against which I attach moderate weight given the modest contribution to the supply of larger homes in the borough. There are also economic benefits associated with construction and locally sourcing building materials, given the scale of the alterations proposed I afford only limited weight to these benefits.
22. The appellant submits that the proposed development would fully accord with relevant amenity standards, including space standards, would not harm the residential amenity of the occupants of neighbouring properties, would not give rise to local environmental impacts, pollution and land contamination. The scheme would also not increase the risk of flooding, includes adequate provision of refuse and cycle storage and would preserve the character and appearance of the CA. However, the absence of harm in relation to such matters is a neutral factor and weighs neither for nor against the proposal.
23. The benefits of the proposed development are moderate. However, in my assessment of the appeal I have identified that the proposal would result in the loss of a housing unit and the appellant has submitted insufficient evidence to demonstrate that the loss of housing is justified by tangible environmental, street scene, transport or parking benefits that could not be easily achieved without the reversion. As such the proposal would have a harmful impact on the existing housing supply in the area and given an overarching housing need the development would conflict with the development plan as a whole. Further it has not been demonstrated, in accordance with policy, that an affordable housing contribution would not be required. I attach significant weight to the identified harms and there are no material considerations to indicate a decision otherwise than in accordance with the development plan.

Conclusion

24. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR