



Appeal Decision

Site visit made on 16 July 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/Z5630/W/24/3337909

28-30 Church Road, Worcester Park KT4 7RA

- 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 Ahmed Issa against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/00682/FUL.
 - The development proposed is described as removal of 1 self-contained flat to retain two self-contained flats, western elevation window to revert to design in keeping with character of host property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An appeal (Ref: APP/Z5630/W/21/3285418) for the retention of three flats at the site was dismissed in June 2022. I have been provided with a copy of the appeal decision and have had regard to it where relevant.
3. At the time of my site visit the property was still in use as three flats. However, I have determined the appeal on the basis of the proposed development as it is shown on the plans.

Main Issues

4. The main issues are:
 - Whether the development would provide its occupants with satisfactory living conditions, with particular regard to internal space and ceiling height;
 - The effect of the development on parking provision and highway safety;
 - Whether the character and appearance of the Old Malden Conservation Area would be preserved or enhanced.

Reasons

Living conditions

5. Policy D6 of the London Plan 2021 (the LP) expects housing development to meet minimum standards, including in relation to internal floor area and ceiling height. Policy DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy (2012) (the CS) requires, among other things, that development proposals should have regard to the amenities of occupants.

6. The plans show a 1-bed flat at first floor level (Flat 1), and a 2-bed duplex flat on the first and second (loft) floors (Flat 2).
7. Due to the size of the bedroom in Flat 1, this should be counted as a 2-person dwelling. Table 3.1 of the LP requires that a 1-bed, 2-person dwelling should have a gross internal floor area (GIA) of at least 50m². According to the Council's undisputed measurements, Flat 1 would have a GIA of approximately 45m², which is significantly undersized.
8. I note that the appellant is agreeable to Flat 1 being designated as a 1-person flat. However, a restriction on the number of occupants would be difficult to monitor and enforce, so any condition to this effect would not be appropriate. Nor should conditions be used to alter a scheme. I must therefore assess the proposal on its capacity as shown on the plans, and I find that the occupants of Flat 1 would experience cramped living conditions due to substandard internal space.
9. In terms of Flat 2, the Council assessed this as a 2-bed, 4-person dwelling with an internal floor area of approximately 91m². Under table 3.1 of the LP, the minimum GIA for this type of unit is 79m². However, the second floor is within the loft where the steep slope of the roof on both sides means that it is only possible to stand and walk upright through the central part of the rooms. Areas with a headroom below 1.5m affect how the GIA is calculated. In addition, a minimum floor-to-ceiling height of 2.5m must be achieved for at least 75 per cent of the dwelling.
10. As was the case with the previous appeal, I do not have sufficient evidence before me to illustrate the precise extent of the eaves area or the floor to ceiling heights. Consequently, it has not been satisfactorily demonstrated that Flat 2 would be suitably sized in respect of both its GIA and the floor to ceiling height. In these circumstances, I can only conclude that the occupants of Flat 2 would experience cramped living conditions due to a lack of space and inadequate ceiling heights.
11. I therefore conclude that the development would not provide its occupants with satisfactory living conditions with regards to internal space and ceiling heights. Thus, the proposal conflicts with Policy D6 of the LP and Policy DM10 of the CS.

Parking and highway safety

12. The appeal scheme does not include any off-street parking provision. At my site visit, I saw that on-street parking opportunities outside the site are very limited due to the pedestrian crossing and double yellow lines, while the surrounding residential streets were heavily parked. The competition for spaces is likely to be even higher in the evenings and weekends. Indeed, some local residents have complained about parking issues, giving further indication that the area may experience parking stress.
13. Given that the appeal site has a moderate Public Transport Accessibility Level, it is highly likely that there would be some reliance on private cars for making trips to and from the new dwellings, along with associated visitors and deliveries. As was the case with the previous appeal, I have not been presented with substantive evidence to demonstrate that the uplift in vehicular parking pressures that would likely arise from the scheme could be acceptably accommodated within the surrounding streets.

14. In their Statement, the appellant indicates that they are in the process of applying for a Unilateral Undertaking (UU) that would agree with the Council's requirements relating to parking restrictions. I understand this to mean restricting the ability of the occupants to obtain car parking permits. However, notwithstanding that there is no UU before me, this mechanism would only be appropriate in cases where the site is within a controlled parking zone, which is not the case here. As such, even if I had been provided with a UU, it would not have been able to achieve the intended aims, and so, would not be capable of making the development acceptable in planning terms.
15. Therefore, and consistent with the previous appeal, I conclude that the proposal would likely result in an increase in vehicles parking on-street where provision is limited, leading to some frustration and drivers parking and manoeuvring in ways they would otherwise not, which in turn, is likely to impede the free flow of traffic and potentially be detrimental to highway safety. This is contrary to Policy T4 of the LP and Policy DM10 of the CS in so far as they seek to provide adequate car parking and ensure that local traffic conditions and highway safety are not adversely affected.

Conservation Area

16. The Old Malden Conservation Area (the CA) has two distinct parts. The appeal site is located in Area B 'Plough Green' which derives some of its special interest and significance from its village green with pond, a fifteenth Century public house, and picturesque group of mainly nineteenth Century cottages.
17. The previous Inspector considered that, due to its age and appearance, the appeal building possessed sufficient visual and historic significance to be treated as a non-designated heritage asset, which in turn, contributes to the character and appearance of the CA as a whole and hence to its significance. I see no reason to disagree. I also have no reason to disagree with his assessment that the window in the western elevation is a harmful addition to the building as a result of its style, proportions, and materials.
18. I acknowledge the appellant's stated intention to change this window to one that would be more respectful of the host building and its surroundings, and I also note that there was no objection from the CA Advisory Committee on this basis. However, this has not been reflected on the proposed plans which still show the harmful window. Conditions should not be used to require details of something that is not present on the plans.
19. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. In the absence of details of the design of the proposed window, it has not been satisfactorily demonstrated that the effect on the host building, a non-designated heritage asset, would be acceptable and that the character or appearance of the CA would be preserved or enhanced.
20. The magnitude of harm can be classed as less than substantial in the terms of the Framework. Nevertheless, this is a matter of considerable importance and weight. While there would be certain social and economic benefits from the proposal as a whole, the likelihood is that this could be achieved in a less, or not harmful manner with regards to the window. Therefore, I do not consider that the benefits of the development would outweigh the harm caused by it.

21. Thus, the development is contrary to statutory requirements; parts 12 and 16 of the Framework; Policy HC1 of the LP; and Policies CS8, DM10 and DM12 of the CS with regards to achieving good design and conserving and enhancing the historic environment.

Other Matters

22. I understand that the appellant may be working with the Council with a view to overcoming some of the issues. However, I can only assess the scheme that is before me.

Planning Balance and Conclusion

23. The proposal would provide new dwellings in a context where the Council accepts it has a deficient five-year housing land supply. There would also be associated economic benefits from construction and expenditure from future occupiers. However, given the scale of the development, I attach limited weight to these public benefits.
24. On the other hand, I have found that the limited public benefits would not outweigh the less than substantial harm to the CA. I attach considerable weight to this harm. The harm in relation to living conditions and parking also weighs heavily against the scheme.
25. Regardless of the extent of the shortfall in housing supply, paragraph 11 d) i) of the Framework states that where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, the presumption in favour of sustainable development does not apply. Footnote 6 identifies designated heritage assets as particularly important. Consequently, harm to the CA is sufficient reason to reject the proposal.
26. I therefore conclude that the proposal conflicts with the development plan as a whole. There are no other considerations, including the provisions of the Framework, which indicate that the appeal should be decided other than in accordance with the development plan. Therefore, the appeal is dismissed.

A Caines

INSPECTOR