



Appeal Decision

Site visit made on 11 July 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/Z5630/W/23/3332265

45 & 45a Victoria Avenue, Surbiton, Kingston Upon Thames KT6 5DN

- 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 M Masjedi against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23-02303-FUL.
 - The development proposed is Change of use from two flats to one residential house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An amended floor plan has been submitted with the appeal. This increases the size of the fourth bedroom, and in turn reduces the size of the bathroom. This change would not have raised any material matters which would affect the determination of the appeal. This is a minor change which would not cause any unlawful procedural unfairness to anyone involved in the appeal. Therefore, I have determined the appeal on the basis of the amended floor plan.

Main Issue

3. The main issue is the effect of the proposal on the supply of housing in the Borough.

Reasons

4. The proposal would result in the net loss of one residential unit. The flats to be lost provide two and three-bedrooms respectively. This net loss would conflict with the requirements of Policy DM14 of the Kingston Core Strategy 2012 (CS) which seeks to resist the loss of existing residential accommodation. The policy wording emphasises that it seeks to restrict the loss of all forms of accommodation, with an emphasis on family accommodation.
5. In this case, there would be no net loss of family accommodation, as the existing flats, which include a three-bedroom flat, would be replaced by a five-bedroom home. Nonetheless, there would be a policy conflict due to the loss of an existing flat.
6. I note the limited size of the third bedroom, and the kitchen, which would limit the families that it could accommodate. Nonetheless, the flat appears to be capable of meeting a small family and having regard to the number of bedrooms, would meet the definition of family housing set out within the glossary of the London Plan. As such, whilst a larger unit of family

accommodation would be provided, no net increase in family housing would occur.

7. The proposal would not result in an overall reduction in floorspace, or habitable rooms. Notwithstanding this, I consider the policy is clear in seeking to prevent the loss of residential units. The loss of such, would result in a detrimental effect on the supply of housing, albeit by a single unit. Set against the number of houses within the Borough, this loss would be very small. However, the Council currently has a significant undersupply of housing and is unable to demonstrate a five-year supply of deliverable housing sites. This adds to the necessity of resisting the loss of housing.
8. It is noted that the requirements for car parking and waste and recycling storage, would reduce through creating a single house, however, there is no evidence to indicate that the appeal site is unable to accommodate the facilities necessary to support the two existing flats. As such, this factor carries limited weight.
9. Smaller units of accommodation, such as the existing 2-bedroom flat, play an important role in delivering family housing, as they can attract those wanting to downsize from their existing homes, thereby freeing up existing housing stock¹. As such, the net loss of an existing flat would have a detrimental effect on the supply of family housing.
10. Whilst not included within the reason for refusal, I have been referred to Policy H8 of the London plan which emphasises the loss of housing unless it can be replaced at existing or higher densities with equivalent or greater floor space. I note that through creating a single residential unit, there would no longer be a need for habitable floorspace to be given over to the circulation and access requirements associated with the two flats. Nonetheless, this circulation space forms part of the existing residential accommodation, and as such, the proposal would not result in a net increase in residential floorspace. Rather, through the loss of an existing unit, there would be a reduction in the density of accommodation on site.
11. Given the above, I find that the proposal would have a detrimental effect on the supply of housing in the Borough. The proposal would therefore conflict with policy DM14 of the CS.

Other Matters

12. The appeal site lies within the Victoria Avenue Conservation Area (VACA). This is a modest Conservation Area, the significance of which lies in the Victorian and Edwardian buildings within it, together with its traditional suburban character. 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 including buildings within it. The conversion of two flats would not alter the external appearance of the appeal site, as such, the character and appearance of the CA would be preserved.
13. The appellant aims to reinstate the original Edwardian design of the building, originally a single dwelling. However, external alterations do not form part of the proposal before me, and further, there is no evidence that the external

¹ Para 4.10.3 of the LP

alterations referenced are dependent upon the appeal scheme. As such, this matter carries very limited weight.

14. It is understood that there were several disputes between the previous owners of the two existing flats. Furthermore, it is suggested that the subdivision to form two flats within the building led to a lower quality of life for its occupants. However, there is no substantive evidence before me to indicate that the disputes arose as a result of the standard of accommodation. Furthermore, there is no other evidence that the existing flats are failing to provide a suitable standard of accommodation.
15. It is recognised that there has been significant investment into the appeal property by the appellants, and that the intention is to convert the building into their long-term home. As such, there are clearly significant benefits to the appellant from the current appeal. Nonetheless, these are private benefits which attract limited weight.
16. My attention has been drawn to an allowed appeal at Cleveland Road². Whilst limited details have been provided, there appears to be similarities with the current appeal in that the proposal resulted in the net loss of a residential dwelling, however, it did not result in either the loss or provision of family accommodation. That decision referred to the draft local plan which was at regulation 18 stage, within which it is stated that the Council identified sufficient sites to meet its housing target. No evidence has been submitted with this appeal as to the status of any site allocations in the plan, in particular whether there are any unresolved objections to them. Given these factors, I have determined the appeal on its own merits.
17. I have also been referred to six other schemes relating to the conversion of two flats into a single dwelling house which were allowed on appeal. Very limited details of each scheme have been provided; and as such it is unclear how comparable they are to the current proposal. Nonetheless, it is noted that these acknowledge the need for family accommodation. This need is not disputed, however, in the case of the current appeal there would be no net increase in family accommodation.

Planning Balance

18. The Local Plan dates from 2012 but the weight to be attached does not hinge on its age. Rather paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
19. The Framework includes a requirement to significantly boost the supply of housing, including through an appropriate mix of housing types. The requirements of the Framework also include providing a high standard of amenity for existing and future users. Given this consistency, the conflict between the proposal and policy DM14 of the CS carries significant weight. This amounts to a conflict with the development plan as a whole.
20. The Council's inability to demonstrate a five-year supply of deliverable housing sites, has the effect that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the

² LPA Ref 22/03351/FUL

benefits, when assessed against the policies in the Framework taken as a whole. The site is not in a protected area.

21. As described above, the benefits associated with the appeal are limited. The scheme would be acceptable in terms of character and appearance, the standard of accommodation, neighbouring amenity, highway safety and cycle parking. However, the absence of harm in these respects is a neutral matter.
22. By comparison, given the objective of boosting significant the supply of housing in the Framework and the Council's housing land supply position, the adverse impacts through the loss of an existing residential unit are significant. Consequently, these impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
24. Therefore, for the reasons given above, the appeal is dismissed.

R. Lawrence

INSPECTOR