



Appeal Decision

Site visit made on 1 October 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2024

Appeal Ref: APP/L5810/W/24/3342739

3 Pouparts Place, Twickenham, Richmond upon Thames TW2 5FR

- 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 Ms Joanna Grant of Grafton Flats Ltd against the decision of the Council of the London Borough of Richmond Upon Thames.
 - The application Ref is 23/2082/FUL.
 - The development proposed is described as 'conversion of commercial floorspace at 1st and 2nd floors to provide 2 x two-bedroom units and internal reconfiguration of the commercial floorspace at the basement and ground floor levels.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme, as it is important that what is considered by the Inspector at appeal, is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
3. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. The amended drawings address reasons one and three in the decision notice. Specifically, the drawings denote a revised refuse storage area, and annotated drawings are provided to illustrate separation distances between the appeal site and nearby properties. These are material matters affecting the determination of this appeal and the changes have not been consulted upon.
5. I find that neither part of the necessary tests set out in the relevant case law have been satisfied and so I am unable to accept the amendments. Accordingly, I have determined the appeal having regard to the same proposal on which the Council made its decision.
6. The submitted location plan (2028/000) and proposed refuse storage drawing (2022-203) do not reflect the layout on site as the area denoted as soft

landscaping provides allocated parking bays. I have made my assessment strictly on the basis of the plans before me.

Main Issues

7. The main issues are the effect of the proposed development on:

- the living conditions of 14-20 Third Cross Road and 84A Hampton Road with reference to privacy;
- the living conditions of future occupiers in respect of the provision of private amenity space; and
- the character and appearance of the area with reference to refuse facilities;

Reasons

Living Conditions of 14-20 Third Cross Road and 84A Hampton Road

8. Numbers 14-20 Third Cross Road lie to the east of the appeal site and 84a Hampton Road is positioned to the rear. None of the properties lie directly behind the appeal site. The rear elevation of the proposed units is set back from the main rear elevation of the building.

14-20 Third Cross Road

9. The rear windows of the proposed development would serve bedrooms, with the outlook from these windows providing direct views of the garages and parking area to the rear. Due to the separation distance and oblique angle of the windows compared to the rear gardens, views from these windows would be limited, and only possible when standing in close proximity to the openings. On the upper floor, the parapet wall in conjunction with the position of the windows would further obscure the outlook in this direction.

84a Hampton Road

10. 84a Hampton Road is positioned directly behind the main rear elevation of 3-5 Pouparts Place and is closer to the boundary than the section of the elevation serving the proposed new units. Whilst privacy shutters were required on the windows directly facing 84a, the windows serving the proposed units would not directly overlook the rear garden of this property. Additionally, the view from the windows serving the bedrooms of the new units would be impeded by the flank wall of the building, due to the recessed nature of this section of the property.

11. Reference is made to a minimum distance of 20m between properties. The supporting text at 4.8.8 of policy LP8 of the London Borough of Richmond upon Thames Local Plan¹ (RUTLP) stipulates that the guideline of 20m applies to the distance between habitable rooms. In this case the separation distance between habitable windows would appear to exceed 20m and given that the angle is both oblique and partly impeded by the flank wall of the building, an acceptable level of privacy would be maintained.

12. For the reasons above I conclude that the proposed development would have an acceptable effect on the living conditions of 14-20 Third Cross Road and

¹ Adopted July 2018

84A Hampton Road with reference to privacy. As such, it would comply with Policy 46 of the Richmond Local Plan 'The Best for our Borough'² (TBFOB) insofar as it seeks development to have an acceptable impact on privacy.

13. Reference is made to Policy LP8 of the RUTLP which refers to amenity and living conditions. This policy does not refer to privacy and as such is not relevant to this main issue.

Private Amenity Space

14. To comply with Policy LP35 of the RUTLP and the Residential Development Standards SPD³, each unit would be required to provide 6m² of private, usable space that is easily accessed from living areas.
15. Whilst the quantum of amenity space exceeds the required provision and the site is in walking distance of public open space, the proposed area is shared between the proposed two units and is neither private nor accessible from either flat.
16. Reference is made to the amenity space being easily accessed, but it is neither viewable from nor near to the proposed units. The route needed to be taken to access it, through the main entrance and shared passageway, would not provide a functional space in conjunction with the proposed units. Instead, it would be isolated, and this would detract from its usability. As such the proposed amenity area would be insufficient for the needs of future occupants, who would reasonably expect an accessible private amenity area.
17. Examples of units that do not benefit from private amenity space have been provided, including existing flats at the appeal site. With reference to the flats in Poupart's Place, planning permission was granted in 2009, before the adoption of both the RUTLP and London Plan and its associated guidance. With reference to 118 High Street, Hampton Hill and 121 High Street, Whitton, the specific planning, and policy considerations behind these applications is unknown. However, both schemes are on High Streets and refer to much smaller units than those proposed. As such, these examples are not wholly comparable to the development before me and do not justify a planning permission.
18. For the reasons identified above, I conclude that the proposed development would result in unacceptable harm to the living conditions of future occupiers in respect of the provision of private amenity space. It is therefore contrary to Policy LP35 of the RUTLP, Policy 13 of the TBFOB, the London Plan 2018 and the Framework which, amongst other things requires housing development to achieve a high standard of amenity by providing sufficient private usable, functional and safe amenity space for occupiers.

Refuse facilities

19. The appeal site is a mixed-use development containing nine flats and commercial floorspace over four floors. Waste and recycling in the vicinity is all located within allocated storage areas and enclosures, thus resulting in an organised and clutter free development.

² Regulation 19 draft for consultation dated 9th June 2023

³ Adopted March 2010

20. The Refuse and Recycling: Storage and Access Requirements for New Developments SPD⁴ (RARSPD) sets out refuse and recycling storage requirements of blocks of five or more flats. The submitted drawings illustrate that the proposed arrangement fails to provide the required levels of storage for general waste, paper/card recycling, mixed container recycling and food waste. As a result, the appeal scheme would result in waste needing to be stored outside of the allocated storage area. This in turn would negatively affect the organised, clutter free character and appearance of this development.
21. For the reasons above I conclude that the proposed development would have an unacceptable effect on the character and appearance of the area with reference to refuse facilities. The proposed development is therefore contrary to Policy LP24 of the RUTLP, Policy 7 of the TBFOB and the RARSPD insofar as they require new development to provide adequate waste and recycling facilities.

Other Matters

22. Whilst the proposal would utilise a vacant unit and create two additional properties with associated social and economic benefits, given the quantum of development these benefits would be limited and should not come at the expense of the living conditions of future occupiers or the character and appearance of the area with reference to refuse facilities. Accordingly, the benefits do not outweigh the harm identified.

Conclusion

23. The proposal conflicts with the development plan read as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal is dismissed.

V Goldberg

INSPECTOR

⁴ Adopted April 2015