



Appeal Decision

Site visit made on 18 November 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/Z5630/W/24/3343308

84 and 84a The Coigne, Lower Ham Road, Kingston Upon Thames KT2 5BB

- 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 and Mrs Andrew and Esther Harper against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/03422/FUL.
 - The development proposed is described as 'amalgamation of No. 84 and No. 84a Lower Ham Road to create one dwellinghouse. Demolition of garage and outbuilding and erection of single storey rear and side extensions. Demolition of external staircase, demolition of front conservatory/porch and erection of open porch, replacement hard landscaping and front patio. Erection of new front wall and entrance gate, and new rear side boundary wall and gate. Changes to fenestration including installation of new window to 2nd floor North elevation. Restoration of external building fabric including railings to front and installation of new timber windows. Installation of 5nos. rooflights to side and rear roof slopes and new railings to rear side of property. Erection of garage within rear garden'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant refers to Policy DM13 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy (LDFCS)¹. A copy was not provided, I have therefore viewed the online version of the LDFCS.
3. On 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). Having reviewed the changes, I am satisfied that they do not affect the substantive matters of the appeal and that proceeding without further consultation with the main parties would not be prejudicial to their respective cases. The paragraph number referred to has been updated to align with the updated Framework.

Main Issues

4. The main issues are the effect of the proposed development on:
 - housing supply in the borough; and
 - the living conditions of the occupants of 11 Albany Park Road in respect of outlook.

¹ Adopted April 2012

Reasons

Housing Supply

5. Policy DM14 of the LDFCS resists the loss of existing accommodation (of all types) and, in particular, dwellings which are suitable for family accommodation. London Plan Policy H1 aligns with Policy DM14 as it seeks to increase housing supply.
6. The appeal site comprises two bedroom and four-bedroom flats. Both flats exceed the relevant London Plan space standards and are well sized. Whilst the two-bedroom unit may not be considered family accommodation, the four-bedroom flat would reasonably accommodate a family. The evidence before me does not define a family sized unit but the four-bedroom flat is appropriately sized with four spacious bedrooms, a large living/dining room and a separate kitchen.
7. The appeal scheme seeks to amalgamate the units to provide a five-bedroom property. Whilst there would be no loss of residential floor space, and the proposal would not necessarily result in the loss of bedrooms (dependent on internal layout), the scheme would result in two flats, neither of which are small, converting to one residential unit. The loss of a unit would conflict with Policy DM14 of the LDFCS and Policy H1 of the London Plan.
8. Reference is made to the current units being substandard for reasons including accessibility, a lack of heating, the garden not being available to the top floor flat and a bedroom not having an openable window. Additionally, the appellant advises that the existing units have poor EPC ratings and therefore they would not be lettable, but there is no supporting evidence that the units cannot be occupied. The ground floor flat is accessible to those with a disability or young family, as access is at ground level. In addition, the need to access the first floor flat by external stairs, would not result in this unit being unsuitable for family accommodation. Whilst the first floor flat does not have access to the garden it does have two large terraces which provide good private amenity space. In addition, the lack of heating in bedrooms, EPC ratings and a non-openable window could be altered as part of the existing arrangement. The matters cited would not need to be addressed by amalgamating the two units.
9. Three recent appeal decisions are referred to². All refer to the amalgamation of much smaller units (one- and two-bedroom flats). Whilst one of the units in the appeal scheme is a two-bedroom flat, it is a spacious unit and not comparable to the smaller units in the appeal schemes cited. Importantly, none of the examples had existing family sized accommodation. As a result, they are not wholly comparable to the development before me and do not justify a planning permission.
10. Paragraph 61 of the Framework sets out the overall aim to meet an area's identified housing need, including with an appropriate mix of housing types for the local community. Given that the Council can only demonstrate a 2.21-year supply of deliverable housing, the identified need of the borough is to retain housing stock. As such the proposed loss of a housing unit would be contrary to this aim of the Framework.

² APP/Z5630/W/22/3313972, APP/Z560/W/21/3281234 and APP/Z5630/W/21/3270235

11. The Borough's Strategic Housing Market Assessment 2016 (SHMA) reports that the majority of new housing in the Borough needs to be of larger three- or four-bedroom units. Whilst the proposal would provide a larger dwelling which aligns with the findings of the SHMA, the existing arrangement also provides a four-bedroom unit. The proposal is therefore neutral with regard to the provision of 3+ bedroom units, but this does not overcome the conflict identified above with regard to the overall loss of housing.
12. For the reasons above, I conclude that the proposed development would negatively effect housing supply in the borough. It is therefore contrary to Policy DM14 of the LDFCS and Policy H1 of the London Plan. These policies seek to resist the loss of existing accommodation and increase housing supply.

Living Conditions

13. The rear garden of the appeal site shares its rear boundary with 11 Albany Park Road. The properties on Albany Park Road have short gardens and are on lower ground compared to the appeal site. There is dispute regarding the exact difference in levels. This has not been resolved precisely but on site I noted that it was meaningful.
14. The proposed detached garage would be located in the northern corner of the appeal site, with its rear elevation positioned on the rear boundary. Given the orientation of the garage, the gable end would face the rear garden and rear elevation of 11 Albany Park Road. Due to 11 Albany Park Road being at a lower ground level, the garden being short, and the garage being built on the boundary, a significant proportion of the garage would appear above the boundary wall and consequently would appear imposing when viewed from 11 Albany Park Road.
15. Whilst planting within the rear garden of 11 Albany Park Road and the appeal site would partially screen the garage, some of the planting would be removed to erect the garage. Even if all planting was retained, the garage would be visible through gaps within and above the foliage.
16. Reference is made to 11 and 13 Albany Park Road having similar garages, however, these garages are located between the dwellings rather than directly behind them. Accordingly, they do not negatively affect the outlook from the properties or gardens of Albany Park Road.
17. It is noted that the appellant would have been amenable to amending the position and design of the garage and it is suggested that this could be dealt with by condition. Even if the Council failed to engage during the planning application stage, the appeal process should not be used to evolve a scheme. If the appellant considers that relocating or amending the garage design would overcome the Council's concerns, a fresh planning application should be made.
18. For the reasons above, I conclude that the proposed development would negatively affect the living conditions of the occupants of 11 Albany Park Road in respect of outlook. It is therefore contrary to Policy DM10 of the LDFCS which amongst other things requires new development to have regard to the amenities of neighbours in terms of outlook.

Other Matters

19. The appeal site is located within the Riverside North Conservation Area (RNCA). The significance of the conservation area is derived by its linear form and mature landscape influenced by the River Thames, alongside which lie riverside estates and a group of large Victorian/Edwardian houses fronting the river. The appeal property has been recognised for positively contributing to the significance of the RNCA³. The proposed development would reinstate its original use which would be a benefit in heritage terms and would enhance the appearance of the property through the removal of the staircase and glass porch and the construction of the front door. As a result, the proposed development would enhance the character and appearance of the RNCA.

Planning Balance

20. The Council concedes it is unable to demonstrate a five-year housing supply and confirms that it has a deliverable housing supply of 2.21 years. The proposed loss of a residential unit would further compound the negative impact on housing supply. I therefore place significant weight on this harm. There would be further harm because the proposal would negatively affect the living conditions of the occupiers of 11 Albany Park Road in respect of outlook. I place moderate weight on this factor.
21. The proposal would provide a high-quality family home incorporating features that would improve its environmental performance. Additionally, it would reinstate the original use of the property and enhance its appearance through the removal of the staircase and glass porch and the construction of the front door. In turn this would enhance the character and appearance of the RNCA. These are benefits of the scheme which are afforded moderate weight, but they are outweighed by the harms identified above and the proposal conflicts with the development plan taken as a whole. The material considerations do not indicate that the appeal should be decided other than in accordance with it.
22. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR

³ Conservation Area 25- Riverside North – Planning Information and Summary Character Appraisal October 2005