



Appeal Decision

Site visit made on 7 January 2025

by C Rafferty LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 28th January 2025

Appeal Ref: APP/Z5630/W/24/3346966

Land rear of 3 - 4 Oaklea Passage, Kingston, KT1 2AJ

- 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 D Patel against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00518/FUL.
 - The development proposed is the demolition of existing garage and erection of 2 new residential 3-bedroom houses with associated parking, bins and cycle provision.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published during the appeal. The main parties were given the opportunity to comment and I have considered the revised Framework in my decision.
3. The reasons for refusal also referred to highway safety and fire safety concerns. The main parties now agree that these could be dealt with by way of planning condition and legal agreement. I have therefore proceeded on this basis.

Main Issue

4. The main issue is the effect of the proposed development on the setting of nearby listed buildings.

Reasons

5. The appeal site is an area of open land currently in use for car parking. The immediate surrounds are mixed in nature. To the east lies a car park, including multi-storey structures, while the south and west feature two and three storey residential development and associated parking. Immediately to the north and north-east of the site are the Grade II Listed Buildings of Nos. 4-6 Oaklea Passage, beyond which are further examples of high-rise development.
6. The proposal seeks to erect two dwellings at the site, of a contemporary design following an art deco vernacular. Concerns have been raised that the precise external design would appear out of context and has not taken cues from neighbouring development. However, given the wide variety of development design in the immediate surrounds of the site, there does not appear to be an overarching style or vernacular. As such, I agree with the findings of the Officer Report that a contemporary designed building could be acceptable in this location, if of appropriate form and massing, and subject to heritage considerations.

7. The Grade II Listed Buildings to the north and north-east of the site comprise detached (No. 4) and semi-detached (Nos. 5-6) late Georgian cottages from the late 18th to early 19th century, with gardens to the rear that separate them from the appeal site. While the precise plots may have altered over time, the buildings appear to have retained their overall original form and relationship to each other. Among the mixed built form of the immediate vicinity, they provide a clear example and understanding of traditional development from this era and, as such, derive significance from both their historic and architectural interest.
8. The significance of heritage assets can be harmed by development in their setting, being the surroundings in which the assets are experienced, and which change as the asset and its surroundings evolve. The appeal site is in the setting of the Listed Buildings, and the original setting has altered. The development of cottages with yards and gardens extending into wider plots and open meadow land as referenced in the Historic Environment Assessment has since been replaced. Sizeable, contemporary structures now exist alongside the Listed Buildings, creating a tight, urban grain. However, an element of openness remains due to the appeal site. It is clear from the historic maps provided that this openness has been retained throughout various phases of development. As such, even with the current car park use, from a spatial perspective, this element of the setting remains largely unaltered.
9. At present, the lack of built form at the appeal site allows views of the Listed Buildings from the south from both public and private spaces. Despite surrounding modern, tall development and boundary treatments, the rear facades and roofscapes, particularly of No. 4, remain visible and legible. Even among contemporary structures and car parking, the traditional appearance of, and relationship between, the Listed Buildings remains evident. In addition, the openness of the appeal site provides a backdrop to the front facades of the Listed Buildings, particularly that of No. 4. When these Listed Buildings are viewed from Oaklea Passage this rear openness provides an element of visual relief within the tight, urban grain. It allows for a clear appreciation of the historic design and placement of the cottages from this direction, with such appreciation unfettered by built form behind. As such, I find that the appeal site currently contributes positively to the setting of the Listed Buildings.
10. The proposal would erect two sizeable structures, being 3 storey dwellings that would occupy much of the appeal site. Due to intervening gardens, these would be sited some 20-22m from the Listed Buildings and would be further from Oaklea Passage itself. Planting has been proposed within the site, and I note the possibility of attaching a landscaping condition. I further accept that the front façade of the Listed Buildings would not be masked by the proposal. However, it remains that the scale and massing of the proposal would render it notable in the surrounds from both public and private viewpoints, despite its backland position.
11. From the south, even noting the separation between the two proposed dwellings, the placement of the three storey massing of the proposal would interrupt views of the rear facades and roofscapes of the Listed Buildings, rendering them less visible and legible in the surrounds. From Oaklea Passage, it would disrupt the openness to the rear. Despite the setback, the overall scale and massing of the proposed built form would remain evident from this location, visually competing with the Listed Buildings and further enclosing and roofscapes them in a tighter grain of development. Overall the proposal would therefore reduce the ability to

appreciate and understand the traditional design and relationship of the Listed Buildings. As such, it would diminish the positive contribution the site currently makes to the setting of the Listed Buildings, and thereby their significance.

12. Decision makers are required to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and any harm to, or loss of, the significance of a designated heritage asset from development in its setting should require clear and convincing justification. I find the harm arising in this case to be less than substantial, such that it should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
13. The main parties agree that the Council cannot demonstrate the required housing land supply. The proposal would result in the creation of two, three-bedroom dwellings, adding to housing mix and choice in a sustainable location at the edge of the town centre and among established residential uses. It would make efficient use of space and optimise the use of the site, which the appellant asserts at present makes limited contribution to the surrounding character. However, even noting the important role small and medium sized sites can play in meeting housing supply, due to the two-dwelling nature of the proposal this benefit carries only moderate weight.
14. The proposal would have benefits linked to drainage and biodiversity enhancements due to the provision of planting, green roofs, and sustainable drainage. It would also have some socio-economic benefits due to employment during construction and contribution to the local economy by future occupiers. However, each of these benefits would be modest in scale and thus attract limited weight. Even when taken together with the housing provision as outlined, I do not find that these benefits would outweigh the harm identified.
15. For the reasons given, the proposal would have a harmful effect on the setting of nearby listed buildings. As such, it would fail to comply with Policies CS8, DM10, and DM12 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy 2012; Policy HC1 of the London Plan 2021; and the provisions of the Framework, insofar as they seek to ensure that development has regard to the historic environment and is sympathetic to a heritage asset's significance and appreciation within its surroundings.

Other Matters

16. The appellant has referred to pre-application discussions with the Council that informed the final design of the scheme. This has little relevance to my assessment of the planning merits of the appeal, with pre-application discussions with the Council carrying limited weight. The appellant further references the allocation of neighbouring sites within the Council's emerging local plan. However, due to its early stage of preparation I attach limited weight to this. The main parties agree the proposal would not result in harm to the living conditions of occupiers of surrounding dwellings, which is neutral in the planning balance.
17. Examples of other development have been cited by the appellant, including those where paragraph 11(d) of the Framework was engaged. However, each application must be decided on its own site-specific merits and circumstances, as I

have done in this case. Reference to development elsewhere carries little weight. A completed planning obligation has also been provided with the appeal, necessary to make the development acceptable in planning terms. However, as I am dismissing for other reasons, I have not considered this further.

18. Overall, these other matters would not outweigh the harm identified above.

Planning Balance and Conclusion

19. The main parties agree that the Council cannot demonstrate the required housing land supply, with latest figures suggesting a 1.55 year supply and Housing Delivery Test result of 60%. Therefore, in accordance with paragraph 11(d) of the Framework, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Footnote 7 to paragraph 11(d) is clear that this applies to designated heritage assets.

20. The identified harm to the setting of the listed buildings is such that the policies in the Framework relating to designated heritage assets provide that strong reason for refusing the development in this case. As a result, the presumption in favour of sustainable development would not apply.

21. For the reasons given, I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR