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## Appeal Decisions

Hearing held on 10 February 2015

Site visit made on the same day

**by Claire Victory BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 May 2015**

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### **Appeal A Ref: APP/Z5630/A/14/2229253**

#### **The Alexandra, 50 Park Road, Kingston upon Thames, Surrey KT2 6AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Jamie Barratt (Agenda E1 Ltd) against the Council of the Royal Borough of Kingston-upon-Thames.
  - The application Ref 14/12860/FUL is dated 5 August 2014.
  - The development proposed is the change of use of the existing building to provide 6 x 1 bedroom flats, erection of a three storey apartment block comprising 2 x 1 bedroom and 3 x 2 bedroom flats, erection of 4 x 4 bedroom houses and associated works including car parking and landscaping.
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### **Appeal B Ref: APP/Z5630/A/14/2229286**

#### **The Alexandra, 50 Park Road, Kingston upon Thames, Surrey KT2 6AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Agenda E1 Ltd against the Council of the Royal Borough of Kingston-upon-Thames.
  - The application Ref 14/12895/FUL, is dated 5 August 2014.
  - The development proposed is the change of use of the existing building to provide 6 x 1 bedroom flats, erection of 4 x 4 bedroom houses and associated works including car parking and landscaping.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for the change of use of the existing building to provide 6 x 1 bedroom flats, erection of 4 x 4 bedroom houses and associated works including car parking and landscaping at The Alexandra, 50 Park Road, Kingston upon Thames, Surrey KT2 6AX in accordance with the terms of the application, Ref 14/12895/FUL, dated 5 August 2014, subject to the conditions in the schedule attached to this decision.

## **Procedural Matters**

3. The appellant submitted a revised drawing at the hearing in respect of Appeal A, ref, ACP\_034 Rev 01, showing correct details within the southern elevation of the proposed apartment block. This supersedes drawing ACP\_034 00,

submitted with the application which was incorrect. The appellant also confirmed that a new drawing ref. ACP06\_P-51 was submitted with Appeal A, showing the glass link and bay detail to the front elevation of the extension at 1:20 scale. As these details correspond to the floor plans and other elevations originally submitted, I am satisfied that no-one would be prejudiced by my consideration of these drawings in determining Appeal A.

### **Background and Main Issue**

4. As set out above, there are two appeals. The applicant has submitted completed planning obligations by unilateral undertaking (UU) under section 106 of the Act (as amended) for each appeal scheme, whereby, on the grant of permission, the appellant undertakes to make financial contributions towards off-site affordable housing, education, health and social care facilities, leisure facilities and sustainable travel initiatives.
5. The Council's Planning Committee indicated that had it determined the applications, the decision would have been to approve Appeal B, and refuse Appeal A, taking into account the UUs provided by the applicant.
6. Further to the above, the Council confirmed at the Hearing that, as set out in the Statement of Common Ground (SOCG), it now considers the proposal the subject of Appeal B to be acceptable, and the remaining areas of contention relate to the design, siting and massing of the apartment block and glazed link proposed in Appeal A, the quantum of development, and its effect on the Liverpool Road Conservation Area, of which the site forms part. Thus it has withdrawn its objection to Appeal B.
7. Notwithstanding the removal of the Council's objections to the Appeal B scheme, it remains for the appeal to be determined on a fresh appraisal of the planning issues arising, including the adequacy of the submitted UUs and the objections still pursued by local residents.
8. Taking all of the above into account, I consider the main issue to be whether the proposals would preserve or enhance the character or appearance of the Liverpool Road Conservation Area.

### **Reasons**

9. The Alexandra, a former public house, is a three storey detached building located on the corner of Park Road and Tudor Road. It sits within a large plot, which is mainly given over to hardstanding, but with a garden area to the south west corner, which includes some mature trees.
10. The site lies within the Liverpool Road Conservation Area (CA). Whilst there is no adopted Conservation Area Appraisal, the parties agree the heritage significance lies in the large detached and semi-detached villas, of a variety of architectural styles, set within spacious gardens. The appeal property has heritage significance as a coach house, and is relatively unusual within the CA in having space all around the building. The relatively open site contrasts with the generally tighter urban grain within Tudor Road and neighbouring side roads such as Kings Road. The surrounding buildings are predominantly two and three storey apartment buildings, terraces and semi-detached properties.

*Appeal A*

11. The development would involve the conversion of the existing property into 6 flats, the erection of four houses and the erection of an apartment block including a glazed link as an extension to the existing building.
12. The 4 dwellings proposed would broadly maintain the building line along Tudor Road and would be of a similar height to adjacent properties. The dwellings would reflect the proportions of the Victorian and Edwardian properties in the locality, and traditional materials would be used in their construction. As such, the dwellings would be incorporated satisfactorily into the streetscene and would have a neutral effect on the character and appearance of the CA.
13. The Council are concerned with the reduction in space to the south of the host property that would arise from the proposed side extension, which it contends would prevent the southern façade of the square building from being read from the street. However, as a corner property, the main two façades which face Park Road and Tudor Road would remain clearly visible from the public realm and would not be affected by the proposed development.
14. Whilst the Council has referred to the existence of one or two larger than average gaps within the conservation area as a whole, they do not form any particular pattern that would be undermined by the proposal. The gap would be only slightly narrower than that proposed between the 4 dwellings on Tudor Road and the eastern boundary of the site, and there are no other similar gaps in the immediate vicinity along Park Road. Taking into account the separation of over 7m between the flank wall of No 46 Park Road and the common boundary with the appeal site, it would still allow for glimpses through to the rear gardens of existing and proposed properties on Tudor Road. Consequently, the reduction in the gap between the appeal property and No 46 would not fail to preserve the character and appearance of the conservation area.
15. I turn now to the design and appearance of the proposed apartment block and glazed link. At the Hearing, the parties agreed that a condition requiring the lowering of the roof of the glazed link by 250mm, to below the dental brickwork of the appeal building would address concerns that this architectural detailing would be obscured by the scheme. Nonetheless, although the roof ridge of the extension has been reduced in height in comparison to the previous scheme (ref. 13/12680/FUL), it would still be above the eaves level of the host property, and noticeably greater in width.
16. Moreover, the Alexandra is angled so that its northern elevation is closer to the Park Road boundary than its southern elevation. I accept that the appellant has tried to address the staggered building line along the Park Road frontage by taking a line between the appeal building and the row of terraced townhouses to the south. However, the position of the external balconies projecting beyond the apartment block would dominate and undermine the integrity of the appeal property. Combined with the excessive width and height of the property, the extension would not be subordinate to the main building and thus would fail to preserve the character and appearance of the conservation area.

17. The Council are also concerned with the quantum of development proposed. The loss of the gap on the Park Road frontage as a result of the proposed apartment block, and the extensive use of hardstanding within the site are cited as contributing to the cramped nature of the development. However, I have found that the reduction in the gap between the host property and No 46 to the south would not be harmful to the appearance of the street scene or the character of the conservation area as a whole. In addition, the Council concede that the provision of private and communal amenity space, and parking provision within the site would be acceptable.
18. Moreover, the development falls within the expected density range in London Plan Policy 3.4 for locations of this type. I also note the relatively extensive amount of hardstanding which covers the site at present, particularly along the Tudor Road frontage. Taking all of the above into account I consider that the proposal would strike an appropriate balance between the scale and mass of the proposed buildings and the space around them, and would have a neutral effect on the character and appearance of the conservation area. Nevertheless, this would not outweigh or negate the harm that I have found in respect of the proposed apartment building.
19. For these reasons I conclude that the scheme subject of Appeal A would not preserve the character or appearance of the Liverpool Road Conservation Area. It would be contrary to Policies CS8, DM10 and DM12 of the Core Strategy (CS) (2012). These policies, amongst other things, seek to ensure that new development relates well to its surroundings, and would preserve and enhance the existing historic assets of the borough.
20. Given the size and scale of the development in the context of the CA as a whole, I consider that the development is sufficiently modest such that the harm to the significance of the CA would be less than substantial. Thus, it is necessary to consider, in accordance with paragraph 134 of the National Planning Policy Framework (the Framework), whether there would be any public benefits to the scheme sufficient to outweigh that harm.
21. The appellant pointed out at the Hearing that the Further Alterations to the London Plan (FALP) (2014) indicate an increased annual housing requirement for the borough. I acknowledge that the scheme would make a modest contribution to the supply of housing in the borough. I also consider that the appearance of the site would be enhanced by the proposed soft landscaping and boundary treatment, and thus it would also be a benefit to be weighed in favour of the proposal. Nonetheless, in these particular circumstances, these benefits would not outweigh the harm that would be caused to the conservation area as a result of the proposal. Accordingly, Appeal A would be contrary to national policy.

### *Appeal B*

22. The scheme subject of Appeal B does not include the proposed apartment block and glazed link. The development would involve limited external alterations to the host property, including a small side extension to house a staircase core. This would be well below the eaves level of the Alexandra, and would be subservient in scale and form. The soft landscaping and boundary treatment proposed would enhance the appearance of the conservation area.

23. The four dwellings proposed to the Tudor Road frontage are the same as those proposed under Appeal A. For reasons I have already described, I have found the erection of these dwellings would preserve and enhance the character and appearance of the conservation area.
24. I conclude that the scheme subject of Appeal B would preserve and enhance the character and appearance of the Liverpool Road Conservation Area. Thus it would accord with CS Policies CS8, DM10 and DM12, and the Framework.

### **Other Matters**

25. Two separate unilateral undertakings have been submitted, one for each scheme. Both cover the same issues. The application subject of Appeal A was made in the name of Mr Jamie Barratt and Agenda E1 Ltd, whereas the application subject of Appeal B was made solely in the name of Agenda E1 Ltd, and the undertakings were signed and executed in the name of Mr Jamie Barratt. However, Mr Barratt is identified on the UUs as the director of that company and the Council is satisfied that the UUs could be brought into effect on the grant of planning permission. I have no reason to disagree.
26. CS Policy IMP3 requires financial contributions towards additional infrastructure provision which is required to support and mitigate the impacts of development, and the Council's Planning Obligations Strategy Supplementary Planning Document (SPD) (2011) provides further detail of the methodology. The appellant has offered to make contributions of £48,100 for education, £16,500 for health and social care, £7,150 for leisure facilities, £14,300 for sustainable travel measures and £28,600 for public realm enhancements in respect of Appeal A. With regard to Appeal B, the appellant has offered to make contributions of £36,400 for education, £11,800 for health and social care, £5,150 for leisure facilities, £10,300 for sustainable travel measures and £20,600 for public realm enhancements. Future occupants of the proposed residential units may expect to use such facilities and therefore place an increased demand upon them.
27. In addition, CS Policy DM24 requires 50% of residential units to be affordable housing on sites of 10 dwellings or more. This is expected to be on-site, but the Council may accept a contribution towards either delivery on an alternative site or other affordable housing initiatives. The Council's Affordable Housing SPD (2013) sets out the detailed methodology for the calculation of the level of contribution. This may be reduced where it can be demonstrated that the expected level of contribution would not be viable. In respect of both Appeal A and Appeal B, the Council has accepted, on the basis of an independently verified viability assessment that the site would not be viable with the level of contribution sought. Consequently the Council has accepted the appellant's offers of £50,000 in respect of Appeal A, and £33,334 in respect of Appeal B towards the provision of off-site affordable housing.
28. I am therefore satisfied that the contributions sought in the case of both appeals in relation to infrastructure and affordable housing would be necessary to make the developments acceptable in planning terms, are directly related to the developments and fairly and reasonably related in scale and kind. As such the developments would accord with CS Policy IMP3, CS Policy DM24, Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework, insofar as they relate to the aforementioned contributions.

29. With regard to parking provision, the parties will be aware that I have found in a previous decision<sup>1</sup>, where this matter was contested, that there would be no harm arising from the level of on-street car parking proposed in that scheme, for 15 residential units. This conclusion was based on the relative accessibility of the site, the number of spaces proposed on site being broadly in line with the London Plan car parking standards, and there being sufficient capacity within the CPZ to accommodate the net shortfall of four on-street car parking spaces resulting from the scheme.
30. For both Appeal A and Appeal B, the parties agree in the SOCG that the proposed vehicle and cycle parking provision would be compliant with London Plan standards, and that the level of parking within the site is adequate subject to a formal car capping agreement. Signed and executed UUs have been submitted to prevent future occupants from obtaining a permit for on-street parking within the Controlled Parking Zone (CPZ) which the appeal site falls within. Nonetheless, for the above reasons I consider that the obligations would not be necessary to make the development acceptable in planning terms, and would thus not meet all 3 tests in the Community Infrastructure Levy Regulations 2010 and paragraph 203 of the Framework. As such, they cannot be taken into account in my decisions insofar as they relate to the provisions for car capping.
31. I have had regard to all other matters raised in respect of both appeals. There are concerns regarding drainage within the locality, but Thames Water has no objection to either scheme in relation to water supply or sewerage capacity, and a condition could be imposed to require the provision of sustainable drainage measures within the site.
32. There are also concerns regarding the loss of 12 mature trees on the site. An arboricultural report was submitted with the application, which indicates that the trees proposed for removal are of poor quality and not suitable for long term retention. Consent for the removal of several trees on the site (T8, T9 and T10 as shown on the existing Boundary Site Plan ref P\_002 00) has been granted. 14 semi-mature trees would be planted within the site, and the large London Plane tree in the adjacent site would be retained and protected during construction. The Council has confirmed that the planting and landscaping scheme would be appropriate, and its implementation could be secured by condition. As such, I have given this matter little weight in my decision.
33. Finally, local residents are concerned with the loss of the public house/community use and the potential for the use. The appellant submitted marketing material to demonstrate evidence of marketing the property for 4 years for Class A4 use. A viability assessment has also been submitted, and the Council have accepted the principle of the loss of the property as a community facility. I also note the current use of the ground floor as an estate agent (Class A2), and that there is an existing permission to convert the upper floors of the pub to residential use. There was an application for the appeal property to be registered as an asset of community value (ACV), but the Council confirmed the property is not on their ACV register. On the basis of the available evidence therefore, the property no longer appears to be viable for community use.

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<sup>1</sup> APP/Z5630/A/14/2222262

34. I have had regard to all other matters raised in respect of the two appeals, but based on the evidence before me, none of these matters, either individually or cumulatively would alter my overall conclusion.

### **Conditions**

35. I have found that Appeal B would be acceptable subject to certain conditions. I have had regard to the suggested conditions in the SOCG, with some minor changes for clarity or as discussed at the Hearing, with due regard to advice in the National Planning Practice Guidance (the Guidance). In addition to the standard time limit condition, I have specified the approved plans for the avoidance of doubt.
36. Details of the proposed external materials, boundary treatment, refuse storage, and foul drainage, tree protection and hard and soft landscaping are required to safeguard residential amenity, although I have omitted a separate condition for the provision and retention of a refuse storage area to reduce repetition.
37. Details of the parking, servicing and circulation areas are required to be submitted and approved in the interests of highway safety. The provision and retention of secure cycle parking facilities are required by condition to promote sustainable modes of transport. Conditions requiring details of foul and surface water drainage are also necessary to ensure the site would be properly drained and to reduce surface water run-off.
38. I shall not impose conditions relating to the Code for Sustainable Homes and BREEAM as the Government have confirmed there is no longer a national requirement for such standards as far as they relate to the provision of new housing. However compliance with Lifetime Homes standards, and details of the ground levels on site are necessary to ensure inclusive access to the proposed dwellings.
39. The Guidance advises that restrictions on permitted development should only be imposed in exceptional circumstances. Given the constraints of the site, the need to maintain adequate private amenity space and privacy for neighbouring occupiers, and the need to safeguard the character and appearance of the area, I consider it necessary in these particular site circumstances to impose a condition to restrict extensions to the proposed terraced properties, including porches and dormer windows.
40. I have also specified the need for obscure glazed and non-opening windows below a height of 1.7m above finished floor levels to the ground, first and second floor in the eastern elevation of the host property to prevent overlooking and thus safeguard the living conditions of neighbouring occupiers.

### **Conclusion**

41. For the above reasons and having regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B should be allowed subject to the conditions in the attached schedule.

*Claire Victory*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Michael Wood	Indigo Planning
Mr Matt Allchurch	Architect
Mr James Barratt	Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Patrick Whelan	Royal Borough of Kingston upon Thames
Ms Karen Coles	Royal Borough of Kingston upon Thames

### INTERESTED PERSONS:

Cllr Andrea Craig	Canbury Ward Councillor
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## **DOCUMENTS**

- 1 Copy of drawing P\_034 01 (south elevation of apartment building)
- 2 Suggested revised condition 7 relating to details of glazed link



### **APP/Z5630/A/14/2229286 (Appeal B) - Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ACP07\_P\_000 P01; ACP\_P\_001 P01; ACP07\_P\_002 P01; ACP07\_P\_003 P01; ACP07\_P\_004 P01; ACP07\_P\_005 P01; ACP07\_P\_006 P01; ACP07\_P\_010 P01; ACP07\_P\_011 P01; ACP07\_P\_012 P01; ACP07\_P\_013 P01; ACP07\_P\_019 P03; ACP07\_P\_020 P03; ACP07\_P\_021 P01; ACP07\_P\_022 P01; ACP07\_P\_023 P01; ACP07\_P\_024 P01; ACP07\_P\_025 P03; ACP07\_P\_026 P03; ACP07\_P\_027 P03; ACP07\_P\_028 P02; ACP07\_P\_029 P01; ACP07\_P\_030 P02; ACP07\_P\_031 P03; ACP07\_P\_032 P01; ACP07\_P\_033 P03; ACP07\_P\_034 P02; ACP07\_P\_035 P01; ACP07\_P\_036 P01; ACP07\_P\_037 P01; ACP07\_P\_040 P02; ACP07\_P\_041 P03; 13-189-TPP-RevB
- 3) The site and building works required to implement the development shall only be carried out between the hours of 08:00 and 18:00 Mondays to Fridays and between 08:00 and 13:00 on Saturdays and not at all on Bank Holidays and Sundays.
- 4) The car parking, servicing and manoeuvring areas shown on the approved drawing shall be provided with a hard, bound surface, adequately drained before the development is occupied for the purpose hereby permitted. These areas shall be kept free from obstruction at all times, and shall not thereafter be used for any other purpose.
- 5) Before the development hereby approved is commenced, a sample of the facing materials to be used in the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be built in accordance with these approved samples.
- 6) Before building operations commence, details shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - a) materials for all external finishes, including colour and texture;
  - b) boundary treatment, including walls, fences and gates;
  - c) treatment and layout of all parts of the site not covered by the approved buildings, including hard and soft landscaping;
  - d) refuse storage facilities;
  - e) details of new houses to show timber barge board, lead dressed dormer, ridge tiles, cast iron rainwater goods, quoining, chimneys, corbelling and clay pots;
  - f) details of timber windows to proposed houses, and to show lintels and cills;
  - g) sewer and drainage run.

The development shall be completed in accordance with the approved details and retained as such thereafter.

- 7) All new roofs within the development shall be clad in natural slate, and shall be retained as such thereafter.
- 8) Prior to commencement of any development on site, a Construction Management Plan shall be submitted to the local planning authority for written approval. The development shall only be implemented in accordance with the details and measures approved as part of the Construction Management Plan, which shall be maintained throughout the entire construction period.
- 9) The open area around the buildings hereby approved shall be permanently retained as amenity space for the occupiers of the buildings and shall not be used for any other purpose.
- 10) Prior to the commencement of the development, a detailed arboricultural method statement and tree protection plan shall be submitted to and approved in writing by the local planning authority. This shall include:
  - a) a plan to a scale and level of accuracy appropriate to the proposal, that shows the positions, crown spreads and root protection areas (RPA) of every retained tree on site, and on nearby ground or land adjacent to the site, in relation to the approved plans;
  - b) a schedule of pre-construction tree works for the above detailed trees, where appropriate;
  - c) details and positions of the tree root protection zones;
  - d) details and positions of tree protection barriers and ground protection where appropriate;
  - e) details and positions of the construction exclusion zones;
  - f) details and positions of the existing and proposed underground service runs, to be routed to avoid root protection zones where possible;
  - g) details and positions of any change in levels or the positions of any excavations within 5m of the RPA of retained trees;
  - h) details of any special engineering required to accommodate the protection of any retained trees e.g. in connection with foundations, service installation, bridging water features, surfacing;
  - i) details of the working methods to be employed for the installation of drives, paths within the RPAs of retained trees in accordance with the principles of 'no dig' construction. The details shall be in accordance with British Standard BS: 5837:2005

The approved protection scheme shall be implemented prior to the commencement of any work on site and maintained as such until the completion of the development.

- 11) No development shall commence until a landscaping scheme including where applicable the retention of the existing trees has been submitted to and approved by the local planning authority. The approved scheme shall be implemented within the first planting season following completion of the development and the tree planting and landscaping shall thereafter be maintained for five years. Any trees or shrubs which die during this period shall be replaced in the first available planting season, and the

- area shown to be landscaped shall be permanently retained for that purpose only.
- 12) Prior to commencement of the development, tree pit details shall be submitted to and approved by the local planning authority for those trees to be planted within the hardstanding fronting Tudor Road and Park Road. The approved tree pit details shall be implemented prior to the commencement of any work on site.
  - 13) Prior to commencement of the development, details of secured cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved by the local planning authority. These facilities shall be completed and made available for use prior to the occupation of the development hereby permitted, and thereafter retained for use at all times.
  - 14) No construction of any residential unit hereby permitted shall begin until details of the lifetime homes specification/standards have been submitted to and approved in writing by the local planning authority.
  - 15) Prior to the commencement of the development hereby permitted, details of the levels of buildings, roads, parking areas and pathways within the site shall be submitted to and approved by the local planning authority. These levels shall be permanently retained as such thereafter.
  - 16) Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting this Order), no extensions (including porches or dormer windows) to the dwelling houses hereby permitted shall be erected within their curtilage.
  - 17) Before any occupation of the development hereby permitted, the windows in the east elevation and situated on the ground, first and second floors of the converted retained building shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing of a patterned type only which shall be retained as such thereafter.
  - 18) Prior to the commencement of the development hereby permitted, details of a sustainable urban drainage system shall be submitted to and approved in writing by the local planning authority. The system shall be implemented and maintained in accordance with the approved details.

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