
Appeal Decision

Site visit made on 9 May 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/Z5630/W/17/3168972

Rear of 107-129, Manor Drive North, New Malden KT3 5PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Agile Developments Ltd against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/14982/FUL, dated 27 April 2016, was refused by notice dated 25 November 2016.
 - The development proposed is the demolition of three existing garages to the rear of 107-129 Manor Drive North and the erection of a two storey plus basement office/workshop building (Class B1 use).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the site address and description of development from the Council's refusal notice as this more accurately and precisely describes the appeal proposal and the location of the site.

Main Issues

3. The main issues are (i) whether or not the use is acceptable in principle taking into account the submitted sequential assessment; (ii) the effect of the proposal upon the character and appearance of the area; (iii) the effect of the proposal upon the living conditions of the occupiers of surrounding properties in terms of outlook and (iv) whether or not it would be safe to use the service road for access purposes.

Reasons

Site and Proposal

4. The appeal site comprises a flat roofed disused single storey building used as three garages positioned immediately to the rear of No 101 Manor Drive North which is a two storey semi-detached house. The area includes a mixture of residential and commercial properties and the site is accessed from a service road which also leads to the rear of Nos 107-129 Manor Drive North which is a three storey brick building with shopping uses on the ground floor. Immediately to the north east of the appeal site is Malden Manor Primary School.
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5. It is proposed to demolish the single storey garages building (this measures about 3.1 metres in height) and to replace it with a two storey building (about 5.1 metres in height) including a basement. The upper floor would have a mansard roof which would be set in by about 1 metre from the ground floor walls and the building would be used for B1 office purposes. One car parking space would be provided to the front of the building.

Sequential Assessment

6. The appeal site does not fall within a defined town centre (or a designated employment location) and paragraph 24 of the National Planning Policy Framework (the Framework) states that "*Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing town centre and are not in accordance with an up-to-date Local Plan*". In this case, the requirement to complete a sequential assessment is expressly referred to in Policy DM 18 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy 2012 (CS) which states that the Council will ensure that "*any applications for new employment development, outside designated areas, demonstrate the application of the sequential approach and/or provide an impact assessment as outlined in national guidance*". The proposed B1 office building would be about 94 sq metres and hence would be much smaller than the 2500 sq metres threshold in the Framework. Therefore, there is no requirement to submit an impact assessment.
7. When the planning application was determined the appellant had not submitted a sequential assessment. However, the appellant has now submitted a sequential assessment as part of this appeal. The assessment focussed on 12 sites in Malden Manor Local Centre and none of the units were deemed to be suitable, available or viable. I recognise that the Planning Practise Guidance states that "*the application of the test should be proportionate and appropriate for the given proposal*". Whilst the appellant has demonstrated that there are not any suitable sites available in Malden Manor Local Centre, the District Centre of New Malden and the Local Centres at Worcester Park and Tolworth are not significant distances from the appeal site. I agree with the Council that the sequential assessment should have considered these areas as well. It is therefore incomplete.
8. For the reason outlined above, I am not satisfied that the sequential assessment does demonstrate that the appeal site is the most sequentially preferable in which to locate the development. Therefore, I conclude that the proposal would not accord with the economic and town centre aims of Policy DM 18 of the CS and the Framework.

Character and Appearance

9. There is no doubt that owing to the scale and design of the proposed building it would change the current appearance of the appeal site. I recognise that the site is positioned to the rear of an existing garden associated with No 101 Manor Drive North and that in the main development in the rear gardens of surrounding residential properties are generally low in height and modest in scale. However, I do not consider that the Council's reference to this site being "back land" is entirely correct. The site has its own frontage onto the service road and so would also be seen in the context of high buildings including three storey properties at 107-129 Manor Drive North and also Malden Manor

Primary School. In this context, I do not consider that a two storey building (about 5.8 m high) would look materially out of place.

10. Notwithstanding the above, I do recognise that the building would also be seen from the rear gardens of properties on Manor Drive North and Gainsborough Road. However, the appellant has opted for a design whereby the first floor is set in from the eaves level of the ground floor part of the building and has opted for a mansard roof. For these reasons, I am satisfied that in terms of the scale and the massing the building it would represent a reasonable transition between the aforementioned more built up development and the relatively open rear garden areas associated with properties on Manor Drive North and Gainsborough Road. In addition, the building would include materials which would reflect those used in buildings surrounding the site. Overall, I consider that the property would be well designed.
11. For the collective reasons outlined above, I conclude that the proposal would not cause harm to the character and appearance of the area and it would therefore accord with the design aims of Policies CS 8 and DM10 of the CS.

Living Conditions

12. The proposal would replace single storey development with two storey development. Whilst the development would be close to the common boundaries with Nos 99 and 101 Manor Drive North and Malden Manor Primary School, there would be no windows in any of these elevations (only high level roof lights in the mansard). Therefore, the proposal would not give rise to a loss of privacy for the occupiers of surrounding residential properties.
13. I acknowledge that the building would be higher than is the case now. However, taking into account the first floor set back, the roof design and the separation distance (i.e. about 16 metres) from the rear of No 101 Manor Drive North, I do not consider that the development would have significantly dominating impact upon the occupiers of this property. The appellant has referred me to the Council's Residential Design SPD 2013 (Policy Guidance 16) which states that a separation distance of *"15 metres between new habitable room windows and the flank wall of a neighbouring property"* should be maintained. Whilst this policy relates more to matters of privacy and light, I consider that it is reasonable, in this case, to also apply this guideline in terms of outlook. The development would exceed the 15 metre guideline and this reinforces my view that there would not be a material loss of outlook for the occupiers of No 101 Manor Drive North.
14. The building would be positioned alongside the bottom section of the rear garden associated with No 99 Manor Drive North. When viewed from the rear windows of this property there would not be a significant loss of outlook for the same reasons as outlined in respect of No 101 Manor Drive North. However, the building would clearly be higher than is the case now and so it would be noticeable when using the bottom section of the rear garden. However, the rear garden area of No 99 is long and so the impact of such development would relate only to a small proportion of the garden. On balance, I do not consider that the impact of the development upon the rear garden area of No 101 Manor Drive North would be so severe as to warrant refusal of planning permission. Given that there would continue to be large areas of relatively open garden land, I do not consider that the proposal would have a significantly overbearing impact or lead to any other materially adverse effects.

15. I have considered the effect of the proposal upon the occupiers of other surrounding residential properties in terms of outlook, light and privacy, but given the separation distances involved, the scale of the development and the position of windows, I do not consider that there would be any significant adverse effects. However, and given that a number of residential properties surround the site, planning conditions would be necessary relating to both the use of the building and any future alterations/extensions.
16. For the collective reasons outlined above, I conclude that the proposal would not cause harm to the living conditions of the occupiers of surrounding residential properties in terms of outlook (or in respect of any other amenity consideration) and therefore it would accord with the amenity aims of Policy DM10 of the CS.

Highway Safety

17. The Council's refusal notice states that the *"access via the service yard would not be acceptable or safe"*. The Highway Authority did not provide comments about highway safety matters at planning application stage, and I have not been provided with any detailed information from the Council which elaborates on this matter.
18. I have no reason to doubt the appellant's PTAL score of 2 and therefore the provision of one on-site car parking space would accord with the Council's car parking standards.
19. The appeal site comprises a building which has three garages. Consequently, the service road has been used by at least three vehicles using the garage building. In this case, only one car parking space is proposed. Therefore, when compared to the current lawful use of the site, the proposal would be unlikely to lead to a material increase in vehicles using the service road. I acknowledge that the service road is relatively narrow and does not include pavements. However, given the width and configuration of the access road, I consider that it is very unlikely that service vehicles would travel at high speeds. Taking this into account, as well as the historic and lawful use of the site, I do not consider that the proposal would give rise to unacceptable highway or pedestrian conflicts.
20. For the reasons outlined above, I conclude that the proposal would not have a detrimental impact upon matters of highway safety and therefore would accord with the highway safety aims of Policy DM 10 of the CS.

Other Matters

21. I have taken into account the representations made by other interested parties. Some of the comments made have already been addressed in the reasoning above.
22. Reference has been made to employees adding to on-street car parking stress in the locality. I have not been provided with any objective evidence to indicate that there are on-street car parking problems in the area. At the time of my site visit, whilst acknowledging that it was only a snap shot in time, I noticed that there was some on-street car parking capacity in the locality. Furthermore, the appeal building would be relatively small and so it is not envisaged that there would be a significant number of people working in the

building. In addition, the site is close to Malden Manor Train Station and so some employees may arrive at the site on foot.

23. Based on the submitted Supporting Structural Statement, I can see no reason why the construction of the building (including the basement) could not take place without damage being caused to neighbouring properties, trees and other infrastructure. The construction of the building would require separate Building Regulations approval and structural issues would be considered fully as part of such an application process.
24. I acknowledge that there may be some disruption caused at construction stage. However, this would be short lived and could be reasonably managed by means of the imposition of a construction management condition. Concerns have been raised about boundary treatments, but this could be dealt with by planning condition.
25. Further concerns have been raised about the adverse effect of the proposal upon the foul drainage system in the area. I do not have any evidence to demonstrate that this would happen and, in any event, this is a matter which would need to be addressed at Building Regulations stage.
26. None of the other matters raised outweigh my conclusions on the main issues.

Conclusion

27. Whilst the proposal would be acceptable in terms of its effect upon the character and appearance of the area, the living conditions of the occupiers of surrounding residential properties and in respect of matters of highway safety, I have concluded that the submitted sequential assessment does not adequately and robustly demonstrate that the appeal site is the most sequentially preferable in which to locate the development. This is a matter of overriding concern and therefore I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR