
Appeal Decision

Site visit made on 25 February 2020

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 1 April 2020

Appeal Ref: APP/Z5630/W/19/3241782

36 Villiers Avenue, Surbiton KT5 8BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr T Knust against the decision of the Council of the Royal Borough of Kingston upon Thames.
 - The application Ref 19/01716/OUT, dated 4 July 2019, was refused by notice dated 22 November 2019.
 - The development proposed is described as "outline permission is sought for the demolition of an existing house and rear outbuilding and erection of new 3-storey building plus basement housing 1 replacement dwelling and 7 new dwellings with associated bins and cycle store".
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of an existing house and rear outbuilding and erection of new 3-storey building plus basement housing 1 replacement dwelling and 7 new dwellings with associated bins and cycle store at 36 Villiers Avenue, Surbiton KT5 8BD, subject to the attached schedule of conditions.

Procedural Matters

2. The proposal is in outline with access and landscaping reserved for determination at a later date. Drawings showing layout, and elevations have been submitted with the application. For the purpose of this appeal I have taken the details showing landscaping and access on these drawings as indicative only. I have determined the appeal on this basis.
3. The appellant submitted a completed Unilateral Undertaking (UU) dated 19 July 2019 in relation to access to car parking permits accompanied by a plan showing the site's red line boundary. The Council has had the opportunity to comment. I have taken account of the UU in my decision.

Main Issue

4. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers of the proposed basement units with regard to outlook and the potential for enclosure; and access to amenity space for children.

Reasons

5. The proposed development would demolish the existing building and replace it with one containing 8 flats on four levels including a lower ground floor. The lower ground floor flats would each provide small external private amenity spaces to the front and rear with, additionally, access to an external communal amenity space provided for the proposal as a whole.
6. The outlook from the two lower ground floor flats would be affected by the height of the retaining walls and, to a lesser degree, by the balustrade around the terraces. However, there are comparatively large apertures in the rooms facing onto the terraces. This, together with the size and limited depth below ground of the terraces and the opportunity to retain a degree of openness through the approval of landscaping details would limit the sense of enclosure to an acceptable level. Consequently, the proposal would not provide an enclosed outlook or lead to a harmful sense of enclosure.
7. There are steps which would make access to the communal amenity space from the sunken terraces problematic with a pushchair or with small children. However, this inconvenience would be similar to that of any dwelling with access via a single flight of stairs and an alternative route exists using the main stairwell, which has wider stairs.
8. I therefore conclude that the proposed development would provide acceptable living conditions for future occupiers of the proposed basement units. The proposal is, therefore, in accordance with Policies CS8, and DM10 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy (2012) (the Core Strategy), in as much as these seek to ensure that development has regard to the amenities of occupants including in terms of outlook and will provide adequate private and/or communal amenity spaces. It is also in accordance with Policy 7.6 of the London Plan (2016) which seeks to ensure that development provides high quality indoor and outdoor spaces. Similarly, the proposal would comply with Paragraph 127 of the National Planning Policy Framework (2019) which seeks to ensure that developments create places with a high standard of amenity for future users.
9. The Council cites Policy DM11 of the Core Strategy. However, this policy relates to Design Approach and I can find no specific relevance to the issues raised in the Council's reason for refusal.

Other Matters

10. Representations have been received relating to the effect of the development on the character and appearance of the area. The buildings in the area exhibit limited homogeneity in design. However, the proposal does reference some typical local design features and materials and, although different in scale and appearance from the existing building, would not be out of place in the street scene. I note that my conclusions in this regard accord with those of the Council.
11. My attention has been drawn to the potential for overlooking of other properties from upper storey windows in the proposed flats. The distance between the properties and the urban location are such that such overlooking would not be likely to be so intrusive as to constitute severe harm by direct overlooking.

12. The effect of the proposal on ecology has also been raised. However, I have little substantive evidence before me of the presence of any protected species within the site. However, should the presence of any protected species be found as a result of development the appellants would be obliged to fulfil their duties under the Wildlife and Countryside Act, 1981.
13. Issues have been raised regarding the potential noise and disturbance from persons accessing the garden and bicycle store, and from traffic generated by the proposal. However, the proposal lies in a residential area where similar activities occur and is in an urban area where a degree of noise and disturbance would be anticipated as normal. The proposal provides no on-site parking but a Unilateral Undertaking has been provided to control the access of future residents to on-street parking. I note that the Local Highway Authority have raised no objection to the proposal subject to such control being put in place.
14. The proposal would require the excavation of foundations and the lower ground floor area. However, this matter could be addressed by the provision of a Basement Impact Assessment to ensure that there would be no unacceptable adverse impact from the works during the construction phase and this could be secured by a condition.
15. Whilst the proposal would result in the loss of existing planting, this planting does not include any 'high category' specimens deemed worthy of retention and I note the potential for any future planting to offset this loss.
16. Representations from local residents raise concerns of the impact upon the sewer network. There is little substantive evidence before me to support this view and I note that the Local Drainage Authority has not objected to the proposal.
17. Concerns have been raised over the adequacy of waste storage on the site to cater for the proposal. However, I have no substantive evidence before me that the proposal would fail to meet the Council's requirements and they have not objected to the proposal on those grounds.
18. Local residents have raised concerns regarding the density of development proposed within the site and the standard of accommodation provided. Whilst the density exceeds the normal ranges within the London Plan, given the site's urban location with reasonable access to services and more sustainable transport modes higher densities would not be inappropriate to make best use of land, provided the development is in accordance with other local and national planning policies. The properties nearby are of lower density, but the introduction of a single building, increasing overall densities would not, in this case, constitute harm. I note that the proposals comply with the minimum space standards set out in the London Plan and that the Council has raised no concerns in this regard.
19. Concerns have been raised regarding the motivation of the developer and my attention has been drawn to a restricted covenant on the land. However, these are not planning matters and lie outside the remit of this appeal. Various alternative proposals for development have been suggested by residents. Similarly, residents have expressed concerns regarding the nature of future occupants and that the proposal would set a precedent for future development. However, I have dealt with the proposal before me on its own merits and it is

beyond the scope of this appeal to suggest alternative development. Similarly, any future proposal would be considered on its own merits in regard to local and national planning policy.

Conditions

20. I have had regard to the various conditions suggested by the Council, and the comments on those Conditions provided by the appellant. In addition to the standard conditions which require the submission of reserved matters and limit the lifespan of the planning permission I have included the approved plans. These are necessary in the interest of certainty. Similarly, the levels of structures and surfaces within the site must be agreed, and I have imposed a condition requiring the submission of such details. As such details would determine the spatial positioning of the building it is necessary that they are agreed prior to commencement of the construction phase. The necessity for this condition and its wording has been agreed with the appellant.
21. A condition requiring the submission of external materials is necessary to ensure that the appearance of the building is satisfactory. A condition requiring details of the facilities for the storage of refuse is required to ensure that the facilities to be provided are adequate to satisfy the needs of the future residents and that they are provided for use prior to occupation. The location and scale of the structures that would contain the refuse facilities is shown on the plans and so I do not consider it necessary to require additional details of these prior to commencement of the works.
22. A condition requiring the provision of cycle parking and storage facilities is necessary to ensure that such facilities are made available to future occupiers and their visitors prior to occupation in order to provide effectively for the future travel needs of the development. Details of the design of the facilities are shown on the plans, and so I do not consider the submission of such details necessary and I have amended the wording of the condition suggested by the Council to reflect this.
23. A condition requiring the provision of a Construction Method Statement (CMS) is considered necessary to safeguard the living conditions of local residents and the safety of users of the public highway during the construction phase. In addition to the provisions suggested by the Council I have added a condition requiring the submission of a Basement Impact Assessment as this is necessary to ensure that no unacceptable adverse impact would result from the excavations for the lower ground floor. As this is required prior to commencement of the construction phase it is necessary that the required details are in place prior to commencement of any engineering operation. The necessity for this condition and its wording has been agreed with the appellant.
24. A condition requiring construction in accordance with an agreed sustainable drainage strategy is necessary to prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site and to safeguard the environment, having regard to climate change. As these details may affect the overall design of the scheme it is necessary that the required details are in place prior to commencement of the construction phase. The necessity for this condition and its wording has been agreed with the appellant. The Council have suggested a specific condition requiring that hard surfaces within the site must be porous. However, this is a detail of an overall drainage strategy and I

- consider that the condition requiring details and implementation of the sustainable drainage system would include such considerations.
25. A condition requiring compliance with the Code for Sustainable Homes Level 4 is necessary to ensure the most efficient use of resources and to safeguard the environment, having regard to climate change.
26. The site is close to, and bounded by, several trees. Loss of, or damage to, these trees has potential to affect the character and appearance of the area and so I have included a condition requiring that the development be carried out in accordance with the arboricultural impact assessment and method statement that accompanied the application.
27. The Council have requested conditions preventing the installation of fans, louvres, ducts, external lighting or other external plant other than those shown on the drawings without specific approval and the submission of further details showing the depth of reveals and the relationship between the window and door frames. I have little evidence before me to substantiate the need for such conditions to protect either the living conditions of occupiers of neighbouring properties or visual amenity. I do not consider that these are necessary in order for the development to proceed.
28. I have amended some of the suggested wording of the Council's conditions for clarity and to ensure that they are precise and enforceable.

Conclusion

29. For the above reasons, and having taken into account all other matters raised, I conclude that the appeal should be allowed and planning permission granted, subject to conditions.

I Dyer

INSPECTOR

Schedule of conditions

- 1) Details of the access and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No.	Title	Received
36VA-AP2-1001	Existing Location and Site Plan	23 October 2019
36VA-AP2-1002	Proposed Location and Site Plan	23 October 2019
36VA-AP2-1004A	Proposed Lower Ground and GF Plans	23 October 2019
36VA-AP2-1005	Proposed FF and SF Plans	23 October 2019
36VA-AP2-1006	Proposed Roof Plan	23 October 2019
36VA-AP2-1007A	Proposed Elevations and Sections	23 October 2019
36VA-AP2-1008A	Proposed Landscape Plan	23 October 2019
36VA-AP2-1009	Existing & Proposed Street Scene	23 October 2019
36VA-AP2-1010	Proposed Boundary Treatment	23 October 2019

- 5) No development above ground level shall take place until details and samples for all facing materials have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development and retained thereafter.
- 6) The levels of buildings and pathways within the site shall only be in accordance with details which shall have previously been submitted to and approved in writing by the Local Planning Authority before development is commenced.
- 7) The development hereby permitted shall be completed prior to occupation in accordance with the following details which shall have been submitted to and approved in writing by the Local Planning Authority: -
 - (a) refuse storage facilities in accordance with the requirements of the

Residential Design SPD, 2013 (including their manufacturer's specification, dimensions, colour and texture).

The agreed scheme shall thereafter be retained for use as a refuse storage facility at all times.

- 8) Prior to occupation of the development hereby permitted the secure cycle parking for the occupants of, and visitors to, the development shall be provided as shown on the approved plans. The agreed scheme shall thereafter be retained for use as a cycle parking facility at all times.
- 9) No development shall take place, including any works of demolition or ground clearance, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) Provision for loading/unloading materials;
 - ii) Temporary site access;
 - iii) Signing system for works traffic;
 - iv) A Basement Impact Assessment
 - v) Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works;
 - vi) Means of enclosure of the site;
 - vii) Wheel washing equipment;
 - viii) The parking of vehicles of the site operatives and visitors;
 - ix) The erection and maintenance of security hoarding;
 - x) Measures for the protection of surrounding trees; and: -
 - xi) Construction hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) Within 3 months of first occupation, evidence must be submitted to the Council confirming that the development hereby permitted has achieved no less than the C02 reductions (ENE1), internal water usage (WAT1) standards equivalent to Code for Sustainable Homes Level 4. Evidence requirements are detailed in the "Schedule of Evidence Required for Post Construction Stage from ENE1 and WAT1 of the Code for Sustainable Homes Guide. Evidence to demonstrate a 19% reduction compared to 2013 Part L regulations and internal water usage rates of 105L/day must be submitted to the Local Planning Authority, unless otherwise agreed in writing.
- 11) No development shall take place until details of the implementation, adoption, maintenance and management of a sustainable drainage system to serve the development have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development and thereafter managed and maintained in accordance with the approved details. Those details shall include a timetable for its implementation, and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or

statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

- 12) The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement 5 July 2019.

END OF CONDITIONS