



Appeal Decision

Site Visit made on 22 March 2021

by Steven Rennie BA (Hons), BSc (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2021

Appeal Ref: APP/Z5630/W/20/3259592

Rear of 66 Kenley Road, Kingston Upon Thames, KT1 3RS

- 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 Mr Rahim Ibrahim (WEARDALE CORPORATION UK LIMITED) against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref 19/02858/FUL, dated 14 November 2019, was refused by notice dated 13 July 2020.
 - The development proposed is the demolition of existing garage at land to rear of site and erection of detached two-bedroom dwellinghouse, accessed via Arundel Road.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing garage at land to rear of site and erection of detached two-bedroom dwellinghouse, accessed via Arundel Road, at Rear of 66 Kenley Road, Kingston Upon Thames, KT1 3RS in accordance with the terms of the application, Ref 19/02858/FUL, dated 14 November 2019, subject to the conditions set out in the Schedule at the end of this Decision.

Preliminary Matters

2. The appellant has drawn my attention to a recent planning application approval for a new one-bedroom dwelling to the rear of No 66 Kenley Road (ref: 20/02137/FUL) which I have taken into account with this appeal.
3. There is planning permission to replace the bungalow at No 66 with a house, but this was not implemented at the time of my site visit.
4. The appeal includes amended plans. It is unclear whether these plans were considered by the Council at the time of the planning application determination. However, the amendments relate to the proposal to obscure glaze side elevation windows. As such, I have accepted these plans as doing so would not prejudice any parties that have an interest in this appeal.

Main Issues

5. The main issues are the effect of the development on (1) the character and appearance of the area, and (2) the effect on living conditions of neighbours to the site.

Reasons

Character and Appearance

6. The proposed development is for a two storey house to the rear of No 66 Kenley Road, although it would have direct access onto Arundel Road. In this

location, the proposed house would be seen primarily as part of the Arundel Road street scene. This street is primarily characterised by semi-detached interwar housing of designs that are typical of this period.

7. The proposed dwelling would have a distinct contemporary design, particularly in relation to its fenestration arrangement and choice of materials, including the copper cladding to the first floor and roof. Although this design is significantly different from most other houses in the street, there is no necessity to replicate these older properties to achieve a suitable design. I also note that there is some variety in the street, with not all houses identical. Furthermore, as explained by the appellant, the copper cladding should reflect some of the more prominent material colours in the street scene.
8. The proposed dwelling would be angled due to the plot shape which would result in the southeast corner of the house being forward of the building line along this side of Arundel Road. However, much of this dwelling would be behind this approximate building line. Furthermore, there would be a significant gap to the side of No 58 Arundel Road to the north and so the position relative to this building line would not be a prominent feature that would result in the proposed dwelling being incongruous.
9. The proposal would have a narrow frontage onto Arundel Road, which would have a high gate and fence. Whilst this is not a common arrangement within the street this dwelling does not have a typical plot. Moreover, the existing boundary is high fencing and gates, which is also the case along much of the side garden of No 58 and also around No 68 Kenley Road on the junction to the south. As such, the proposed front boundary treatment would be acceptable in this context.
10. The proposed development would result in a new house within a garden, which is possible due to the rear boundary being with Arundel Road. However, this would not set a precedence for other houses for all other plots as this proposal is assessed on the particular arrangement and circumstances of this site to the rear of No 66 Kenley Road. The dwelling would be modest in size and so would not appear cramped within the small plot that would be its curtilage.
11. Overall, the proposed dwelling would be of an acceptable design and scale, with a contemporary approach which would not be a harmful inclusion into the street scene for reasons such as its modest scale and use of features such as the pitched roof and gabled ends being incorporated, which are common in the area. As such, the proposed dwelling would not be harmful to the character and appearance of the street scene and would be in broad accordance with policies CS8 and DM10 of the Council's Core Strategy. These policies require development to protect the suburban character of the Borough and respect the prevailing development typology, amongst other things.
12. As you will be aware, a new edition of the London Plan has been issued and so the policy under paragraph 3.5 as included with the Council reasons for refusal has been superseded by new policies. These include policy D3 which require development to be of a high quality design, amongst other things. From the evidence provided, I am satisfied that the proposal would not conflict with the new London Plan.

Living Conditions

13. The proposed dwelling is on a garden plot which is near other neighbouring houses in the area, including No 66 Kenley Road and No 58 Arundel Road. With regards to No 66 the Council state that the development would result in an increased sense of enclosure. Whilst it would be visible for occupiers of No 66 there would be a substantial separation distance between the dwellings. Furthermore, the proposed dwelling is of a relatively modest scale. For these reasons, the proposed dwelling would not result in an undue sense of enclosure for future occupants of No 66 Kenley Road. The proposed rear elevation first floor window serves a stairwell area and so would have minimal overlooking potential towards No 66 or the rear of other Kenley Road neighbours. The rooflights to this elevation appear at a high level and so would not result in an overlooking impact. This would also be the situation if the planning permission for the replacement house on this plot was implemented.
14. Likewise, the distance from the dwelling at No 58 would mean that, whilst it would be visible for occupiers from this neighbouring house, it would not result in significant outlook impacts or increased sense of enclosure. However, I observed glazed doors at the side elevation at ground floor of No 58, which currently appears to be relatively private. The round side elevation window, serving a bedroom in the proposed house, could have views at a distance of approximately 12m into this neighbour's room. As such, I would consider that a condition to obscure glaze this proposed window would be necessary which would sufficiently mitigate this issue. The windows to the front elevation would mainly have views over the corner of the side garden of No 58 and only very oblique views towards this neighbour's house and so they would have minimal overlooking impact. To also restrict possible loss of privacy for neighbours to the site, a condition restricting use of the flat roof could also be imposed, to prevent it being used as an amenity area, for example.
15. The distance to the neighbouring houses and also the modest size of the proposed house would mean that there would not be any significant overshadowing of other properties in the area of the site. This includes to the garden area and habitable windows of No 58, which would have its property overshadowed by the development to some extent and at certain times of the day, but not to a significant degree, for the reasons set out in this paragraph.
16. Whilst not included in the Council reason for refusal I have also considered in detail the effect of the development on the living conditions of those living at No 64A Kenley Road to the north. The proposed dwelling would result in some overshadowing but not to a significant degree, mainly towards the rear of the long garden at No 64A. The side window to the proposed dwelling could be conditioned to be obscure glazed, as discussed above. There are windows in the south elevation which looks at an angle towards No 64A but these are either high level rooflights or a window to a stairwell atrium, which is not a primary habitable room and so should not result in significant overlooking impact. Overall, the impacts to the occupants of No 64A would not be significantly adverse.
17. There is also a side elevation window facing towards No 68 Kenley Road, but this would be at an oblique angle with the main views being towards this neighbour's garage. Furthermore, the separation distance between the

proposed dwelling and the neighbour is such that it would not result in unacceptable levels of overlooking or overshadowing of this adjacent property.

18. Although the proposed dwelling is small, it would provide sufficient space for future occupiers internally with some outdoor amenity space also. I regard the living conditions of future occupiers to be satisfactory based on the plans and details before me.
19. Overall, subject to conditions, the proposal would not have any unacceptable harmful impacts to neighbour living conditions of the properties mentioned above and to all others in the area. Therefore, the proposal would be in accordance with policy DM10 of the Core Strategy, which relates to housing design and respecting occupancy of surrounding houses, for example.

Other Matters

20. The proposal would introduce a new dwelling and would result in the loss of a parking space which serves No 66. However, although there is no off street parking provision included, I have no substantive evidence that there is a significant issue with current levels of on-street parking on Arundel Road. The site is also in a relatively accessible location with some shops and services in the area, which could reduce the need for future occupiers to own private cars.

Conditions

21. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the National Planning Policy Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
22. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance. However, I do not regard it as reasonable for details of the window and door frames and the depths of reveals, as this is not necessary to ensure the appearance of the dwelling is acceptable in this location.
23. The site is tightly constrained and in a residential area and therefore a construction management plan is reasonably necessary. However, the level of detail for such a condition as recommended by the Council would be disproportionately onerous given this is a development of a single dwelling. I have therefore revised the wording to a shorter and simpler condition.
24. The Council has recommended conditions requiring details of bin and cycle storage, together with detail of boundary treatment. However, these details have been included on the proposed plans and therefore I do not regard it necessary for any additional or alternative detail of these aspects. I have therefore not imposed these conditions, but I have included a condition to require the bin and cycle storage to be in place prior to occupation.
25. The Council has recommended some conditions which would restrict the usual permitted development rights for a dwelling. However, there is not the exceptional circumstances for these conditions, with the criteria for permitted development sufficient to mitigate the potential visual impacts or effects on

- living conditions of neighbours sufficiently. I have therefore not imposed these conditions.
26. The Council has recommended a condition requiring details of any fans or external lighting, for example. However, it is not clear whether any such features are proposed, and in any case, I am not satisfied these conditions are necessary for what is a single dwelling house to safeguard neighbour amenities.
27. Being that this is a modest scale development on a small plot there is not a significant scope for hard or soft landscaping. On this basis I would regard a landscaping condition as unreasonable in this circumstance. However, a condition requiring the development to be implemented in accordance with the submitted Arboricultural Method Statement, to safeguard trees adjacent to the proposed dwelling is reasonable.
28. The site is not within a high flood risk area, but it is my opinion that a condition to demonstrate a suitable drainage system is acceptable and reasonable. However, being for a single dwelling the condition should be simple in its requirements. I also regard it as necessary for the proposed hardstanding to be porous to reduce surface water runoff and in the interests of sustainable development.
29. The Council have recommended a condition which requires CO2 reductions and internal water usage in line with Code for Sustainable Homes Level 4. However, there has been updated policies with the London Plan 2021. In terms of minimising greenhouse emissions, policy SI2 states that residential development should achieve a 10 per cent reduction beyond current Building Regulations. There is no substantive evidence before me that makes me conclude that any requirement should be more than this, with the London Plan taking precedence over previous policies also. There is, however, a condition which requires limited water usage, which is in accordance with policy SI 5 of the London Plan.
30. As described above, when considering the potential impacts to neighbour living conditions, I regard it as necessary for the first floor side elevation window facing towards No 58 Arundel Road to be obscure glazed and fixed shut, to safeguard neighbour amenities. Likewise, a condition is necessary and reasonable to ensure the flat roof areas of the proposed house are not used as amenity areas for sitting out, for example, which could result in significant overlooking impacts to neighbours.

Conclusion

31. For the reasons given above I conclude that the appeal should be allowed subject to the conditions in the attached schedule.

Steven Rennie

INSPECTOR

SCHEDULE – CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Dwg No. 615.53 Revision A – Block Plan (Proposed)
 - Dwg No. 615.55-Existing Site Plan
 - Dwg No. 615.56-Existing Elevations
 - Dwg No. 615.65-Proposed Site Plan
 - Dwg No. 615.66 Revision A-Proposed Floor Plans
 - Dwg No. 615.67-Proposed Elevations
 - Dwg No. 615.68 Revision A -Proposed Site Elevations
 - Dwg No. 615.69-Proposed Site Sections
 - Dwg No. 615-70-Proposed Contextual Analysis
- 3) The development shall be completed in accordance with a Construction Management Plan which shall first be submitted to and approved in writing by the Local Planning Authority prior to any construction of the new dwelling. The construction process thereafter shall be conducted in strict accordance with the agreed Construction Management Plan.
- 4) The development shall be completed in accordance with the following details which shall have been submitted to and approved in writing by the Local Planning Authority prior to above ground works, implemented prior to occupation and thereafter be permanently retained:
 - materials for all external finishes (including their manufacturer(s) specification, dimensions, colour and texture).
- 5) The development hereby approved shall be carried out in strict accordance with the Arboricultural Method Statement submitted on 15/11/2019.
- 6) The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
- 7) The dwelling shall not be occupied until it can be demonstrated that it achieves a reduction in greenhouse gas/CO2 emissions 10 per cent below the level required by Building Regulations through energy efficiency measures. The dwelling hereby approved shall not be occupied until details have been submitted which shows that this requirement has been met and the details of compliance provided to the Local Planning Authority.
- 8) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres/person/day. No occupation of the dwelling shall take place until an assessment which relates to that dwelling and which confirms that the development has

been constructed in accordance with the above requirement for water usage has been submitted to and agreed in writing by the Local Planning Authority. All completed water conservation measures identified shall be installed in accordance with the details as agreed and thereafter permanently retained.

- 9) Prior to commencement of above ground works for the development, a Sustainable Drainage Strategy and associated detailed design shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the first occupation of the dwelling and maintained thereafter for the lifetime of the development.
- 10) The first floor window in the side (west) elevation, facing towards No 58 Arundel Road, shall be obscure glazed and fixed shut in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The window shall be fixed shut and obscure glazed as agreed prior to the first occupation of the dwelling hereby approved and shall remain as such thereafter.
- 11) The flat roof areas of the dwelling hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 12) Prior to the first occupation of the dwelling hereby approved, the cycle store and refuse storage area, as shown on the submitted plans and details, shall be in place and remain as such thereafter.

END OF SCHEDULE