
Appeal Decision

Site Visit made on 24 August 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/Z5630/W/21/3269090

16 Branksome Way, New Malden, KT3 3AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Kenny Mardell against the decision of the Council of The Royal Borough of Kingston Upon Thames.
 - The application Ref 20/02558/FUL, dated 13 October 2020, was refused by notice dated 10 December 2020.
 - The application sought planning permission for demolition of existing bungalow and erection of 2x semi-detached dwelling houses at 16 Branksome Way, New Malden KT3 3AU without complying with a condition attached to planning permission Ref 20/00169/FUL, dated 1 April 2020.
 - The condition in dispute is No.1 which states that: *The approved development shall be carried out in accordance with the following drawings/details: PL01- Location Plan - Branksome Way_NM, PL02B- Block Plan - Branksome Way_NM, PL04B- Existing Elevations- Branksome Way_NM, PL03B- Existing Plans - Branksome Way_NM PL06A- Proposed Elevation - Branksome Way_NM, PL06A- Proposed Elevation - Branksome Way_NM.*
 - The reason given for the condition is: *For the avoidance of doubt and in the interests of proper planning.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was made prior to the Government publishing the National Planning Policy Framework 2021 (the Framework). I sought comments from the main parties regarding this matter and no responses have been received.
3. During the course of the appeal, the appellant indicated that he no longer sought to pursue the extension of the single storey rear element to the approved building. However, I must assess the appeal on the scheme that the Council determined.
4. The Council suggests in the first refusal reason that the proposed development would not constitute a minor material amendment. However, the application was determined and the Council considered the proposal with regards to its effect on the character and appearance of the approved building and the area, the living conditions for future occupants and the living conditions of the occupants at No.18 Branksome Way. I have considered the appeal on the same basis.

Background

5. Planning permission was granted under planning application 20/00169/FUL for the development set out in the banner header above. The evidence before me indicates that the planning permission is extant. The permission was subject to 13 conditions. The application subject to this appeal seeks to vary condition no.1 of that planning permission, which lists the approved plans. The application does not seek to vary or remove any of the other conditions imposed on the planning permission.
6. The variation of the planning condition seeks to make a number of changes to the previously approved building. These include changing the roof to a crown roof, erecting larger rear dormers and extending the single storey rear element while changing it from a lean-to to a flat roofed structure.

Main Issues

7. In light of the preceding paragraphs, the main issues in this matter are the effect of varying the planning condition on:
 - The character and appearance of the approved building and the area;
 - The living conditions for future occupants, with particular regard to outdoor space; and,
 - The living conditions of the occupants of No.18 Branksome Way, with particular regard to daylight.

Reasons

Character and appearance

8. The area in the vicinity of the appeal site is mixed in terms of the form, scale and style of buildings. I observed that some have large flat roofed elements, including the dwellings adjacent to the appeal site at Nos.18 and 20 Branksome Way. Further, the building on the corner of Branksome Way and Woodlands Way near to the appeal site, while not in residential use, has a large crown roof and a large lower flat roof to the rear. While I do not have the full details of these developments before me, they nevertheless contribute to the context of the appeal site.
9. The proposed extension to the single storey rear element would be confined to the rear corner of the proposed building at Plot 2. It would extend across the width of the proposed dwelling at Plot 1 and would, according to the appellant's uncontested evidence, add 2 metres to the single storey element in this location. Given the scale and single storey form of this part of the proposal, I do not consider that it would be an overly large addition to the building. Moreover, the building would retain sufficient gaps to the boundaries of the site as not to appear cramped within its plot.
10. The proposed crown roof would add bulk to the approved building. As a result, it would appear more prominent within the streetscene relative to the approved scheme. However, given the context that I have set out above, the overall scale and form of the building would not appear incongruous, overly dominant, overbearing or visually intrusive within the streetscene.

11. I note that objections to the proposal cite that the crown roof would result in a three storey building as opposed to two as previously approved. However, I consider that under this proposal the building would still appear as a two storey building, albeit with accommodation within its roof space. Moreover, concerns relating to whether the approval of a crown roof would set a precedent for similar development in the area is not a determinative matter in this appeal, as each case must be considered on its own merits.
12. The proposed rear dormers would be set back from the eaves of the building. The side elevation drawings show that they would be set down from the main ridge of the roof, although this is not clear from the rear elevation drawing. In any case, due to their form, width, overall scale and coverage of the roof plane, the proposed dormers would dominate the host roof and would appear as unsympathetic additions to the building. They would imbue the building with a top heavy appearance and would cause harm to its character and appearance.
13. While the proposed dormers are unlikely to be viewed from the public realm, they would be highly visible from adjacent gardens. Given their prominence and the unacceptable effect that they would have on the building, they would be likely to reduce the appreciation of the quality of the environment in which nearby occupiers live. As such, the proposal would also cause harm, albeit limited, to the character and appearance of the area.
14. In reaching this conclusion, I have had regard to the extant planning permission. However, the rear dormers under that scheme are smaller and sit much more comfortably within the host roof than those under the appeal proposal. Therefore, the proposal before me would result in harmful development that the approved scheme would not. Consequently, the extant planning permission does not justify the unacceptable development proposed.
15. I conclude that the proposal would result in harm to the character and appearance of the host building and the area. There would be conflict with Policies CS 8 and DM 10 of the Local Development Framework Core Strategy Adopted April 2012 (CS). These seek, among other matters, to ensure that new development relates well to its surroundings and that development proposals incorporate principles of good design.

Living conditions for future occupants

16. The extension of the single storey rear element to the dwelling on plot 2 would involve incorporating a small area of garden at the rear corner of the proposed building. Given its location and size, the area of garden that would be lost is unlikely to have been particularly usable. Further, the proposal would not result in the dwelling on this plot projecting further into the proposed rear garden than under the approved scheme.
17. With regards to plot 1, the dwelling would extend further into the rear garden, thus resulting in a smaller garden than under the approved scheme. However, the proposed garden area would be of a similar size and would, in my view, still provide a good quality useable private amenity area for the size of the proposed dwelling.
18. In light of the above, I conclude that the proposal would provide adequate living conditions for the future occupants of the proposed building, with regard to the provision of outdoor space. There would be no conflict with CS Policy DM

10, which requires development to ensure adequate private amenity space. The Council also refer to CS Policy CS 8, but as this does not refer specifically to the living conditions of future occupants I do not consider it to be directly relevant to my assessment of this main issue.

Living conditions for occupants at 18 Branksome Way

19. The property at No.18 Branksome Way (No.18) sits to the east of the appeal site with its rear elevation sitting further forward in its plot compared to the rear elevation of the proposed building. There are ground floor windows in the side elevation of No.18 facing the appeal site. These would face out onto the main side elevation of the approved building and, given their location, would remain unaffected by the additional depth to the single storey element.
20. There is a ground floor window in the rear elevation of No.18 on the side closest to the appeal site. The additional depth to the proposed dwelling at Plot 1 would make the single storey element more visible from this window than under the current scheme. However, the element in question would be a flat roofed single storey structure. Given its height and overall scale, it is unlikely to result in a significant loss of daylight reaching this window, or the rear garden of No.18, over and above the approved scheme. Moreover, any further ground floor windows at this property would be sited further away from the boundary with the appeal site and so would remain unaffected by the proposal.
21. I note the comments from the occupants of No.18 that the proposed crown roof and dormers would have a detrimental effect on daylight reaching the western side of their dwelling. However, and notwithstanding my findings in relation to the effect of the dormers on the character and appearance of the building and the area, I consider that the effects of the proposal in this regard would not be significantly increased relative to the approved scheme.
22. In light of the above, I conclude that the proposal would not cause harm to the living conditions of the occupants of No.18 Branksome Way with regard to daylight. It would accord with CS Policies CS 8 and DM 10, which require, amongst other matters, that development relates well to its surroundings and have regard to the amenities of occupants and neighbours.

Other Matters

23. The appellant suggests that the proposal would make the current two bed house a three bed family dwelling. It is not certain what two bed house the appellant is referring to as the approved plans to planning permission 20/00169/FUL show two bedrooms at first floor and a bed in the loft room of each dwelling. The appellant also suggests that the proposal would increase the usability of the roof space of the approved dwellings. While additional space would be provided relative to the approved scheme, there is no compelling evidence before me to suggest that the roof spaces in the approved scheme were inadequate. Therefore, I attribute limited weight to these matters.
24. The proposal would result in a three bedroom family home that the appellant suggests would support the sustainable growth of the Royal Borough of Kingston. There is, as I have set out above, an extant planning permission for the erection of two semi-detached residential properties at this site. Moreover, the appellant has provided no evidence to suggest that the extant scheme could not be provided in the event that the appeal proposal is dismissed.

Planning Balance and Conclusion

25. The proposal would not result in harm to the living conditions of future occupants with regard to outdoor space and the occupants at No.18 Branksome Way with regard to daylight. However, the absence of harm in these matters is a neutral factor in my overall assessment.
26. The proposal would cause harm to the character and appearance of the approved building and the area. I attribute significant weight to these harms and do not consider that there are any benefits that outweigh them.
27. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Scott Britnell

INSPECTOR