



Appeal Decision

Site visit made on 2 March 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 30TH March 2022

Appeal Ref: APP/Z5630/W/21/3279729
11 Cotsford Avenue, New Malden KT3 5EU

- 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 Al-Kirkhy against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/01049/FUL, dated 17 April 2021, was refused by notice dated 2 July 2021.
 - The development proposed is the demolition of the existing dwelling and erection of a two storey dwelling house.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - The character and appearance of the appeal site and the greater locality;
 - The living conditions of Nos. 9 and 13 Cotsford Avenue, with particular regard to access to light and enclosure;
 - Highway safety and the promotion of sustainable transport; and
 - Existing trees on the site.

Reasons

Character and appearance

3. The appeal site is located along Cotsford Avenue which like the surrounding streets contains a development of formally laid out speculative housing which appears to date from the early to mid-twentieth century. The original dwellings along Cotsford Avenue have an arts and crafts inspired design which to the southern side of the road contains single storey chalet-type dwellings with accommodation within their roof space whereas the northern side of the road predominantly contains two storey detached dwellings. Whilst there is a variety of designs to the southern side of Cotsford Avenue, there is a symmetry in terms of their scale and layout where they have similar design elements with steep hipped and half-hipped roofs with dormer windows, textured pebbledash rendered facades, and tall chimney stacks. The use of traditional materials along with a low scale, similar roof pitches and designs reinforce a uniformity and authenticity between the buildings which creates a formal picturesque townscape. The visual gaps between properties with views to

larger vegetation behind, along with large open front vegetated gardens with low boundary walls and street trees give a spacious, leafy, uncluttered and distinctive character.

4. The appeal building appears to be one of the original dwellings of the street which has similar characteristics to other single storey detached dwellings found along Cotsford Avenue. The dwelling carries a number of the positive characteristics of the street scene as previously described, having a low scale single storey appearance with a steep hipped roof with render being utilised which is arts and crafts in style. The designs together with the visual gaps, low boundary wall and a well vegetated front garden reinforce the positive qualities which are found within this street scene.
5. In undertaking new development, the Royal Borough of Kingston Upon Thames Core Strategy 2012 (CS) Policy DM10 seeks that new development incorporates good design and respect the local character and distinctiveness of the street, in terms of prevailing development typology, density, scale, layout, setback and key details and features, amongst others. The Council's Residential Design Guide Supplementary Planning Document 2013 (SPD) supports this policy and requires proposals to be of a high quality design that respects the character and appearance and the prevailing distinctiveness of the surrounding area. Additionally, Policy D3 of the London Plan 2021 reinforces this policy by seeking a design led approach to new development.
6. I note comments from the applicant's Statement of Case (SoC) that there has been a deliberate attempt to replicate the new dwelling granted consent at No.5 Cotsford Avenue where the proposal was approved relatively recently¹. Whilst it may be an appropriate response to take inspiration from other developments within the area, No.5 is a much wider plot compared to the appeal site. The context and characteristics of the No.5 are not directly transferable to the appeal site and do not translate to being able to provide for a dwelling that is a similar size to No.5. The resultant design, as a result of its height, visual massing, bulk, and loss of visual gaps to the appeal site would be excessive and would result in a cramped development that would not reinforce the positive elements of character, appearance and local distinctiveness.
7. Overall, and in conclusion on this matter, the proposed scheme would fail to reinforce the positive qualities of local character, appearance and distinctiveness of the area. Consequently, the scheme would be in conflict with CS Policy DM10, which is supported by the SPD as described previously. The proposed scheme would also be in conflict with Policy D3 of the London Plan which seeks good design in development that responds to the surrounding context.

Living Conditions

8. No.9 is located to the east of the appeal site and contains a one and a half storey dwelling with accommodation within the roof space and is a plot that appears to be of a similar width and size to the appeal site. To the rear there is a small two storey wing for half the width of the dwelling which protrudes past the rear of the appeal site. At the rear of this dwelling there is a paved area for formal dining with the remainder of the rear garden laid to lawn.

¹ Council Planning Ref: 20/01830/FUL

9. According to the Council's calculations the proposed dwelling would extend approximately 6.0 metres past the rear of No.9 and have a two storey wall that has a varied setback of between 1 and 2 metres from the shared boundary with the appeal site. Whilst there have been attempts to articulate the side elevation with the use of glazing, the expanse of brickwork and sheer wall of two storeys in such close proximity to the boundary in this particular instance would cause an uncomfortable sense of enclosure and overbearingness, and loss of openness and outlook, particularly when utilising the patio area to the rear of No.9.
10. Turning to No.13 this dwelling lies to the immediate west of the appeal site and contains a one and a half storey dwelling which has a decreased rear setback than No.9. To the rear the building has a single storey rear extension with a paved area towards the shared boundary with the appeal site. According to the Council's calculations, the proposed rear component of the proposed dwelling would extend approximately 12 metres past the rear elevation of the neighbouring dwelling and would have a setback between 1 and 2 metres from the shared boundary with the appeal site. In a similar and perhaps more intrusive way, the length, combined with the massing, bulk and height of the dwelling would have a detrimental impact upon the neighbouring dwelling as a result of an increased sense of enclosure, overbearingness and loss of openness and outlook.
11. I acknowledge comments made in the applicant's SoC and a copied extract from a council officer report² where a previous assessment of what the applicant deems as a larger development was not seen by the Council as overbearing. Whilst I have not been presented any plans or discussion on this particular decision, the copied extract notes that there is a flat roof to the rear elevation which is not present in this proposal. I am therefore not convinced that the assessment in this previous application has similar considerations as to this proposal.
12. I also appreciate the accompanying daylight assessment that has been provided in the Design and Access Statement which accompanied the original application. In order to be conclusive the assessment should factor in daylight levels in winter months, as well as an assessment of the vertical sky component which has not been undertaken. As a result the evidence provided does not sufficiently demonstrate that there will be no adverse effect caused to the neighbouring dwellings as a result of loss of light.
13. Taking the above into account and in conclusion of this matter, the proposed scheme would cause unacceptable detriment to living conditions of neighbouring occupiers at No.s 9 and 13 Cotsford Avenue, contrary to CS Policy DM10 which seeks that development protect the living conditions of neighbouring properties, and Policy D3 of the London Plan which seeks a design approach which incorporates the protection of existing living conditions.

Highway safety and the promotion of sustainable transport

14. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties and, in light of this, I am satisfied that what I saw represents typical conditions.

² 21/00050/HOU

15. Cotsford Avenue, like many urban residential streets suffers from on-street parking congestion on both sides of the road which impedes simultaneous two-way flow. The result being that at times driving along this road vehicles often have to stop momentarily to give way to traffic coming in the opposite direction. However, based on my site visit it appears that traffic volumes are fairly low and driven speeds are well under the 30mph speed limit. I have not been made aware of a poor accident record and therefore I deduce that despite its deficiencies, Cotsford Avenue operates satisfactorily without any significant safety issues.
16. I note that the applicant's SoC mentions that there is no new access to the site proposed, however the proposed plans show that the vehicle access from the site would be relocated from the current position towards the right-hand side of the plot to the left-hand side. This new driveway and dropped kerb would provide off street parking provision for 3 cars.
17. I appreciate the Council's concerns that they are not able to make a judgement regarding highway safety due to the lack of detailed plans showing the new access. However, I note that Paragraph 54 of the National Planning Policy Framework (the Framework) notes that 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.'
18. Based upon the context and constraints of the site, I believe that an access to the site is indeed possible and would be sufficient to deal with subject to the approval of appropriate detail in submitted plans together with the reinstatement of the existing defunct kerb.
19. Turning to sustainable transport, CS Policies DM9 and DM10 which is supported by the Council's Sustainable Transport SPD 2013 require development proposals to comply with the car parking standards in the London Plan. The London Plan seeks that for this location and that this proposal that no more than 1.5 car spaces is provided. I note the applicant's concerns that that this is a small site as opposed to a large site, however if every site was allowed a greater number of spaces, then the policy would not be very effective in reducing reliance on the private vehicle. I also note that the applicant's have stated that there will be a number of generations living in the same house and that some family members may have mobility impairments. Whilst this could be a material consideration to make a decision not in accordance with the policy, I have not been given sufficient information regarding the specific needs of the applicant to balance against the planning policy.
20. In conclusion of this matter and based upon the information before me, I believe a sufficient access could be implemented via further information or a condition without causing adverse effects to highway safety. The scheme would however not promote sustainable transport provision and would therefore be contrary to CS Policy DM8.

Trees

21. The main concerns from the Council arise from the street tree that is located on the pavement and would be in close proximity of the proposed vehicular access that would be installed to the left hand side of the appeal site. As previously discussed, the street trees along Cotsford Avenue do provide a positive characteristic to the street scene and therefore need to be considered

in any development proposals which may affect them. Whilst the applicant does not appear to acknowledge that there is a need to alter the pavement, the proposed vehicular access would necessitate the taking up of pavement for a new dropped kerb which would very likely interfere with the root system of this street tree.

22. The tree survey plan submitted by the applicant only considers existing trees within the appeal site and does not consider the street tree to the front of the site which would be affected by the development. Based on the evidence before me, it is unclear whether the proposed access would be possible and its resultant impact upon the street tree to the front of the site. Consequently, based on the information presented, the proposal is contrary to CS Policy DM10 and London Plan Policy G7, both of which seek to ensure that new development not cause detriment to existing natural features.

Other Matters

23. I note comments from interested parties with regards to matters such as the building being used as a care home/ commercial use, noise, privacy, maintenance of fencing, traffic, parking, infrastructure impacts, and pollution. Given the lack of compliance of the appeal against the policies of the development plan relating to transport, natural environment and living conditions, it is not necessary to consider these additional matters in relation to the scheme.

Conclusion

24. Taking the above into account, I conclude that the appeal be dismissed.

J Somers

INSPECTOR