



Appeal Decisions

Site visit made on 15 March 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 April 2022

Appeal A Ref: APP/Z5630/W/21/3277951

113 Tolworth Rise North and Land to the Rear of 107, 109 and 113 Tolworth Rise North, Surbiton KT5 9EP

- 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 Michael Dunning, Southern Property Services Ltd. against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/00349/FUL, dated 3 February 2021, was refused by notice dated 1 April 2021.
 - The development proposed is 'Part demolition of no. 113 Tolworth Rise North, KT5 9EP to allow for new road to provide access to 8no. proposed new houses comprising 7no. 3 storey, 3 bed, 5 person houses and 1no. 3 storey, 4 bed, 6 person house. No. 113 to be 3 storey, 3 bed, 5 person house. Demolition of the turkey sheds'.
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Appeal B Ref: APP/Z5630/W/21/3285339

113 Tolworth Rise North and Land to the Rear of 107, 109 and 113 Tolworth Rise North, Surbiton KT5 9EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Michael Dunning, Southern Property Services Ltd. against the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/02107/FUL, is dated 29 June 2021.
 - The development proposed is 'Part demolition of no. 113 Tolworth Rise North, KT5 9EP to allow for new road to provide access to 8no. proposed new houses comprising 4no. pairs of 3 storey, 3 bed, 5 person semi-detached houses. No. 113 to be 2 storey, 3 bed, 4 person house. Demolition of the turkey sheds'.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed, and planning permission is refused.

Preliminary Matters

3. Amended plans were submitted as part of Appeal A, seeking to address the Council's first, third, fourth and fifth reasons for refusal. In summary, these comprise changes to proposed overall building heights and internal ceiling heights, changes to the overall design of the proposed replacement dwelling at the front of the appeal site, changes to the proposed parking layout, and proposed biodiversity improvements including a relocated pond. The appeal process should not be used to evolve a scheme and it is important that what is considered at appeal is essentially what was considered by the Council, and on which interested people's views were sought.

4. There are a number of interested parties who would not have had an opportunity to comment on the amended details and I am not satisfied that they would not be caused any injustice by me proceeding to assess Appeal A based on those new details. I am not therefore prepared to accept these amended plans, as my consideration of those details as part of Appeal A would deprive those who should have been consulted on the changed development the opportunity of such consultation.

Main Issues

5. The main issues in both appeals are: the effect of the proposed development on the character and appearance of the area; the effect of the proposed development on the living conditions of neighbouring residents, with particular regard to noise and disturbance; whether the proposed development would provide acceptable living conditions for future residents, with particular regard to internal ceiling heights; whether the proposed development would provide an appropriate number of car parking spaces; and the effect of the proposed development on biodiversity.

Reasons

Character and Appearance

6. The appeal site comprises the whole of 113 Tolworth Rise North, the garden of which wraps around the rear of 111 Tolworth Rise North, and parts of the rear gardens of 107 and 109 Tolworth Rise North. The area is characterised mainly by large detached and pairs of semi-detached houses arranged in a spacious inter-war suburban layout, served by long rear gardens. Properties along Tolworth Rise North face onto the A3 Kingston Bypass to the front. In this context, the sprawling garden of 113 Tolworth Rise North is notably larger than neighbouring plots, and together with its dilapidated former turkey sheds, is an uncharacteristic feature of the area.
7. In both appeals, access would be provided by a cul-de-sac road constructed in place of the existing detached dwelling at 113 Tolworth Rise North. A new detached dwelling would be erected to the front of the appeal site with a small rear garden, alongside the proposed access in both appeals too. The Appeal A proposal would include a terrace of 8 houses arranged along the rear of the appeal site, with central and end gables on the front elevation. They would provide accommodation over three levels, with dormers on the front and rear elevations, and would be served by private rear gardens and off-street parking to the front. The Appeal B proposal would include 4 pairs of semi-detached houses in a similar layout, also with front and rear dormers serving third floor accommodation.
8. The scale, form and design of the proposed houses in both appeals would be distinctly at odds with the prevailing character of large inter-war style detached and semi-detached housing in spacious surroundings. The proposed terrace and pairs of semi-detached houses in both appeals would have the presence of three storey buildings due to the number of dormer windows on their front and rear elevations, and the proposed terrace in Appeal A would have a particularly dominating front elevation on account of its steep gables.
9. Although I saw examples of dormer windows on some houses locally, they formed part of large semi-detached houses within spacious plots. In

comparison, both of the appeal schemes would appear far more cramped than their surroundings, which would be experienced from the large neighbouring gardens to the east and west. Their form and design would be sharply different to their surroundings, which would emphasise their excessive scale in this backland location.

10. The proposed replacement detached house at the front of the appeal site in Appeal A would have an odd, contrived form, which would appear to have been designed around the proposed vehicular access. It would present a narrow front elevation to the street scene and would include an angled side elevation wall and pitched roof with a flat central section, and front and side facing gables. The unconventional roof and side elevation arrangements and narrow profile would appear as poorly designed features in the street scene, even amongst the mix of finishes and extensions seen on neighbouring houses.
11. The proposed replacement detached house at the front of the appeal site in Appeal B would more closely resemble the design and form of surrounding houses. Although it too would be notably narrower than neighbouring houses, its front elevation would be of a simple design with a low front gable adjoining a hipped roof and its side elevation wall would be staggered. It would be a modest and discreet addition to the street scene, which would not cause any unacceptable harm to the character or appearance of the area.
12. Overall, the proposed terrace and replacement detached house in Appeal A and the proposed pairs of semi-detached houses in Appeal B would be of a scale, design and form which would be unsympathetic to their surroundings and would harm the character and appearance of the area. Both proposals in Appeal A and Appeal B would therefore fail to accord with Policy DM10 of the Council's Local Development Framework Core Strategy (2012) (CS) and Policy D3 of the London Plan (2021) (LP). These require, amongst other things, new development to incorporate principles of good design, to respond to a site's context and capacity for growth, and to contribute to the character and local distinctiveness of the area, including in terms of scale, height and form.

Living Conditions of Neighbouring Residents

13. There is a bungalow located at the end of the rear garden to 111 Tolworth Rise North. Its north, south and west elevations directly abut the shared boundaries of the appeal site. In both Appeal A and Appeal B the shared boundary abutting the bungalow would be skirted with planting to the west and south. In Appeal A, 6 parking spaces would be provided along the northern shared boundary, whereas the Appeal B scheme proposes 2 parking spaces along this boundary.
14. In both Appeal A and Appeal B, the provision of car parking spaces along the northern boundary of the bungalow would compromise the living conditions of its residents. The noise and disturbance from vehicles parking in these spaces would be experienced in the context of the A3 further to the east, but the cramped arrangement of the bungalow suggests to me that its eastern elevation and its outside space, including along its northern boundary, would make important contributions to the quality of that living space. Those areas of the bungalow would be most affected by the proposed parking spaces in both appeals, which would cause unacceptable levels of noise and disturbance to the bungalow's residents on account of their proximity.

15. Vehicles parking in the proposed spaces along the northern boundary of the bungalow in both Appeal A and Appeal B would therefore cause levels of noise and disturbance which would cause unacceptable harm to those residents' living conditions. This would be contrary to Policy DM10 of the CS and Policy D3 of the LP, which require, amongst other things, development to have regard to the amenities of neighbours, including in terms of noise and disturbance.
16. In the decision notice relating to Appeal A the Council has claimed the proposed parking layout would cause unacceptable harm to the living conditions of those residents by way of vibration and light spillage, in addition to noise. Other than in respect of noise, no information has been provided to substantiate how cars parking in those spaces would cause such harm and I am unconvinced the proposed parking spaces would cause any noticeable vibration within the bungalow. Light spillage associated with those parking spaces could be controlled through appropriate boundary treatment required by condition.

Living Conditions of Future Residents

17. The internal ceiling heights of the proposed dwellings in Appeal A would measure 2.3m from finished floor levels. This would fail to accord with Policy D6 of the LP which states, amongst other things, that minimum floor to ceiling heights in new dwellings must be 2.5m for at least 75 per cent of the Gross Internal Area. The supporting text to the policy explains that this is to ensure adequate quality of housing, including daylight penetration, ventilation, cooling and sense of space.
18. The appellant has demonstrated how this could be resolved, but as set out in the preliminary matters section of this decision, that would involve material amendments to proposed building heights. I am not therefore satisfied that the inadequate internal ceiling heights proposed in Appeal A could be reasonably addressed without materially changing the proposal.
19. The proposed dwellings in Appeal A would therefore fail to provide an acceptable standard of living conditions for future residents on account of inadequate floor to ceiling heights, contrary to Policy D6 of the LP, as set out above. The floor to ceiling heights proposed in Appeal B are shown to measure at least 2.5m in height and would therefore provide an appropriate standard of internal living space for future residents and accord with Policy D6 of the LP in this regard.

Car Parking

20. Policies T6 and T6.1 of the LP seek to restrict car parking spaces associated with new residential development, amongst other things. Policies DM9 and DM10 of the CS require new development to accord with the parking standards set out in the LP. The supporting text to Policies T6 and T6.1 explains that maximum parking standards can manage London's road network and reduce the dominance of vehicles on streets which can be a significant barrier to walking and cycling, thereby creating places that are designed for people rather than vehicles. Policy 6.1 specifies a maximum car parking provision of up to 1.5 spaces per 3+ person dwelling for Outer London sites with a Public Transport Access Level value of 0 – 1, as would be the case in this instance.
21. The Appeal A scheme proposes 16 off-street parking spaces to serve the 9 proposed 3+ person dwellings, which would exceed the maximum 13 spaces

stipulated by Policies T6 and T6.1. No justification has been provided for the excessive number of car parking spaces proposed for the Appeal A scheme, which would encourage car ownership and the dominance of vehicles on streets. The development proposed in Appeal A would therefore fail to accord with Policies T6 and T6.1 of the LP and Policies DM9 and DM10 of the CS for the reasons set out above.

22. The development proposed in Appeal B includes 13 car parking spaces and would therefore accord with those policies in that regard. The same car parking layout could be applied to the Appeal A scheme, and an amended car parking layout could therefore be required by condition if the Appeal A scheme was otherwise acceptable.

Biodiversity

23. A large proportion of the appeal site is an unmaintained area of open land, and it therefore has the potential to provide a habitat for various species of flora and fauna. Ecological reports¹ were submitted as part of the Appeal B scheme which found no evidence of protected species within the appeal site. They also make recommendations as to how the proposed development could be carried out without harming any protected species which may be present and achieve a biodiversity net gain. A Biodiversity Mitigation and Enhancement Plan² has also been submitted as part of Appeal B which shows how the recommendations of those reports could be implemented, including retained and proposed planting.
24. The ecological reports were not submitted as part of Appeal A, but the avoidance, mitigation and enhancement measures set out therein and shown on the Biodiversity Mitigation and Enhancement Plan could also be applied to the Appeal A scheme. Those measures could be required to be carried out by condition and both Appeal A and Appeal B schemes are therefore capable of avoiding harm to protected species and of providing biodiversity net gain in accordance with Policy DM6 of the CS and Policy G6 of the LP. These require, amongst other things, new development to protect and promote biodiversity by managing its impacts and aiming to secure net biodiversity gain.

Other Matters

25. I have been referred to other similar housing designs built by the appellant nearby and awards they have won in respect of the standards of their housing. Those other schemes may have been acceptable in the context of their surroundings, but I have found the particular designs of housing proposed in both Appeal A and Appeal B would be unacceptable in terms of their impact on the character and appearance of the area specific to the appeal site, amongst other things.
26. It has also been claimed the proposals in both Appeal A and Appeal B would bring about highway safety improvements by offering alternative vehicle access opportunities to the occupants of 107 and 109 Tolworth Rise North and by offering refuse and large delivery vehicles a safer turning area within Tolworth Rise North. No details have been provided to demonstrate how additional parking spaces would be provided and accessed by occupants of those

¹ Preliminary Ecological Appraisal and Preliminary Inspection for Bats Report dated 28 May 2021, and Ecological Surveys in respect of Reptiles and Bats dated 17 August 2021 by aLyne Ecology Ltd.

² Drawing number 2020:14B dated May 2021

properties, and I am not convinced by the arguments relating to the existing turning head, which I saw to be free from parked cars during my site visit. These claimed benefits do not therefore outweigh the harm I have identified.

Conclusion

27. The proposals in both Appeal A and Appeal B would harm the character and appearance of the area and the living conditions of neighbouring residents. I have also found harm would be caused to the living conditions of future residents in Appeal A. Although I have found no harm would be caused in respect of the living conditions of future residents, levels of car parking and biodiversity in Appeal B, and that acceptable levels of car parking and biodiversity improvements could be provided in Appeal A, both proposals would conflict with the development plan taken as a whole. There are no material considerations that indicate my decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

L Douglas

INSPECTOR