



Appeal Decision

Site visit made on 14 November 2022

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/Z5630/W/22/3295719

Land adjacent to 18 Agar Close, Tolworth KT6 7XF

- 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 & Mrs Lucien and Anca Davis against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03811/FUL, dated 15 November 2021, was refused by notice dated 22 February 2022.
 - The development proposed is new 2 bedroom 3 person house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal upon (i) the character and appearance of the area, (ii) living conditions of the occupiers of 54 Fullers Avenue (No 54) and 58 Fullers Avenue (No 58) with particular regard to outlook and privacy; and (iii) highway safety.

Reasons

Character and appearance

3. The area is characterised by a relatively dense range of house types that primarily follow a format of pairs of semi-detached properties and small terraces with frequent and vegetative gaps. These gaps form an attractive and functional break in built form between property frontages and their rear garden spaces, particularly near corner plots where rear gardens become less spacious.
4. The proposed property would be of an acceptable scale, making use of similar materials to the host property. Although some spacing between buildings would be retained when viewed from the street, the proposal would erode the visual relief and spaciousness provided in the break in built form between the site, the garden of No 54, and the rear aspect of No 58. Therefore, this would result in an overtly congested and contrived form of development that would harmfully erode the spaciousness the existing plot provides. As such, the proposal would not add to the overall quality of development in the area.
5. While there is more variation to housing patterns and garden sizes within the wider area, the examples put to me are not on the same street and the site-specific characteristics are materially different to the one in which the appeal site is located. Additionally, their referenced side extensions tended to be on

street corners or on plots that did not have the same constrained layout as the appeal site.

6. For the above reasons, I therefore conclude on this main issue that the proposal would cause significant harm to the character and appearance of the area. It would be contrary to Policy D3 of the London Plan 2021 (LP), Policies CS8 and DM10 of the LDF Core Strategy Adopted April 2012 (CS) which amongst other things seek to ensure new development maintains the prevailing density of the surrounding area and relates well to its unique local characteristics. The proposal would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks to ensure that developments will function well and add to the overall quality of the area.

Living conditions

7. The Residential Design SPD 2013 (SPD) says that the design of new residential development should maintain good levels of amenity for existing neighbouring residents, whilst ensuring good living standards for future occupants. The proposal would be set at an angle to No 58 with no direct room to room overlooking. I observed at my visit that mature boundary trees between the proposal site and No 58 provided clear views through and very limited screening above existing boundary treatment. Despite the proposed close boarded timber fences, the close proximity and height of the proposed building and the proposed positioning of the first-floor windows would nevertheless include first floor windows that would introduce unacceptable overlooking into No 58 and its private garden space.
8. Whilst the current housing arrangement restricts the outlook from the rear of No 58, the proposed additional built form would have an enclosing effect on the rear outlook of No 58, further reducing existing levels of amenity in this respect. Accordingly, the proposal would not maintain a good level of amenity for existing neighbouring residents.
9. There would be a sufficient separation distance between the proposed dwelling's side elevation and the existing rear garden space and rear elevation of No 54. Consequently, the proposal would not be visually dominant or overbearing where the wider outlook away from the property of No 54 would be harmfully compromised.
10. For these reasons, I therefore conclude on this main issue that the proposal would significantly harm the living conditions of the occupiers of No 58 with regard to outlook and privacy. As such, the proposal would conflict with Policy D3 of the LP, and Policy DM10 of the CS, which in this respect seek to ensure proposals have regard to neighbouring outlook and privacy. The proposal would also conflict with paragraph 130 of the Framework which seeks to ensure that developments create a high standard of amenity for existing users.

Highway safety

11. Policy T6 of the LP allows for up to 1.5 car parking spaces per 1-2 bed dwelling in outer London areas where the PTAL rating is between 0-1. Whilst the policy refers to a maximum number of parking spaces, the proposal would result in a net loss of available parking spaces, as the host property would no longer have any provision in an area where some parking restrictions are in place. In that context, the site is located in an area where access to public transport is

graded as having a Public Transport Accessibility Level (PTAL) of 1 which is poor. As the site is some distance to a range of public transport facilities, and based on my observations, opportunities to use other modes of transport than cars would be limited. Therefore, there is likely to be a greater level of car ownership.

12. Whilst noting there has been no objection from the highways and transport teams, at my lunchtime visit I noted that on-street parking was particularly prevalent with limited opportunity to park vehicles outside or near the appeal site. Whilst my observations only represent a snapshot in time, it is likely that cars associated with the host property would need to park on the street. Given the limited on-street spaces available, I consider this would lead to instances of dangerous and obstructive parking such as on yellow lines, at road junctions or on footways. This would contribute to highway congestion and as a result would compromise highway safety for road and pavement users. Furthermore, I have not been provided with any substantive evidence to demonstrate the proposal would not put undue pressure on the local highway network.
13. The appellant suggests within an illustrative plan that alternative and additional parking arrangements could be implemented at the host property. However, the implementation such works would be outside the site and consequently not within the scope of this appeal. Furthermore, there is no substantive evidence to demonstrate this would occur.
14. I therefore conclude on this main issue that there would be unacceptable harm to highway safety. As such, the proposal would conflict with Policy T6 of the LP and Policies DM9 and DM10 of the CS which amongst other things promote schemes that have regard to local traffic conditions and highway safety. In this respect, the proposal would also conflict with chapter 9 of the Framework which does not support development if there would be an unacceptable impact on highway safety.

Other Matters

15. Although the appeal at 16 Harold Road, Hastings was allowed, I am not aware of its detailed site-specific characteristics, though I am mindful that a kitchen window was required to be removed via condition to make that scheme acceptable. The removal of rear windows in this proposal would not overcome the harm I have identified in relation to character and appearance and living conditions. Furthermore, that appeal was in a different location where spacing between properties was considered acceptable. For these reasons that appeal is materially different to this proposal.
16. The proposal would provide appropriately sized internal space, private outdoor amenity space and an off-street parking space at the side for intended future occupiers. Even if daylight/sunlight levels were acceptable, this is only a neutral factor. Additionally, it has not been shown that the property would meet the definitions of affordable housing as set out in the Framework or that there would be a way to secure such accommodation before me.

Planning Balance

17. In the context of the development plan, I have found that the proposal would be in conflict with Policies CS8, DM9 and DM10 of the CS and D3 and T6 of the LP. In this respect, I have found these policies to be generally consistent with

the relevant aims of the Framework, where it says decisions should ensure that developments will function well and add to the overall quality of the area and are sympathetic to local character. Therefore, I give the conflict to these policies substantial weight.

18. There is no information about the scale of the shortfall in housing supply, though the proposed new property would make a modest yet meaningful contribution in this regard.
19. The economic advantages of the proposal are that it would make use of land in an urban area where access to facilities is likely to be greatest. Furthermore, it would provide a small home, which in turn would generate short term employment opportunities during construction, which weighs moderately in favour. Even if I were to consider it to be brownfield or previously developed land as set out within the Framework, where there would be benefits in terms of making efficient use of land, these benefits would be minor given the small scale of the scheme. The proposal would not accord with the development plan when considered as a whole.
20. The Council agrees that they cannot presently demonstrate a five-year housing supply. Therefore, the presumption in favour of sustainable development set out within paragraph 11 of the Framework applies. I have already found that there would be modest economic and social benefits through a contribution to a shortfall in housing supply and the construction and occupation of the property. However, there would be conflict with the Framework insofar as the proposal would not add to the overall quality of the area or create a high standard of amenity for existing and future users; and there would be an unacceptable impact on highway safety.
21. Consequently, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

22. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR