



Appeal Decision

Site visit made on 25 January 2023

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01st March 2023

Appeal Ref: APP/Z5630/W/22/3302728

42 Crescent Road, Kingston Upon Thames, KT2 7RG

- 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 Snow and Mrs Dibiase against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref: 22/00565/FUL, dated 14 February 2022, was refused by notice dated 22 April 2022.
 - The development proposed is a single storey 3 bedroom dwelling with study in the mezzanine/first floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Further to the determination of the application the appellant has submitted information relating to fire safety and flood risk as part of the appeal. As this does not alter the proposed scheme, I do not consider that any third party would be prejudiced by my acceptance and consideration of this information. The Council has had an opportunity through the appeal process to comment on this information, although no comments have been received.

Main Issues

3. The main issues are the effect of the development on: a) the character and appearance of the host property and the surrounding area; b) Flood Risk; and c) Fire Safety.

Reasons

4. Crescent Road comprises a mixture of individual houses and apartment blocks of different ages and styles. Overall, it has a pleasant and verdant character, particularly in the stretch of the appeal property, derived from the trees and landscaping to the road and within the gardens visible in views between the properties. The site lies within the Kingston Hill/Coombe Hill Strategic Area of Special Interest and the boundary to the Liverpool Road Conservation Area runs along the other side of Crescent Road.
5. The proposed dwelling would be located on the rear part of the garden to No.42, which is part of a row of detached houses of a traditional form. These properties have relatively long rear gardens and back on to the site of the former Kingston Riding Centre which is currently being redeveloped for 52

- apartments¹. To the west, on lower ground is Mount Court, a four storey apartment block which has parking and garages to the rear adjoining the boundary with the appeal site. These garages and the apartments under construction are set back from Crescent Road behind the main row of properties. They are however part of larger schemes, and the garages are ancillary buildings, which is very different to the tandem form of two residential properties which would be created through the appeal scheme.
6. To the side of No.42 is an existing driveway with an enclosed footpath extending along the side of the property which will provide access to the proposed dwelling. The plot comprises the wider part of the rear garden and would be cleared of a large proportion of the existing trees. The bespoke design of the dwelling would have a sculptural form utilising the site levels and would cover the majority of the plot, including along the full length of its eastern boundary. It would be primarily single storey and would have a self-enclosed form, however a large ovoid structural feature, which would provide a mezzanine level, and chimneys would be sited above. These first-floor elements would be very distinct from the more conventional appearance of the surrounding properties and whilst not visible from Crescent Road they would be notable features from the neighbouring properties.
 7. The main roof of the ground floor, which is to be a green roof, is designed to appear as a visual continuation of the garden to No.42. This would create an integrated approach with the land, but there would be a lack of definitional and functional relationship as two separate dwellings. It is suggested that boundary fencing would ensue privacy, however, given the different levels, in my view, the position and height of any necessary boundary treatment would in itself be an intrusive and incompatible feature. It would also be at odds with the 'hidden' approach to the design of the proposed dwelling.
 8. The appellant has referred to supportive comments from the Council's Urban Design Team, although they are not referenced as a consultee and the extract provided includes references to communal and play space. As such these comments do not appear to relate to this proposal and therefore are not a matter to which I have attached weight. I accept that the London Plan 2021 (LP) supports making the best use of land, and optimising site capacity and a design-led approach is advocated through Policy D3. Nonetheless, this policy and Policies CS8 and DM10 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy (CS) also require proposals to respond to the existing character.
 9. While I acknowledge the quality of the design and that modern and innovative development can be integrated into existing residential areas, I find that the scale and siting of the proposed development would fail to positively respond to the existing layout and character of the area. The juxtaposition between the proposed dwelling and the existing properties in Crescent Road would be contrived, resulting in a loss of spaciousness and the pattern of development which contributes to the distinctiveness of the area.
 10. Due to its location and form the presence of the dwelling would not be directly discernible from the street and the relationship in terms of the setting of the Liverpool Road Conservation Area would be preserved. While the Council has

¹ Council Reference 19/02455/FUL - 38 (Kingston Riding School) Crescent Road, Kingston-Upon-Thames, KT2 7RG

indicated that the proposal would detract from the 'Kingston Hill/Coombe Hill Strategic Area of Special Interest' this is a non-designated heritage asset and I have not been directed to any special features of the area or policy requirements. Given the extent and nature of the Strategic Area the development in my view would have little influence or effect on the significance of this area as a whole. Nonetheless this does not diminish my findings in relation to the impact of the development in its more immediate surroundings.

11. I therefore conclude on this main issue that the proposal would cause significant harm to the character and appearance of the host property and the surrounding area. It would be contrary to LP Policy D3 and CS Policies CS8 and DM10 which amongst other things require proposals to be of a high quality design that respond to and respects the existing character. 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, be sympathetic to local character and add to the overall quality of the area.

Flood Risk

12. The appellant has provided Environment Agency Flood Maps which show the site within Flood Zone 1 and within an area of very low risk from surface water. The site is not thereby shown to be of high flood risk. Whilst the development is designed to be partially below ground specific matters relating to the proposed Sustainable Urban Drainage System and construction methods could be secured through conditions where necessary. I therefore find that the proposal would not directly conflict with LP Policy SI12 and CS Policy DM4 which seek to manage flood risk.

Fire Safety

13. London Plan Policy D12 seeks to secure the safety of all building users by ensuring that all development proposals must achieve the highest standards of fire safety. The submitted Fire Strategy indicates a position for a fire appliance on the access drive which from the back of the space all of the habitable rooms, but not the entire dwelling, would be within a distance of 45m. This space is however a defined parking space for the dwelling and therefore there is a conflict of use. It would not provide an unobstructed space for a fire appliance to be positioned and the distance from Crescent Road would be significantly greater. Therefore, whilst the Fire Strategy indicates the potential for the incorporation of features within the building to provide warning and limit fire spread, it has not been demonstrated, as required by LP Policy D12 criteria A, that a suitably positioned space for a fire appliance can be achieved to serve the dwelling on this backland site.

Planning Balance and Conclusion

14. The Council accept 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.
15. In the context of the development plan, I have found that the proposal would be in conflict with Policies CS8 and DM10 of the CS, and D3 and D12 of the LP. In this respect, I have found these policies to be consistent with the relevant aims of the Framework and relate to the safety of the occupiers in the event of a fire. I have therefore given the conflict to these policies substantial weight.

16. There would be some economic and social benefits through the construction and occupation of the property, although as a single dwelling these contributions and the impact on the shortfall in housing supply would be modest.
17. Whilst I have found in favour of the appellant in relation to flood risk the proposal would result in harm to the prevailing character of the area and host property. Additionally, the proposal fails to demonstrate appropriate arrangements in relation to fire safety. Overall, and for these reasons, 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. It would not therefore be sustainable development for which the presumption in favour applies.
18. The proposal would conflict with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, which outweigh this finding and is therefore dismissed.

G Ellis

INSPECTOR