



Appeal Decision

Site visit made on 3 April 2023

by C Harding BA(Hons) PGDipTRP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal Ref: APP/Z5630/W/22/3303437

113 Tolworth Rise North and some of the land at the rear of 107, 109 and 113 Tolworth Rise North, 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 Michael Dunning of Southern Property Services Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/01368/FUL, dated 25 April 2022, was refused by notice dated 27 June 2022.
 - The development proposed is described as "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 2 storey, 3 bed, 4 person semi-detached houses. No. 113 to be rebuilt as 2 storey, 3 bed, 4 person house. Demolition of the turkey sheds".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has provided an Arboricultural Impact Assessment and Method Statement (AIA)¹ and supporting plans² which did not form part of the original planning application. Although the Council has not provided comment upon this information, it has been afforded opportunity to do so, and the additional information does not materially alter the proposed development. Accordingly, I consider that no party would be prejudiced by my consideration of this information.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area, and;
 - The effect of the proposed development upon existing trees.

Reasons

Character and appearance

4. The appeal site comprises 113 Tolworth Rise North, including its large, sprawling rear garden which wraps around the rear of 107, 109 and 111

¹ "Arboricultural Impact Assessment and Method Statement, Land behind 107-113 Tolworth Rise North, Surbiton KT5 9EP – TGA.2487.ArbImpactAssessment" – TGA Arboricultural Consultants 14/07/2022

² Tree Survey Plan 2487-001 & Tree Protection Plan 2487-002

Tolworth Rise North. The character of the area largely comprises a mix of detached and semi-detached residential properties with long gardens that back onto one another. Having regard to this context, the large wraparound rear garden is not wholly reflective of the general character of the local area, but nevertheless contributes to the spacious and verdant nature of the land between the rears of properties on Tolworth Rise North and Lyndhurst Avenue.

5. The proposed development would introduce onto the appeal site 8 new dwellings in a semi-detached arrangement, with a further dwelling replacing that which currently exists as No 113. As it would interrupt the prevailing pattern of development and otherwise open spacious character of its surroundings, it would be at odds with the prevailing suburban character of the area. Furthermore, it would be visible from windows in the rear elevations of properties as well as from gardens on Tolworth Rise North and Lyndhurst Avenue. Therefore, although not prominent when viewed from Tolworth Rise North or the A3 Kingston Bypass which Tolworth Rise North fronts on to, the development would nevertheless be harmful to the character and appearance of the area in this respect.
6. I acknowledge that the scale of the proposed semi-detached dwellings has been reduced from a scheme previously refused planning permission and dismissed at appeal. However, I must consider the proposed development on its merits. The number of dwellings proposed in this backland location, along with the associated access road means that the prevailing spaciousness and verdant nature of the surroundings would be harmed, despite the scale and design of the dwellings themselves.
7. Overall, the proposed development would harm the character and appearance of the area. It would therefore fail to accord with Kingston upon Thames Local Development Framework ('LDF') Policy DM10, London Plan (LP) Policy D3 and paragraph 130 of the National Planning Policy Framework ('the Framework'). Together, and amongst other criteria, these require new development to incorporate principles of good design, to respond to the site's context, and to contribute to the character and local distinctiveness of the area.

Trees

8. The appeal site contains a number of trees, both individually located and in small groups. I understand that no tree within the site is subject to a Tree Preservation Order.
9. LP Policy G7 states that development proposals should ensure that, wherever possible, existing trees of value are retained. It defines such trees as those assessed as being category A or B, as well as lesser category trees where these are considered to be of importance to amenity and biodiversity. LDF Policy DM10 states that new development will be expected to ensure that trees that are important to the character of the area are not adversely affected, and that where trees are to be lost, that two specimens will be planted for each tree lost. Paragraph 131 of the Framework highlights the important contribution that trees can make to the character and quality of urban environments, and advises that existing trees should be retained wherever possible.
10. The provided AIA indicates that the proposed development would result in the removal of 12 individual trees within the site, and two small groups which include Blackthorn and Hawthorn. The AIA, which has been carried out by an

appropriate qualified individual, advises that all of the trees that would be removed are below 6m in height and comprise ornamental and fruit trees categorised as either C or U. I have no reason to disagree with this assessment.

11. The removal of those trees categorised as U would be appropriate as these trees are likely to have a limited lifespan in any event and in some cases are subject to ivy infestation. Those trees assessed as category C and indicated for removal are generally immature specimens or are ornamental or fruit trees. However, although not of significant individual amenity value, together they contribute to the verdant nature of the appeal site and wider local area and are therefore of moderate amenity value.
12. No detailed evidence is before me with regards to potential proposals relating to any proposed landscaping scheme associated with the proposed development. Given the size of the appeal site, the number of dwellings proposed and the associated access road and hardstandings, it is not clear to me that replacement trees of sufficient number and quality could be provided within any landscaping scheme to mitigate the harm that would result from the loss of those that would be removed. It would not therefore, be appropriate to secure such details by means of a planning condition.
13. Therefore, the proposed development would lead to harm to the health and longevity of existing trees within the appeal site without adequate replacements being demonstrated. It would therefore fail to accord with LDF Policy DM10 and LP Policy G7, as well as paragraph 131 of the Framework, the relevant criteria of which I have set out above.

Planning balance

14. The appeal proposal would lead to the provision of eight additional dwellings providing favourably sized and specified accommodation. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of homes. Accordingly, the modest boost to the housing supply that the appeal proposal would provide is a factor which weighs in favour of the proposal, and to which I afford moderate weight.
15. It is highlighted that the proposed development would lead to the provision of a new turning space for commercial vehicles on Tolworth Rise North, and it is stated that complaints have been received from the driver of the refuse collection vehicle in relation to current arrangements. I acknowledge that the current turning head on Tolworth Rise North is in close proximity to the entrance to a Nursery School and therefore the use of it could be restricted at certain times due to parked vehicles. However, I am not persuaded that the existing arrangement is so unsuitable that the arrangement proposed within appeal scheme would represent a significant improvement. Accordingly, I afford this matter only very minor weight as a benefit of the proposal.
16. I acknowledge that the proposed development would be capable of being built to net-zero carbon standards. However, no details have been provided with regards to how this could be achieved. Accordingly, whilst this is a benefit of the proposal, I can afford it only minor weight in my considerations.
17. Although not a matter of dispute between the main parties, even if I were to agree that the proposed development would not harm the living conditions of

the occupiers of neighbouring properties, this would only be a neutral factor and would not weigh in favour of the scheme.

18. The appellant contends that the proposed development would provide accommodation with a more favourable relationship with the A3 Kingston Bypass than existing properties on Tolworth Rise North in terms of noise and air quality. However, whilst I do not doubt that the site is quiet and sheltered, I have been presented with no substantive evidence with regards to the effect of the A3 Kingston Bypass on either existing properties or the proposed development. Accordingly, this is not a determinative factor in my considerations.
19. It also stated by the appellant that the proposed development would be less harmful than a development comprising flats. Even if I were to agree, the fact that the proposal would be preferable to another harmful development would not justify the harm that I have otherwise identified.
20. I acknowledge that the Framework supports the efficient use of land. However, this support is not absolute and requires consideration of issues including the desirability of maintaining the prevailing character of the area. Given the harm that I have identified with regards to the effect of the development upon the character and appearance of the area, the proposed development would not constitute efficient use of land for the purposes of the Framework.
21. The proposed development would harm the character and appearance of the area and would lead to harm to the health and longevity of existing trees, without adequate replacements being provided. It would conflict with the development plan taken as a whole. Although the appeal proposal would result in some benefits, these would not outweigh the harm and conflict with the development plan that I have identified.

Conclusion

22. Therefore, for the reasons given, the appeal is dismissed.

C Harding

INSPECTOR