



Appeal Decision

Site visit made on 12 September 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/Z5630/W/22/3312695

Land at rear of 31A Hawks Road, London KT1 3DS

- 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 Tex Jones of Onex Developments against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/02307/FUL, dated 14 July 2022, was refused by notice dated 4 October 2022.
 - The development proposed is the demolition of 4no. lock-up garages and the erection of two 2 bedroom dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a Unilateral Undertaking dated 14 July 2023 but, in response to the Council's comments, a revised Unilateral Undertaking (UU) dated 17 October 2023 was provided. I have not sought further comments from the Council on the UU but have had regard to it in my decision.
3. The appellant submitted two different first floor and roof plans (drawing numbers 20024 P-02 Revision C and 20024 P-02 Revision D). For the avoidance of doubt, my decision on the appeal is based on drawing 20024 P-02 Revision D as this was the plan submitted to the Council and on which its decision was based.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the living conditions of the occupiers of 1-4 Meredith Court (Nos 1-4) with particular regard to outlook; and
 - parking provision and highway safety.

Reasons

Living conditions

5. The appeal site lies within a predominantly residential area, and comprises lock-up garages and hardstanding, with a narrow access onto Hawks Road. It is sited between two storey houses fronting Hawks Road and terraced, single storey dwellings to the rear at 1-4 Meredith Court (Nos 1-4), the latter of which have small rear gardens and are located perpendicular to the four storey Hatton House.

6. The proposal is for a pair of semi-detached dwellings with a contemporary design. The removal of the garages and the retention of the rear fence would slightly reduce the height of development along the mutual boundary with Nos 1-4. However, the proposed houses would only be approximately 4-5m from the rear boundary and around 9-10m from the windows of the neighbouring dwellings. Due to the proximity of the proposed building to the adjacent houses, its two-storey height, and its extent across most of the site width, the development would dominate the outlook from the neighbouring properties and have an overbearing effect on the occupiers of Nos 1-4 when using their gardens and rear rooms. As the proposed structure would be directly behind Nos 2-3, the scheme would create a significant sense of enclosure to the rear spaces and rooms of these properties.
7. The proposed dwellings would have a largely flat roof with a small, pitched section to the rear and the first-floor rear elevation would largely comprise a blank wall, lacking in architectural features. There is a tree in the rear garden of Nos 1-4 and other landscaping in the vicinity which provide a green backdrop but not an undue sense of enclosure. Although trees and the sky would remain visible to neighbouring residents, the location of a boxy profile building with a long upper floor rear blank wall close to the adjacent properties would appear bulky and visually intrusive in the outlook from the rear rooms and gardens of Nos 1-4.
8. The proposal would meet the BRE 25-degree test for daylight in relation to Nos 1-4. The daylight and sunlight assessment finds that the development falls within acceptable Vertical Sky Component parameters for daylight to the windows of these dwellings when disregarding their overhanging roofs. However, this would not outweigh the harm to the outlook of the occupiers of these houses.
9. The appellant refers to another example of a backland development approved in the Council's area which has small distances between the existing and proposed dwellings. I have limited evidence on the circumstances which led to the approval of this, but it has a different design and context to the appeal scheme. As such, it is not comparable to the location, siting, and design of the proposal. In any event, I have dealt with the appeal on the basis of the evidence and site observations.
10. Therefore, I conclude that the proposed development would harm the living conditions of the occupiers of Nos 1-4 with particular regard to outlook. It would be contrary to Policies DM10 and DM11 of the Council's Core Strategy 2012 (CS) which require developments to have regard to the amenities of occupants in terms of outlook and avoiding visual intrusion, amongst other things. It would also conflict with the National Planning Policy Framework (the Framework) which requires decisions to provide a high standard of amenity for existing users.

Parking provision and highway safety

11. On-street parking is limited on this section of Hawks Road due to a pedestrian crossing and daytime restrictions but there is residents' permit parking along nearby side roads during the daytime. Although only a snapshot in time, at my daytime site visit, I observed many cars parked along the nearest parts of Albert Road and Bonner Hill Road with only a few spaces available.

12. The proposal is for a car-free development with the existing access to the site between 31 and 31A Hawks Road retained and a cycle store provided for each dwelling. The site has a PTAL rating of 3, with reasonable walking, cycling and public transport accessibility.
13. The Council supports a car-free development subject to a section 106 agreement to preclude future occupiers from obtaining residents parking permits. This is required to avoid parking by future occupiers from exacerbating on-street car parking stress and adversely affecting highway safety. The appellant originally stated that this matter could be dealt with by a proposed condition but has since submitted a signed and dated UU to prevent future owners or occupiers of the properties from being entitled to residents parking permits within the controlled parking zone.
14. I am satisfied that the UU achieves what it sets out to do and meets the tests for planning obligations outlined in the Framework. If I had been otherwise minded to allow this appeal, I would have sought feedback from the Council on the revised document.
15. Consequently, I conclude that the proposal would not harm parking provision and highway safety. It would comply with Policy T6 of the London Plan 2021 (LP) and Policies DM9 and DM10 of the CS. Together, these support car-free development that is well-connected by public transport, restrict eligibility for on-street parking permits for residents of new developments in controlled parking zones, and require developments to have regard to highway safety. It would also accord with the National Planning Policy Framework which requires the potential impacts of development on transport networks to be addressed.
16. Policy T5 of the LP relates to cycling and I do not find it to be directly relevant to this issue.

Planning Balance and Conclusion

17. The Council accepts that it is currently unable to demonstrate a five-year supply of deliverable housing sites and the appellant indicates that the current housing land supply is 3.99 years. Therefore, paragraph 11(d) of the Framework is engaged. This states that, where the policies which are most important for determining an application are out-of-date (which includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. The Framework seeks to boost the housing supply and highlights the important contribution small sites can make, whilst supporting development which makes efficient use of previously developed land. The LP also recognises the contribution that small sites can make to housing supply, and a significant proportion of schemes have recently been permitted on small sites in Kingston. The proposal would provide a modest contribution of two dwellings which would make better use of a small, brownfield site in poor condition within a residential area with reasonable access to public transport and would contribute towards Kingston's housing supply. However, two houses would make little difference to the overall supply of housing, and I attribute modest weight to this benefit.

19. In contrast, the proposal would result in substantial harm to living conditions. The Framework requires decisions to provide a high standard of amenity for existing users. I have concluded that the proposal would conflict with development plan Policies DM10 and DM11 in this respect. I give this significant weight.
20. Consequently, the adverse impacts of the development on living conditions would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the maximum weight that could be attached to any benefit through increasing the supply of housing would not be determinative and the presumption in favour of sustainable development does not apply.
21. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR