



Appeal Decision

Site visit made on 23 January 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/Z5630/D/23/3332620

Wrenfield House, 109 Lower Ham Road, Kingston Upon Thames, KT2 5BD

- 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 Ms Connie Hong against the decision of the Royal Borough of Kingston Upon Thames Council.
 - The application Ref. 23/01597/HOU, dated 15 June 2023, was refused by notice dated 31 August 2023.
 - The development proposed is erection of part two storey, part single storey and part three storey side extensions.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged a revised version of the National Planning Policy Framework (Framework) was published in December 2023. However, the relevant design and heritage policies of the Framework remain unchanged, albeit some of the paragraph numbering is different.
3. Following a request for information, the Appellant confirmed, in an email dated 31 January 2024, that the details of tree removal planting shown in the revised Tree Report (dated 24 October 2023) were correct. The Council's email, dated 6 February 2024, stated that even with the revised Tree Report, its objection, set out in its second reason for refusal, still stood in that there remained inconsistencies in the labelling of trees that would be retained and removed. The Council also drew attention to the fact that the impact of the proposed development on trees was one of the key issues raised by the Council and interested parties. As such, they were of the view that the appeal should be determined on the basis of the original Tree Report (dated 23 December 2022).
4. There are material changes in the revised Tree Report and whilst these are not significant, the impact on trees is a key issue in this appeal. The changes shown have not been advertised and interested parties have not been given a further opportunity to comment or to indicate whether these changes address their concerns. In view of this and in applying the 'Wheatcroft Principles' (*Bernard Wheatcroft Ltd v SSE* [JPL 1082 P37]), the determination of this appeal on the basis of the revised Tree Report would prejudice the interests of interested parties as they have not been consulted on or had an opportunity to comment on the revised report. It is essential that the appeal process remains fair and open to all parties. For the above reasons, I find that my consideration

of the appeal should relate to the Tree Report originally considered by the Council and which formed the basis of their decision to refuse permission.

Main Issues

5. The main issues are: (a) the effect of the proposed development on the character and appearance of the host property and surrounding area with particular regard to the appeal site's location within the Riverside North Conservation Area; and (b) whether it has been demonstrated that the proposed development would avoid unacceptable harm to existing trees or provide adequate replacements.

Reasons

Character and appearance

6. The appeal site lies within the Riverside North Conservation Area (RNCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the Framework and in policies D3 and HC1 of The London Plan (March 2021) (TLP) and policies CS 8, DM 10 and DM 12 of the Kingston Upon Thames Core Strategy (April 2012) (KCS). The Council's Residential Design Guide Supplementary Planning Document (July 2013) (SPD) is also relevant in that it expands on and provides further advice in interpreting the heritage and design policies of the KCS.
7. The land to the north of the appeal site is designated Metropolitan Open Land (MOL). Policy G3 of TLP states that MOL has the same status as Green Belt land and policy DM 5 of the KCS states that, amongst other criteria, new development will only be allowed on sites adjacent to MOL where it does not have a detrimental impact on its visual amenities and respects the size, form and use of that open space.
8. The Council's 'Conservation Area 25 Riverside North – Planning Information and Summary Character Appraisal' states that RNCA comprises a linear area whose form and mature landscape have been influenced by the River Thames, alongside which lie ancient riverside estates, important 19th century public works that established Canbury Gardens and a group of later Victorian and Edwardian houses, and late Victorian boathouses, fronting the river.
9. As I observed on site, the area has an intimate relationship with the River Thames, its islands and the riverside buildings on the opposite bank. The area also exhibits a historic pattern of development with original boundary walls, landscaping and avenues of trees. The latter, together with the grassed embankments and paths, are an important feature of the RNCA that are enjoyed by the public particularly along Thames Towpath.
10. The presence of a number of buildings of architectural interest that address the river make a further positive contribution to the character and appearance of the area. The dominant building materials are red brick, tiles and slates with the older buildings having white painted timber barge boards, fascias and timber balconies, with also some white painted render. Elsewhere, areas of major open space make an important contribution to the landscape value of the area and that includes the MOL immediately to the north of the appeal site.

11. All of the above factors contribute to the special character and appearance of the RNCA as a whole.
12. Within the above context, the building on the appeal site appears to date from the 1960's and whilst it does not reflect the prevailing character of the area and is not of any heritage value, due to its low massing and layout and large areas of flat roof, the building has a discreet and unassuming appearance and impact on the streetscene. The frontage to the host property, facing the Thames Towpath, includes a brick wall, hedging, shrubs and trees, that further soften and screen the appearance of the host building, and provide an appropriate transition to the open MOL to the north.
13. The appeal site is located at the end of a row of five houses that comprise a mixture of bungalows, chalet bungalows and two storey houses, that are of a traditional design with pitched or hipped roofs. None of the properties are of any architectural or heritage significance. Whilst all of these properties front onto the Towpath, due to the fact that they range from one to two storeys, with boundaries made up of fencing, high hedging and trees, they have a similar unassuming and neutral impact on the area.
14. The appeal proposal includes a number of elements. In relation to the ground floor and the proposed front, side and rear extensions, I concur with the Council and consider these extensions to be modest and subservient to the host property. Turning to the first floor, the proposed side and rear extensions and the gable extension above the existing flat roof would, in my view, add significant bulk, scale and height to the host property that would effectively dominate it and would not be proportional to it. The result would be a development significantly higher and bulkier than its neighbours. Its excessive scale and size would be accentuated by the proposed design of the new gable with its large areas of glazing, vertical timber cladding and vertical grey powder coated slats.
15. I accept that there are examples gable fronted, chalet and boathouse style buildings in the RNCA, but the proposed bulk, scale and design of the upper floor extensions to the host do not adequately or appropriately respond to its immediate context or to the character and appearance of the Conservation Area. Whilst the proposed extensions would essentially remodel the original building and I accept that the latter is of little merit in architectural and historic terms, the scale, bulk and design of the proposed first floor and gable extensions would be excessive and would result in a development that would be highly visible and dominant within the RNCA and from the adjacent MOL.
16. The proposal would also be highly visible from public vantage points, in particular the Thames Towpath, from where it would dominate the small row of houses that it forms part of. The proposed extensions would also compete with and thus be harmful to the landscaped setting of the appeal site formed by its mature trees, hedging and planting, which are an important feature that contribute positively to this part of the RNCA. Overall, the proposed first floor and gable floor extensions would not sit comfortably on the appeal site and would have a detrimental impact on the visual amenities of the MOL, as well as the character and appearance of the RNCA.
17. In relation to some of the points that the Appellant has raised, as the Council have acknowledged, I agree that there is no objection in principle to extending the host property or to it being remodelled to secure a more contemporary

design. The use of a gables, as is evident in other parts of the Conservation Area, would also be acceptable in principle. As to the examples of approved development referred to in the RNCA, none of these affect the findings I have reached on this issue.

18. This includes the contemporary building at 114 Lower Ham Road (No.114) which I understand replaced a bungalow. I note that this building has a single storey element adjoining another bungalow (to the north) and a three storey element with vertical sides adjoining a large three storey Victorian/Edwardian house (to the south). As such, its context and setting is different to that of the appeal site, as is the townscape within which No.114 is sited. The appeal site also forms part of a low key collection of houses and bungalows, is sited on the northernmost edge of the linear development within the RNCA and occupies a sensitive location in relation to the MOL to the north, which plays an important role in London's green infrastructure.
19. For the reasons set out above, I find that the appeal proposal would result in harm to the character and appearance of the host property and surrounding area, and as such it would not preserve or enhance the RNCA. In view of this finding and as is required, particularly by the Framework, considerable importance and weight must be attached to the harm to this designated heritage asset. The appeal proposal would lead to less than substantial harm to the significance of the designated heritage asset. The level of harm would be high and there are no public benefits, delivering either economic or social or environmental objectives which would outweigh that harm.
20. Accordingly, I find that the appeal proposal would be contrary to policies D3, G3 and HC1 of TLP, policies CS 8, DM 5, DM 10 and DM 12 of the KCS, the Council's SPD and paragraphs 195, 203, 205-206 and 208 of the Framework.

Loss of existing trees and replacement planting

21. Policy G7 of TLP states that, where possible, existing trees of value should be retained within development proposals, in particular where Category graded trees are considered to be of importance to amenity and biodiversity, as defined in BS 5837:2012. Policy DM 10 of the KCS states, amongst other requirements, that landscaping should form an integral part of the design process, with landscaping proposals submitted as part of the planning application. The policy continues by stating that the Council will expect new development to ensure that trees which are important to the character of the area are not adversely affected. Where trees are to be lost through development the Council will normally require the planting of two specimens for each tree lost.
22. The existing trees within and on the boundary to the appeal site make a positive contribution to the character of the area. They are highly visible from neighbouring properties, the MOL land to the north and from public vantage points, specifically the Thames Towpath. They also make an important contribution to maintaining the green character and landscape value of the RNCA and providing an important visual link with other open spaces on the river embankment and MOL.
23. The application was supported by an Arboricultural Impact Assessment – Method Statement & Tree Protection Plan, prepared by Trevor Heaps Arboricultural Consultancy Ltd and dated 23 December 2022 (Tree Report). The

Tree Protection plan and Tree Data Schedule indicate that 6 existing trees would be removed to facilitate the development, referenced T15 to T20 (inclusive). Four are Category B trees and two Category C trees. All the trees are indicated as having a life expectancy of 20+ years and whose physical condition is fair to normal. The 'comments' indicate that 3 trees are leaning but that this is "*not significant*". Five of the trees are close to the common boundary with 107 Lower Ham Road (No.107), to the south of the appeal site.

24. The justification for removing the trees, set out within the Tree Report, is brief as is the assessment of their amenity value, their wider value to the RNCA, their value to neighbouring occupiers in terms of providing screening and privacy and their value to biodiversity. I am not convinced that the justification given is sufficient and other than T19, which sits in the centre of the proposed ground floor extensions, there is no explanation as to why the other 5 trees could not be accommodated within the design of the development.
25. Even so, the main problem is the number of inconsistencies between the Tree Protection Plan and the submitted architectural plans. Firstly, the tree numbering on the submitted plans is different to that in the Tree Protection Plan, an issue that I accept could be rectified easily. Secondly and of much greater importance, is that all the trees shown to be removed on the Tree Protection Plan are shown as being retained on the submitted plans. Only one tree, T19, is shown as being removed on the submitted plans (where its referred to as T2). Also, T18, shown to be removed, is not shown at all on the submitted plans.
26. I referred earlier to the revised Tree Report submitted with the appeal. Whilst I decided not to accept that report, as far as I can its Tree Protection Plan continues to show the same 6 trees being removed. The only apparent difference is that this plan now shows the planting of 6 new trees, 5 of which would be in a similar location adjoining the common boundary with No.107. However, the inconsistencies remain and it shows new tree planting that is not shown on the submitted plans. There is also no explanation for the locations chosen or details of the species of new trees, leaving aside the fact that policy DM 10 of the KCS seeks to secure a higher level of replacement planting.
27. Accordingly, I find that it has not been demonstrated that the appeal proposal would avoid unacceptable harm to existing trees or provide adequate replacement planting and landscaping, contrary to the requirements of policy G7 of TLP and policy DM 10 of the KCS.

Conclusion

28. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR