



Appeal Decision

Site visit made on 14 February 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/Z5630/W/23/3327099

100 Tolworth Road, Tolworth, Kingston Upon Thames KT6 7SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr George Hollands (Hollands Heating) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/00645/FUL.
 - The development proposed is described as 'Partial demolition of existing semi-detached dwelling and erection of 6no. dwellings (consisting of 4no. x 1bed and 2no.x 3bed dwellings in 2 blocks).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, the Government published a revised National Planning Policy Framework (the Framework) and the 2022 Housing Delivery Test (HDT) results, and I have taken these into account when considering the appeal. The Council's 2022 HDT result requires that the presumption in favour of sustainable development is applied, as set out in Footnote 8 of the Framework. However, that does not alter the applicable planning balance in this case, given the Council's housing land supply position. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework or 2022 HDT results, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether acceptable living conditions would be provided for future occupiers of the proposed development, and
 - the effect on availability of parking in the surrounding area.

Reasons

Character and Appearance

4. The appeal site is a corner plot in a residential area of mixed suburban housing. There are a variety of terraced, semi-detached and detached dwellings, mainly on two storeys but with some bungalows. The appeal site currently contains an

end terrace dwelling fronting Tolworth Road, and its rear garden adjoins one of three bungalows fronting Thornhill Avenue. Dwellings are generally set close to the road, forming built-up frontages, with larger gardens to the rear. The rear gardens of corner plots introduce more spacious areas into the street scene.

5. The proposed development would include a detached building at the rear of the plot, adjacent to the rear boundary and occupying much of the rear garden. This would be of relatively modest proportions, and its hipped roof would have some similarity to the form of the adjacent bungalows. However, it would be tightly enclosed by the site boundaries and there would also be limited separation between the new building and the extended dwelling.
6. The rear part of the site would be dominated by the new building, despite its relatively modest scale. The level of plot coverage would leave little scope for soft landscaping and the layout would not respond positively to the surrounding streetscape. The development would look cramped and the existing sense of space at the street corner would be harmfully eroded.
7. Although substantial, the proposed extension to the existing dwelling would respond more effectively to the established pattern of development, by continuing the existing terrace. The Council has not alleged any harm arising from this element of the proposal and based on the evidence before me, I have no reason to reach a different view.
8. Nevertheless, as a result of the cramped appearance of the new building and erosion of space within this corner plot, I conclude that the proposal would be harmful to the character and appearance of the area. It would conflict with relevant requirements in Policy D3 of the London Plan 2021 and Policy DM10 of the Royal Borough of Kingston upon Thames Core Strategy 2012. These policies, amongst other things, require that new development is well designed, responding to and respecting elements which contribute to local character and distinctiveness, including layout, plot format and any contribution which existing garden land makes to the Borough's suburban character.

Living Conditions for Future Occupiers

9. The development would be arranged around a central communal courtyard and four of the apartments would include ground floor bedroom or kitchen/living room windows facing into this area. Although planting would be introduced below these windows, this would provide only a very limited defensible space between the rooms in question and the courtyard. These habitable rooms would therefore lack a suitable level of privacy, due to their proximity to the courtyard, which would be used by residents of all the proposed dwellings.
10. Should additional privacy screening be introduced, the ground floor bedrooms facing the courtyard would have no meaningful outlook, which would detract from the quality of the internal accommodation. Some form of screening could be more acceptably deployed to protect privacy within the kitchen/living rooms in the other two apartments, since these rooms would also benefit from larger window openings offering an outlook to the front or rear. This would also mitigate potentially intrusive views from the facing bedroom windows on the first floor, which would be significantly closer than the minimum separation

distance between habitable room windows recommended in the Council's Residential Design SPD¹.

11. Some of the apartments would have their own private amenity space, in line with the area standards in the Residential Design SPD. However, this would be largely located on the street frontages, therefore providing little privacy.
12. The communal courtyard would exceed the overall area required for a flatted development of the proposed scale, based on the standards in the Residential Design SPD. However, while the appellant aspires to create a shared space, suitable for residents to meet and congregate for social events, the plans show that this area would also include the main means of access to both buildings from the street, access to the refuse and recycling facilities and parking for ten bicycles. As such, the area would be under pressure from a variety of uses, significantly limiting its value as a useful outdoor space for the enjoyment of future occupiers.
13. Taking all the above matters collectively into consideration, the quality of the proposed accommodation would be compromised in terms of privacy and/or outlook, particularly in relation to the ground floor bedrooms facing the courtyard, and the quality of outdoor amenity space. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers. It would conflict with relevant requirements in Policy D6 of the London Plan, Policy DM10 of the Core Strategy and the Council's Residential Design SPD. These policies require, amongst other things, that new development ensures adequate, usable outdoor amenity space and has regard to the amenities of occupants, including in terms of privacy and outlook.

Effect on Car Parking

14. No off-street car parking is proposed, although cycle parking would be provided. There is largely unrestricted parking in the surrounding streets, but interested parties report that the area becomes congested with parked vehicles, including commuter parking and commercial vans parked overnight. While vehicles can be parked on both sides of Thornhill Avenue, this restricts the width of the carriageway, affecting the free flow of traffic.
15. At the time of the application, a parking stress survey² identified adequate capacity for on-street parking around the appeal site. This was undertaken at a time when some families with school-age children may have been away on holiday. Interested parties report that it also coincided with implementation of a Low Traffic Neighbourhood which is no longer in place. However, the survey focusses on the underlying demand for parking, rather than the level of through traffic, so there is no clear evidence that this would have significantly skewed the results.
16. Even if the parking stress survey over-states capacity to some extent, it indicates that potential demand from the development could be accommodated. The development would also benefit from cycle parking slightly exceeding the required standard. Notwithstanding the site's relatively low public transport accessibility score, there are local services, including bus stops, within walking distance. Therefore, future occupiers need not be dependent on owning or using a car.

¹ Royal Borough of Kingston Upon Thames Residential Design Supplementary Planning Document, adopted 2013

² Mark Fox Architecture/121 Collective, Parking Stress Report, July 2022

17. There is no substantive evidence that increased on-street parking would cause a highway safety issue, notwithstanding the level of through traffic along Tolworth Road. Nor is there any indication that the proposal would have a severe cumulative effect on the road network, contrary to policy 115 in the Framework.
18. Although the Council concluded that the proposal would not lead to unacceptable overspill car parking on the highway, a planning obligation is sought under section 106 of the Town and Country Planning Act 1990, to prevent future occupants from obtaining residential parking permits within any future Controlled Parking Zone (CPZ). The appellant has expressed willingness to provide such an obligation, while contesting that it is necessary. However, no completed obligation has been provided.
19. The appeal site is not currently within a CPZ and there is nothing in the evidence before me to indicate that a new CPZ is proposed. As such, it has not been clearly explained why the planning obligation would be necessary in the short term and nor is there any certainty that it would become necessary in the foreseeable future. Therefore, the evidence does not clearly establish that this restriction would be necessary to make the development acceptable in planning terms, given the conclusions I have reached above.
20. For the above reasons, based on the evidence before me, I conclude that the proposal would not have an unacceptably harmful effect on the availability of parking in the surrounding area, despite the absence of a planning obligation. While Core Strategy Policies DM9 and DM10 require that car parking is provided in accordance with parking standards, the relevant standards in Policy T6.1 of the London Plan are expressed as maxima and London Plan Policy T6 advocates a restrictive approach to parking, where alternative travel options are available. Therefore, the limited conflict with these policies would be outweighed by the availability of adequate on-street parking and alternative transport options in this case. There is no conflict with Policy DM9 part c, since the site is not currently located within a CPZ.

Other Matters

21. Evidence from both main parties confirms that the Council lacks a five year supply of housing and the Council acknowledges that the provisions of Framework paragraph 11d are applicable. The proposal would contribute five additional homes to the supply of housing. These would include small units responding to demand from smaller households, as well as family housing in accordance with the Council's policy requirements. The proposal would support the delivery of homes on small sites, which can often be delivered relatively quickly. More intensive use would be made of a previously developed site, in an area where occupants would have access to local services, without being unduly reliant on the private car.
22. The proposal would provide an opportunity to modernise the existing dwelling. However, I have given this little weight, since there is no clear evidence that the dwelling could not be similarly modernised in its existing use.
23. There is no dispute that the development would provide internal accommodation exceeding the relevant minimum requirements and there would be no identified harm to heritage assets. An energy-efficient development is proposed. However, there is no clear evidence that these would

exceed the Council's normal policy requirements. These are therefore neutral factors which weigh neither for nor against the proposal.

24. While I have concluded that the absence of off-street parking is acceptable, this is also a neutral factor.
25. Both parties mention that the site is within the Tolworth Key Area of Change. However, it has not been explained whether this designation is applicable to this proposal. Given that the Council has also highlighted a 2011 Borough Character Study which identifies the area around the appeal site as having scope to 'reinforce the existing character', I have given the Area of Change designation little weight.
26. While paragraph 124 of the Framework gives substantial weight to the value of using suitable brownfield land within settlements, paragraph 135 makes clear that this is not at the expense of ensuring that all development functions well, is visually attractive, and provides a high standard of amenity for future occupants. Since I have concluded that the proposal would not meet these requirements, this weighs against the benefits of providing housing on this particular brownfield site, when the proposal is considered against the Framework as a whole.
27. I have nevertheless given moderate weight to the benefits associated with delivery of a modest number of new homes, of various sizes, in a suitable location. However, I have given significant weight to the consequent harm to the character and appearance of the area and the inadequate living conditions which would be provided. These harmful aspects of the development could not be effectively overcome through the use of planning conditions.
28. On that basis, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal does not benefit from the presumption in favour of sustainable development as articulated in paragraph 11 of the Framework.

Conclusion

29. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR