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## Appeal Decision

Site visit made on 29 May 2024

**by S D Castle BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> July 2024**

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**Appeal Ref: APP/Z5630/W/23/3332043**

**Thetford Lodge, 16 Thetford Road, New Malden, Kingston upon Thames  
KT3 5DT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr L Hasham (CHD Living) against the Council of the Royal Borough of Kingston-upon-Thames.
  - The application Ref 21/01211/FUL, is dated 15 April 2021.
  - The development proposed is conversion and extension of former care home building to create 8 flats.
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### Decision

1. The appeal is allowed and planning permission is granted for conversion and extension of former care home building to create 8 flats at Thetford Lodge, 16 Thetford Road, New Malden, Kingston upon Thames KT3 5DT in accordance with the terms of the application, Ref 21/01211/FUL, dated 15 April 2021, subject to the conditions in the attached Schedule.

### Application for costs

2. An application for costs was made by Mr L Hasham (CHD Living) against the Council of the Royal Borough of Kingston-upon-Thames. That application is the subject of a separate Decision.

### Preliminary Matters

3. The application was submitted to the Council and registered as valid in April 2021. It was presented to the New and Old Malden Planning Sub-Committee on 6 December 2022 with a recommendation that permission be granted. The committee resolved to defer determination of the application for several reasons, including raising concerns as to whether sufficient information had been provided. That committee resolution has informed the Council's putative refusal reasons in relation to this appeal.
4. Subsequent to the Council's planning committee resolution, the appellant submitted further information and revised plans to the Council, with the latest revision being provided on 31 August 2023. The appeal was submitted to the Planning Inspectorate on 26 October 2023. The Council asserts that the appeal should be determined based on the submissions that were before its planning committee in December 2022 and that the further information and revised plans should be disregarded.

5. I have considered the revised plans and additional information submitted under the principles established by the Courts in *Wheatcroft*<sup>1</sup>. The Council was in possession of the revised plans and additional information for a considerable period prior to the appeal being submitted. I am satisfied that no party would be prejudiced by my consideration of the revised plans and further information given there has been an opportunity during the appeal process for parties to comment on the changes. Furthermore, the revisions submitted by the appellant during the application process are relatively minor and could reasonably be details secured by condition. I have therefore determined the appeal having regard to the revised plans and further information submitted.

### **Main Issues**

6. The main issues are the effect of the development on:
- the character and appearance of the area;
  - living conditions of future occupiers with particular regards to outdoor amenity space and site accessibility;
  - the availability of on-street parking and the efficient functioning of the highway network;

### **Reasons**

#### *Character and appearance*

7. The site is located at the junction of Westbury Road and Thetford Road and consists of a part two storey and part single storey detached building with period detailing. Originally built as a dwelling, the property was last used as a care home. The main entrance and principal elevation of the building faces onto Thetford Road. The building's other elevations lack the ornate detailing and architectural presence of the principal elevation. The rear of the property faces onto Westbury Road and includes a large single storey flat roof extension. The presence of the flat roof extension, in combination with several sheds and an area of hardstanding, detract from the overall visual quality of the site and the street scene of Westbury Road. There is a small garden area laid mainly to lawn to the west of the building adjacent to 18 Thetford Road. Attractive trees and boundary landscaping are located surrounding the building, giving the site a relatively verdant appearance.
8. The Council advises that the site lies within the Thetford Road Local Area of Special Character, which is a non-designated heritage asset. Whilst there is a diverse range of housing within the vicinity of the site, the presence of large dwellings with features typical of the Edwardian period gives the area a particular character and special interest. Other housing in the surrounding area includes inter-war semi-detached and terraced dwellings, as well as more modern detached houses and flats. Overall, the area has a verdant character, with a variety of dwelling types set within attractive landscaped grounds.
9. The proposed extensions are set back from the main façade of the principal elevation, thereby maintaining its architectural dominance and legibility as the historic principal elevation to the building. The extensions would maintain design features reflective of the existing building, including band coursing

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<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

between the brickwork at ground floor level and first-floor render above, along with decorative verge boards and eaves detailing. Proposed fenestration would have a pleasing rhythm and massing, improving on the existing disjointed arrangement of windows on the northern and western elevations.

10. The Council is concerned that the proposals would represent overdevelopment of the site. However, the development does not significantly increase the footprint of the existing building given the larger first floor extension would be above the existing single storey extension. The good quality existing trees on the site would be retained, and the area of soft landscaping would be increased by replacing the hardstanding adjacent to Westbury Road with a communal garden. Existing planting along the front elevation would largely be retained, and additional hedging would be planted following removal of the existing unsightly sheds.
11. Whilst I note the Council's concerns that insufficient details have been submitted to fully assess the impact of the proposals on the character and appearance of the area, it is common practice to secure the details of the final landscaping (including boundary treatments) and finishing materials by condition. I have not been provided with any evidence to indicate computer generated images (CGI) are required by national legislation, the development plan, or any other guidance adopted by the Council. In any case, I am not persuaded CGIs are necessary to make a robust assessment of the proposals.
12. Overall, the proposals represent a sensitive and sympathetic development of the site, providing additional floor space without significantly increasing the footprint of the building or compromising the verdant character of the site. The architectural dominance and quality of the principal elevation would be maintained and the Westbury Road street scene enhanced. As such, the proposal would enhance the character and appearance of the area without harming the Thetford Road Local Area of Special Character. The proposals, therefore, accord with Policies CS 8 and DM 10 of the Royal Borough of Kingston-upon-Thames Local Development Framework Core Strategy 2012 (the Core Strategy). These policies, amongst other things, require development to respect the character and local distinctiveness of an area, having regard to the historic and natural environment.

*Living conditions of future occupiers (including site accessibility)*

13. Policy Guidance 14 of the Council's Residential Design Supplementary Planning Document (the SPD) requires that, for flat development schemes, 50 sqm per development communal amenity space is provided, plus where less than 10 sqm private amenity space is provided per flat, the shortfall in provision should be added to the communal amenity space requirement.
14. The proposals include a mix of private amenity spaces and communal amenity spaces. Appropriate outdoor space would be required for several purposes, including, for example, drying space for washing, play areas for children, as well as areas for sitting and relaxing outside.
15. The Council does not dispute that the total area of communal amenity spaces proposed exceeds the requirement set out within the SPD. The quality of the amenity spaces would, however, be dependent on achieving appropriate boundaries for the ground floor private amenity spaces. High closed boarded fencing, whilst providing privacy, would be unsightly and would harm the

outlook from the ground floor flats. A mixture of defensive planting and trellis (or other attractively designed visually permeable boundary treatment) would provide an appropriate balance between privacy and outlook, whilst being visually attractive. The final details of the boundary treatments and any planting can reasonably be secured by condition to ensure appropriate quality amenity spaces for the future occupants.

16. Given the requirement to provide outdoor communal amenity space for occupiers of flatted development, it is to be anticipated that the occupiers of ground floor flats will experience a higher degree of disturbance than those on the upper floors. Areas of defensive planting would be established adjacent to many of the ground floor windows to provide some mitigation of this disturbance. The proposed site plan includes only 4 parking spaces. As such, even considering delivery vehicles, there would be only a relatively limited number of vehicular movements past the ground floor flats. Disturbance from vehicles and residents accessing communal facilities would not result in unacceptable living conditions for future residents in terms of noise, vehicle lights or loss of privacy.
17. The amended plans include access to the rear communal amenity space from the rear of the building and provision of a widened gate to the side communal amenity area to ensure it is accessible to wheelchair users. Furthermore, the development is proposed to be built in accordance with the requirements of Category 2 of the Building Regulations document titled 'Approved Document M - Access to and use of buildings.'
18. Overall, the development would provide satisfactory living conditions for future occupiers with regards to privacy and the availability and accessibility of external amenity space. The proposals, therefore, accord with Policies CS 8 and DM 10 of the Royal Borough of Kingston-upon-Thames Local Development Framework Core Strategy 2012 (the Core Strategy). These policies, amongst other things, require development to ensure adequate private and/or communal amenity space is provided that is attractive and accessible.

### *Highways*

19. The site has a Public Transport Accessibility Level (PTAL) rating of 2. Table 10.3 of the London Plan, indicates that residential units within the 'Outer London PTAL 2-3' should provide 'up to 0.75 spaces per dwelling' for 1-2 bed units and 'up to 1 space per dwelling' for 3+ bed units. Based on this requirement, a maximum of 6.75 car parking spaces should be provided.
20. The Appellant's Parking Assessment advises that the closest bus stops to the site are located on Malden Road approximately 365 metres (a 4-5 minute walk) from the site. Furthermore, there are many services and facilities within an approximate 800m walk from the site, including a school, supermarket, doctor's surgery, and public green space. As such, the future residents would be able to access many of the requirements of day-to-day living by sustainable transport modes without the need for journeys by private motor vehicle. The site can accommodate appropriate levels of cycle parking, the final details of which can be secured by condition.
21. Thetford Road and Westbury Road provide unrestricted on-street parking on both sides of the carriageway. At the time of my site visit, nearby on-street parking was easily available and plentiful. Whilst I appreciate that the

conditions of my site visit represent a limited snapshot in time, the on-street parking capacity survey provided by the appellant also indicates that there is good availability of on-street parking within 200m of the site. Additional on-street parking capacity would be created by the closure of the existing access point to the site on Westbury Road.

22. Overall, the proposed car parking provisions would be appropriate for the development given the proposed cycle parking, the good access to local facilities (including bus services), and the lack of substantive evidence indicating any nearby existing on-street parking capacity issues. The proposal would, therefore, comply with paragraph 115 of the National Planning Policy Framework (the Framework), Policy 6.1 of the London Plan 2021, and Policy DM 10 of the Core Strategy. Furthermore, there would be no conflict with Policy CS8 of the Core Strategy. A legal agreement excluding future owners and occupiers from obtaining residents or visitors permits for any future CPZ scheme introduced in the area has not been justified as necessary by any substantive evidence.

### **Other Matters**

#### *Drainage and flood risk*

23. The site is located in flood zone 1. The Council has provided no substantive evidence that indicates the site or surrounding area is at risk of flooding, or that the development would lead to drainage issues. Final details of a suitable foul and surface water drainage system can appropriately be secured by condition. The development would not conflict with either Core Strategy Policies CS 8 or DM 10 with regards to drainage and/or flood risk.

#### *Energy Sustainability*

24. The Council asserts that the appellant has provided insufficient information with regards to the energy sustainability and the climatic impact of the proposed development. I have not been referred to any particular policy conflict by the Council, or to any particular requirement for information relating to the development's energy sustainability and climatic impact.
25. Core Strategy Policy CS 1 relates to climate change mitigation and requires the Council to direct new development to previously developed sites in accessible locations, and to ensure that development is designed to make the most efficient use of resources. The proposal would re-use an existing building, developing a previously developed site in an accessible location. In these regards, the development would accord with Core Strategy Policies CS 1, CS 8 and DM 10, contributing positively to the mitigation of climate change and energy sustainability.

#### *Living Conditions of Adjoining Occupiers*

26. The development includes a number of first floor balconies, including 2 balconies overlooking the communal garden space adjacent to 18 Thetford Road. There is currently mature boundary planting on the boundary between the site and 18 Thetford Road that would prevent views from the balconies across the boundary. If that boundary planting were to be cut down or to die of disease, then direct views towards no 18 from the balconies would primarily be of a blank flank gable end. Existing boundary fencing would mean that there would be sufficient distance between the

southernmost balcony and the adjoining area of garden to prevent any significant loss of privacy to no 18. Furthermore, the garden area of no 18 adjacent to the pathway would be subject to greater existing disturbance than other areas of the garden by virtue of it providing access to no 18. The main patio area to no.18 that could be expected to be most frequently used for sitting out would remain wholly shielded from views from the balconies by the existing dwelling at no 18. Screening on the western side of the balcony closest to the boundary with no 18 would further ensure appropriate levels of privacy are maintained for the occupiers of no 18. The development would, therefore, comply with Core Strategy Policy DM 10.

### **Conditions**

27. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. Where appropriate, I have amended and added to the suggested conditions. The numbers in brackets relate to the conditions in the schedule.
28. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant plans and documents as this provides certainty (2). A condition to secure the implementation of a Construction Management Statement is necessary in the interests of highway safety and to protect the living conditions of local residents (3). To protect the character and appearance of the area, conditions securing appropriate finishing materials (5), design details (6), refuse and recycling storage (13), tree protection (4) and landscaping (7) are necessary.
29. In the interests of ecology, a condition ensuring appropriate enhancement of biodiversity is necessary (8). In order to prevent increased risks of flooding, and in the interests of the principles of sustainable drainage, a condition is necessary to ensure the appropriate surface and foul water drainage of the site (9). In the interests of promoting sustainable transport choices, conditions securing provision of cycle parking (10) and electric vehicle charging points (12) are necessary. In the interests of the proper and efficient functioning of the highway and achieving appropriate access for all, conditions securing parking (17), accessibility standards (15), and closure of vehicle crossovers (14) are necessary. To protect the privacy of neighbouring occupiers, a condition securing a balcony screen is necessary (16). In the interests of fire safety, a condition securing a fire safety strategy (11) is necessary.

### **Conclusion**

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, indicate otherwise. The proposal would accord with the development plan when read as a whole. There are no other considerations, including the Framework, that would lead me to depart from determining the appeal in accordance with the development plan.
31. For the reasons above, the appeal is allowed subject to the conditions in the attached Schedule.

*S D Castle*

INSPECTOR



**Schedule of Conditions attached to Appeal Decision**  
**Appeal Ref: APP/Z5630/W/23/3332043**  
**Thetford Lodge, 16 Thetford Road, New Malden, Kingston upon Thames**  
**KT3 5DT**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details unless otherwise required by the conditions below:
  - 6147 DP 300J - Proposed Ground Floor Plan
  - 6147 DP 301H - Proposed First Floor Plan
  - 6147 DP 302G - Proposed Elevations
  - 6147 DP 304F - Proposed Roof Plan
  - 6147 DP 305M - Proposed Site Plan
  - 6147 DP 306C - Proposed Bin and Cycle Stores
  - 6147 DP 307A - Block and Location Plan
  - 6147 DP 308E - Proposed Street Scene
  - 6147 DP 310B - Proposed Loft Plan
  - 6147 DP312 - Ceiling Height Plan
  - 6147 DP312 - Proposed Site Plan with ground floor overlay
- 3) Prior to the commencement of development, a Construction Management Statement shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Statement shall include:
  - i. Construction working hours
  - ii. Parking and turning facilities for vehicles of site operatives and visitors
  - iii. Loading and unloading of materials
  - iv. Storage of plant and materials used in constructing the development
  - v. A scheme for recycling/disposing of waste resulting from construction works
  - vi. Site security arrangements including hoardings
  - vii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
  - viii. Measures to prevent flying debris
  - ix. Dust mitigation measures
  - x. Measures to prevent site drag-out (including need for wheel cleaning)
  - xi. Noise and vibration mitigation measures

The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Management Statement and the approved Construction Management Statement shall be maintained throughout the construction period.

- 4) Prior to the commencement of development, the tree protection measures set out in the submitted Arboricultural Impact Assessment and Method Statement (Cantia Arboricultural Services, ref CAS/2022/206) shall be installed and maintained throughout the duration of the construction period. No arboricultural works shall be carried out other than those specified and in accordance with the submitted Arboricultural Impact Assessment and Method Statement unless otherwise agreed in writing by the Local Planning Authority.
- 5) No above ground development shall take place (excluding demolition) until full details of the materials, colour, and texture of the external finishes of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved finishes.
- 6) No above ground development shall take place (excluding demolition) until the following details (on plans at a scale of no less than 1:20 and 1:5) shall have been submitted to and approved in writing by the Local Planning Authority.

- Window reveals, door reveals, overhangs, rainwater goods.

The development shall be carried out in accordance with the approved details.

- 7) No above ground development shall take place until a detailed Scheme of Soft and Hard Landscape Works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - a) A statement setting out the design objectives and how these will be delivered;
  - b) Written specifications (including cultivation and other operations associated with plant and grass establishment;
  - c) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
  - d) Details of all hard-surfaces, such as paths, seating areas and parking spaces, including their finished level, appearance, depth and permeability;
  - e) Means of enclosure and all boundary treatments, including all internal site divisions in addition to the perimeter boundary treatments and all gates;
  - f) A timetable for implementation of the soft and hard landscaping works.

The scheme of Soft and Hard Landscaping Works shall be implemented in accordance with the approved timetable and shall thereafter be permanently retained and maintained in accordance with the approved scheme. Any plant which dies, becomes diseased or is removed within the first five years of planting, shall be replaced in the next planting season with another of similar type and size.



- 8) No development above slab level shall begin until a detailed Biodiversity Enhancement Scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme prior to the development hereby permitted being first occupied and the enhancements shall be retained thereafter.
- 9) No development above slab level shall begin until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved drainage plans prior to the development hereby permitted being first occupied.
- 10) Prior to the commencement of any above groundworks (excluding demolition), details of secure cycle parking facilities to be provided on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking facilities shall be fully implemented prior to first occupation of the approved development and shall thereafter be retained on site.
- 11) Prior to any above ground works (excluding demolition), a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:
  - 1) Suitably positioned outside space for fire appliances / an evacuation assembly point;
  - 2) Appropriate fire alarm systems;
  - 3) Passive and active fire safety measures;
  - 4) Appropriate construction details to minimise the risk of fire spread;
  - 5) Provision of suitable and convenient means of escape / an evacuation strategy;
  - 6) Provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development;

The Fire Safety Strategy shall include a statement of competence. The development shall be carried out in accordance with the approved Strategy and thereafter maintained.
- 12) Prior to the commencement of any above groundworks (excluding demolition), details of the provision of electrical vehicle charging point(s) on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved electrical vehicle charging point(s) shall be fully operational prior to the first occupation of the development hereby approved.

- 13) Refuse storage facilities and recycling facilities shall be provided prior to the first occupation of the development hereby permitted in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be permanently retained on site.
- 14) Prior to the first occupation of the development hereby approved, the existing vehicular crossovers on Westbury Road identified on the approved plans shall be closed and full height kerbing reinstated in accordance with a specification submitted to and approved in writing by the Local Planning Authority.
- 15) The residential units hereby approved shall not be first occupied until the development has been built in accordance with the requirements of the Building Regulations Approved Document M4(2) Accessible & Adaptable Dwellings (as amended).
- 16) Notwithstanding the details submitted as part of this application, before the first floor balcony to flat no 7 as shown on the plans hereby approved is first brought into use, details of a privacy screen to be erected along the western side (facing the neighbouring property at no 18 Thetford Road) of the balcony shall be submitted to and agreed in writing by the Local Planning Authority. Details shall include the materials and extent of the screening. The privacy screen shall thereafter be installed in accordance with the agreed details before the balcony is first brought into use and shall thereafter be retained in perpetuity.
- 17) Prior to the first occupation of the development hereby approved, the car parking shown upon the approved drawings shall be provided with a hard bound dust free permeable surface and thereafter it shall be kept free from obstruction at all times and shall not be used for any purposes other than the parking of vehicles for the occupiers of the development and visitors to it.