



Appeal Decision

Site visit made on 16 May 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/Z5630/W/23/3329837

9 West Road, Malden Rushett, Kingston Upon Thames, Chessington KT9 2NR

- 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 Michael Szymanski against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/00687/FUL.
 - The development proposed is demolition of bungalow and erection of 2 x 3-bedroomed semi-detached 2-storey houses.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of bungalow and erection of 2 x 3-bedroomed semi-detached 2-storey houses at 9 West Road, Malden Rushett, Kingston Upon Thames, Chessington KT9 2NR in accordance with the terms of the application, Ref 23/00687/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Subsequent to the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the matters relied on by the main parties are unchanged. Therefore, I did not need to consult with the main parties regarding the revised Framework and in determining this appeal, I have had regard to the most recent version.
3. I referred to the parties for clarification on the exemptions to inappropriate development that were applicable in this case. I have determined the appeal in light of the representations made.

Main Issues

4. The main issues are
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and if relevant:
 - the effect of the proposal on the openness of the Green Belt; and

- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development in the Green Belt

5. Development within the Green Belt is inappropriate with the exceptions of the types of development listed in paragraphs 154 and 155 of the Framework. The appellant contends that the proposal would not be inappropriate development on the grounds of the location of the site within a built-up area, this has parallels with criterion e) of paragraph 154 which refers to "limited infilling in villages". It is also contended that the proposal would meet criterion g), this refers to "limited infilling or the ... redevelopment of previously developed land ... which would not have a greater impact on the openness...". The Framework does not define limited infilling and the Council have not drawn my attention to any specific policy that relates to limited infilling in villages.
6. The appeal site is located on a cul-de-sac which predominately comprises two-storey dwellings, although there are also a small number of bungalows, including the host property. With the exception of the bungalows, the height and form of the dwellings are generally consistent. Dwellings front onto the road and have a similar set back. The cul-de-sac is centrally located within the built-up village of Malden Rushett, which comprises dense residential development and contains a number of services. The village is bordered by farmland and woodland. The parties do not dispute that the appeal site is within a village, and I find no reason to conclude otherwise.
7. The proposal is for the erection of a pair of two-storey semi-detached houses following demolition of the existing bungalow. It follows an earlier appeal for a pair of semi-detached houses at the appeal site (the 2022 appeal). In comparison with the 2022 appeal, the width, depth and height of the dwellings have been reduced, and accommodation is no longer proposed within the roof space.
8. The appeal site is a larger plot than others on the cul-de-sac. Following demolition of the existing bungalow, the proposed pair of dwellings would fit logically into the gap, infilling the space between the neighbouring bungalow and a pair of semi-detached dwellings. The space between the dwellings and the boundary would be reduced compared with existing, such to replicate other plots in the cul-de-sac. The set-back would also result in a consistent building line on this side of the cul-de-sac. The height of the dwellings would reflect that of the other two-storey dwellings on the cul-de-sac.
9. Given the above, notwithstanding the increases to the footprint, floorspace and volume compared with the existing bungalow, I find that the proposal would constitute limited infilling in a village. As such, it would meet the requirements of exception (e) outlined in paragraph 154 of the Framework. In light of this, it is not necessary to consider whether criterion (g) would be met.
10. I am mindful of the outcome and findings of a previous planning appeal for two dwellings at the appeal site and the need for consistency in decision making is recognised. Nonetheless, I am required to consider each appeal on the basis of the evidence before me. In this case, the appellants evidence includes

reference to infilling within villages. As such, whilst the findings of the previous Inspector in respect of exceptions (d) and (g) are not revisited, there is specific evidence in this case that exception (e) would be met, which in turn, has led me to a different conclusion in respect of whether or not the development would constitute inappropriate development in the Green Belt.

11. Accordingly, the proposal would not constitute inappropriate development in the Green Belt. The question of the impact on openness is therefore not an issue, as any impact on openness is accepted as being implicitly taken into account in the relevant exception set out in the Framework. Similarly, there is no requirement to consider whether there are any very special circumstances to justify the development.
12. For the same reasons, the proposal would also accord with Policy G2 of the London Plan (2021) and Policy DM10 of the Kingston Core Strategy (2012) (CS). Policy G2 seeks to protect the Green Belt from inappropriate development. In this respect the policy is consistent with the Framework which also sets out what constitutes inappropriate development. Policy DM10 sets out design requirements for new dwellings. In the context of this appeal, this is relevant insofar as it seeks to protect the character of the area, which the openness of the Green Belt is one such characteristic.
13. Policy DM5 of the CS is listed in the reason for refusal, however, its requirements relate to the provision of open space, their protection, and other requirements for sites which are adjacent to the Green Belt, rather than those within it. As such, this policy has not been determinative.

Other Matters

14. In addition to the main issues above, I have had regard to the other concerns raised by interested parties. This includes insufficient provision on site for car parking, and as a result there would be adverse effects for highway safety. The proposal would provide one parking space per dwelling. This would align with the maximum parking standards contained within the London Plan. It is understood that many dwellings on the cul-de-sac have more than one car, and there are existing pressures for on-street car parking. Vehicle speeds along West Road are generally low, and any increase in on-street parking resulting from the proposal would likely be minimal. In this context, there is no substantive evidence that would lead me to a different conclusion to the Council, who found the proposal acceptable in terms of highway safety and car parking.
15. The effect of the proposal on biodiversity is referenced by interested parties. The proposal is accompanied by ecological reports which conclude that the proposal would be acceptable in terms of its impact on protected species. The surveys have been undertaken by professionals and both appear to come to reasonable conclusions based on the surveys. These do not highlight a need for mitigation or further surveys.
16. It is noted that the loss of the existing bungalow is of concern, due to the increased potential for bungalows to support the needs of those with accessibility requirements. My attention has not been drawn to any policy which seeks to resist the loss of bungalows, as such, whilst this would reduce the choice of housing within the area to a modest degree, this carries very limited weight.

17. There would be a benefit in the delivery of an additional dwelling, at a time when the Council is unable to demonstrate a five-year supply of housing. This would make a small contribution towards the government's target to significantly boost the supply of homes and carries modest weight.
18. The proposal would project by a modest degree beyond the rear of the neighbouring properties. The separation between the proposed dwellings and the neighbouring properties would appear sufficient to avoid a detrimental effect on daylight to habitable rooms. Furthermore, there is no substantive evidence to justify a different conclusion to the Inspector in relation to the 2022 appeal, or the Council, namely that the proposal would be acceptable in terms of the living conditions of neighbouring occupiers.
19. It is noted that the Council has found the proposal acceptable in terms of its design and visual appearance. Given the similarities in scale and form to other properties in the road, and that it would maintain the pattern of spacing between dwellings, I find no reason to disagree.

Conditions

20. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the suggested conditions for clarity and enforceability.
21. Time limit and plan numbers conditions are required in the interest of certainty. A materials condition is required in the interests of the character and appearance of the area, due to the lack of detail on the submitted plans regarding materials, it is necessary to require the submission of details.
22. A Construction Management Plan (CMP) is necessary to protect the living conditions of neighbouring occupiers, the environment and highway safety. Details of construction hours are required as part of the CMP rather than through a separate condition, this is necessary given the proximity of the site to other residential properties. Although a CMP was submitted, this contained limited detail and relies upon the creation of a new vehicle crossover for which the timeframes are unclear. As such, a new or updated CMP is necessary. This is a pre commencement condition because it relates to the construction process.
23. Controlling the details of the refuse and recycling facilities, as well as boundary treatments, together with hard and soft landscaping is essential to protect the character and appearance of the area as well as the living conditions of existing and future residents. In respect of soft landscaping, whilst a restriction on using ivy planting was recommended, there was no justification before me to indicate why this would be necessary, therefore I have not imposed this part of the condition.
24. A condition is necessary to secure a strategy to ensure Fire Safety. For sustainability and energy conservation reasons, a restriction on internal water usage is required. A surface water drainage strategy is required in order to reduce the risk of flooding to and from the site. Whilst drainage information was submitted, this is not specific to the proposal before me and lacks detail, as such, updated or new drainage information is necessary. The provision of car parking spaces together with restrictions on the surfacing of the parking is

necessary to ensure sufficient parking provision as well as in the interests of highway safety. The provision of on-site cycle parking facilities is important to reduce the reliance on the private car. A condition covering the event of any contamination not previously identified being found, is necessary in the interests of health of future occupiers and the environment.

25. Conditions restricting permitted development (PD) rights for additional openings as well as for any further extensions are recommended. Paragraph 54 of the NPPF states that planning conditions should not be used to restrict national PD rights unless there is clear justification to do so. The justification provided by the Council is to ensure satisfactory living conditions for neighbouring occupiers. The legislation contains a number of safeguards, including in relation to first floor side windows and the separation distance between extensions and the site boundaries. There is no substantive evidence before me that these safeguards would not be sufficient, as such, there is no clear justification for removing PD rights.

Conclusion

26. The proposed development accords with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above, the appeal is allowed.

R Lawrence

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing nos 1169-12 rev C, 1169-13 rev D, 1169-14 rev D, 1169-15 rev D, 1169-16 rev D, 1169-18 rev D, 1169-19 rev D and 1169-20 rev D.
- 2) The development hereby permitted shall begin not later than three years from the date of this decision.
- 3) No development above ground level (excluding demolition) shall take place until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained.
- 4) No development shall take place (including any works of demolition) until a Construction Management Plan or Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
 - (a) Provision for loading/unloading materials,
 - (b) Storage of plant, materials and operatives vehicles,
 - (c) Temporary site access,
 - (d) Signing system for works traffic,
 - (e) Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works,
 - (f) Location of all ancillary site buildings,
 - (g) Measures to protect any tree, shrubbery and other landscape features to be retained on the site during the course of development,
 - (h) Means of enclosure of the site,
 - (i) Wheel washing equipment,
 - (j) The parking of vehicles of the site operatives and visitors,
 - (k) The erection and maintenance of security hoarding, and
 - (l) A scheme for recycling/disposing of waste resulting from demolition and construction,
 - (m) Delivery, demolition and construction working hours.
- 5) Prior to the commencement of any development above ground level, a sustainable drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include:
 - i) information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) a timetable for its implementation; and,
 - iii) a management and maintenance plan for the lifetime of the development

The approved scheme shall be fully implemented and permanently maintained thereafter in accordance with the approved details.

- 6) Prior to the first occupation of the dwellings hereby approved, a detailed landscaping (hard and soft) scheme including details of trees/plants to be planted, wildflowers (the species, size and age to be agreed with the local planning authority in writing), shall have been submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall make provision for the planting of native trees/plant species. The approved scheme shall be implemented within the first planting season following completion of the development and any tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any tree planting or landscaping which die within 5 years of planting shall be replaced with a tree or vegetation of a similar size and species.
- 7) 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:
 - a) suitably positioned outside space for fire appliances/ an evacuation assembly point;
 - b) Appropriate fire alarm systems;
 - c) Passive and active fire safety measures;
 - d) appropriate construction details to minimise the risk of fire spread;
 - e) provision of suitable and convenient means of escape/ an evacuation strategy;
 - f) 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.

- 8) Prior to the first occupation of the dwellings hereby approved, details of refuse and recycling storage facilities (including their manufacturer's specification, colour and texture) shall have been submitted to and approved in writing by the Local Planning Authority and installed in accordance with the approved details. The facilities shall thereafter be permanently retained.
- 9) Prior to the first occupation of the dwellings hereby approved, evidence showing that the development has achieved internal water usage rates of no greater than 105L per person per day shall have been submitted to and approved in writing by the Local Planning Authority.
- 10) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.

- 11) The car parking shown on the approved plans shall be provided with a hard-bound, adequately drained, dust-free surface prior to the first occupation of the dwellings hereby approved and shall be permanently retained and kept free from obstruction thereafter. It shall not be used for any purposes other than the parking of vehicles for the occupiers of and visitors to the development.
- 12) Prior to the first occupation of the dwellings hereby approved, details of boundary treatments, to include walls, fences and gates (including their manufacturer's specification, colour and texture) shall have been submitted to and approved in writing by the Local Planning Authority, implemented prior to the first occupation of the dwellings hereby approved in accordance with the approved details and thereafter permanently retained.
- 13) Prior to the first occupation of the dwellings hereby approved, cycle parking spaces (3 spaces per dwelling) shall have been installed as per the approved plans and permanently retained for the lifetime of the development.