

Appeal Decision

Site visit made on 13 August 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/Z5630/W/24/3340585

7 Woodside Road, New Malden KT3 3AH

- 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 M Reid against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 23/03358/FUL.
 - The development proposed is the separation and front extension of the east wing of the house to create a self-contained two-bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted amended plans as part of their appeal. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme, as it is important that what is considered by the Inspector at appeal, is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
3. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. The amendments relate to a minor increase in ceiling heights and would not substantially alter the appeal scheme compared to that upon which the Council made its decision. However, the Council has not had the opportunity to comment on the amended plans. On that basis I find that accepting the drawing would cause unlawful procedural unfairness. Accordingly, I have determined the appeal having regard to the same proposal on which the Council made its decision.

Main Issues

5. The main issues are the effect of the proposed development on:

- the character and appearance of the host property and surrounding area; and
- the living conditions of the future occupiers of the proposed dwelling with particular reference to head height.

Reasons

Character and appearance

6. The appeal site comprises a detached dwelling fronting Woodside Road, a residential street, characterised by detached properties. Dwellings tend to be towards the front of the plot facing the highway, with a uniform building line and wide spacious gardens extending to the rear. The spaciousness of the plots, and the uniformity of the building line set back from the highway, positively contributes to the character and appearance of the area.
7. Whilst the driveway and front garden area will remain unaffected by the proposed development, the rear garden would be subdivided to provide a separate garden area for the proposed dwelling. The garden serving the proposed dwelling would be uncharacteristically narrow and would fail to respect the prevailing plot widths and layout of the properties along Woodside Road.
8. Policy DM10 of the Royal Borough of Kingston Upon Thames Local Development Framework Core Strategy¹ (LDFCS) identifies that plot widths should be respected and maintained; this is not dependant on areas being in the public domain. The contrived, elongated and narrow plot would be experienced by the occupiers of the proposed dwelling, the host property as well as the neighbouring property (No 5) and as such the impact on the character and appearance of the area would be notable.
9. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the character and appearance of the area. The development would therefore be contrary to Policy D3 of the London Plan 2021 and Policies CS8 and DM10 of the LDFCS. These policies require development to recognise local features and character, positively respond to local distinctiveness through layout and, respect and maintain plot widths.

Living conditions

10. London Plan Policy D6 (8) requires a minimum floor to ceiling height of 2.5m for at least 75% of the gross internal area of a dwelling. The proposed head height of 2.3m would negatively affect daylight penetration, ventilation and cooling and a sense of space. Whilst the existing floor to the east wing of the house has a head height a little over 2.3 metres, larger spacious rooms with a greater ceiling height serve the main dwelling. In this case, the proposed extension fails to provide the minimum head height of 2.5m in any of the rooms of the proposed dwelling. This would therefore result in substandard accommodation for future occupiers.
11. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the living conditions of the future

¹ Adopted April 2012

occupiers of the proposed dwelling with particular reference to head height. The proposed development would therefore be contrary to Policy D6 of the London Plan 2021 and Policy DM13 of the LDFCS both of which seek to provide appropriate internal space in new dwellings.

12. The Council also refer to Policy DM10 of the LDFCS, this does not refer to internal arrangements in proposed dwellings, as such it is not relevant to this issue.

Planning Balance

13. I attribute significant weight to the harm identified to the character and appearance of the area, as high quality design is fundamental to what the planning and development process should achieve. I also attribute significant weight to the sub-standard accommodation that would be provided for future occupiers with regard to the internal floor-to-ceiling height of the proposed dwelling. This is because the dwelling would fail to provide the minimum head height of 2.5m in all rooms, and well-designed homes should provide a good standard and quality of internal space.
14. The proposal would contribute one small dwelling to the Council's housing supply and bring social benefits from the ongoing occupation of the dwelling. These are clearly factors that weigh in favour of the appeal, but due to the scale of the proposal, the benefits are limited.
15. The proposal would therefore conflict with the development plan when read as a whole. In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004 the appeal must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) is an important material consideration. In this regard, the Council is unable to demonstrate a five-year housing supply and therefore the 'tilted balance' set out in paragraph 11d of the Framework should apply.
16. In such circumstances, paragraph 11dii of the Framework explains that planning 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.
17. Taking all of the above into account, I consider that the harm identified significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development and therefore the material considerations do not indicate that a decision should be made otherwise than in accordance with the Development Plan.

Conclusion

18. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR