



Appeal Decision

Site visit made on 27 November 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/Z5630/W/24/3345000

**441-447 Day Nursery, Ewell Road, Surbiton, Kingston Upon Thames
KT6 7ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr D Patel against Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00261/OUT.
 - The development proposed is described as demolition of a vacant former day nursery/dance studio and erection of a 4-storey building housing 11 dwellings with associated bins and cycle provision and formation of drop kerbs to provide 7 parking spaces (Landscaping Reserved Matter).
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Decision

1. The appeal is dismissed and planning permission for the demolition of a vacant former day nursery/dance studio and erection of a 4-storey building housing 11 dwellings with associated bins and cycle provision and formation of drop kerb to provide 7 parking spaces is refused.

Procedural Matters

2. The application was made in outline with details of access, appearance, layout, and scale submitted for approval. Landscaping details are reserved for later consideration.
3. It is acknowledged that there is an extant permission on the site for a 3-storey building which gained approval via a previous appeal¹, and development in relation to that approval have already commenced. However, the proposal before me would represent a new scheme and not an addition or variation of the extant permission, so I have considered it accordingly.

Background and Main Issues

4. Although the Council has failed to issue a decision, they have submitted a comprehensive Statement of Case. The main parties have confirmed the only difference between the extant permission and the scheme before me is the addition of a proposed 4th storey which would provide 2 additional 3-bedroom residential units, taking the net total of dwellings to 11.
5. As there is nothing before me to conclude otherwise and taking account of the issues in relation to the extant permission, the main issue is the effect of the proposed 4th storey on the character and appearance of the immediate area.

¹ APP/Z5630/W/23/3321649, Council reference 23/00567/OUT

Reasons

6. The appeal site is a corner plot at the junction with Ewell Road and Fairmead. On either side and to the rear there are 2-storey residential buildings. On the opposite side of Ewell Road, facing the appeal site, is a single storey ambulance station and next to that a terrace of 3-storey buildings. Behind the ambulance station is a multi-storey hotel and commercial complex as well as a tower block known as Tolworth Tower. Although the opposite side of Ewell Road has an urban character, the appeal site is clearly part of the domestically scaled and residential character evident on the opposite side of the road and incorporates Fairmead as well as neighbouring roads. Ewell Road itself creates a clearly defined boundary between these two distinct character areas.
7. On visiting the site, it was evident, that the approved 3-storey height, due to its form and flat roof design would be comparable to the overall height of the surrounding residential properties and visually in proportion. However, a 4-storey building in this location would overwhelm the adjacent properties and be at odds to their overriding domestic scale. By its height being more representative of the buildings on the opposite side of Ewell Road, the proposal would blur the distinction between the different scale of development on either side of the road and introduce an urban form of development in an otherwise suburban residential area, to the detriment of that overall areas character and appearance.
8. It is appreciated that the appeal site is on a corner and in proximity to considerably larger scaled buildings. However, due to the distinct divide between the character on either side of Ewell Road and the prominence of its corner location, the proposal's awkward relationship with the surrounding 2-storey dwellings would be even more obvious.
9. That the proposed development would be similar in style, design and site layout as the approved scheme is noted, but this does not overcome the harm identified in relation to its overall scale and height.
10. Consequently, the proposed 4th storey would harm the character and appearance of the immediate area. The proposal would therefore fail to comply with London Plan 2021 Policy D3 and Kingston Core Strategy Policies CS8 and DM10 insofar as they require development to positively respond to the local distinctiveness of an area with reference to scale and height. It would also fail to align with the Council's Residential Design Guidance 2012 which requires consideration of context and character, amongst other things.

Other Matters

11. The appellant has submitted an updated legal agreement to ensure that future residents of the flats could not apply for a parking permit and as within the previous appeal, I find this would ensure the proposal would not exacerbate the existing on street parking problems.
12. Interested parties consider the proposed outdoor space, parking and refuse storage to be inadequate for the proposed flats and are concerned that the 4th storey would reduce the privacy of neighbouring residential properties. The technical aspects of these concerns comply with the requirements of the development plan and on review of the submitted evidence I agree with the Council's findings in relation to the privacy of neighbouring properties.

13. That the 2-storey housing around the appeal site could be increased in height under permitted development and the planning applications at Tolworth Tower have not been approved, do not alter my findings on the main issue.

Housing Balance

14. The Council cannot demonstrate a 5-year housing land supply, and the applicant considers this to be as low as 2 years. It is therefore necessary to apply paragraph 11 of the National Planning Policy Framework (the Framework), which indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
15. The proposal is for 11 units, however that 9 units are already under construction on the site is a material consideration. The Framework seeks to boost significantly the supply of housing, and the proposal would provide an additional 2 family homes reasonably quickly in an accessible and sustainable location. This would attract moderate weight due to the Council's existing housing deficit.
16. With appropriate conditions the proposal could secure biodiversity enhancements which would constitute a further benefit of the scheme. As would the associated economic and social benefits linked to additional family homes. Nevertheless, with only limited details as to how the enhancements would contribute to the overall ecology of the area, and the number of homes involved, only limited weight can be attributed to these benefits.
17. No harm has been identified in relation to the proposed housing mix, standard of accommodation, living conditions, highways safety, parking, cycle and refuse storage, climate change, sustainability, fire safety and air quality. However, no harm, by definition, cannot weigh for or against the proposal.
18. It is appreciated that the Council and appellant are at odds in relation to whether the proposal would attract a need for an affordable housing contribution. If such a contribution were necessary, it would constitute a benefit of the scheme. However, as the appellant considers the viability of the scheme to not allow for such a contribution, in this instance, it would represent a neutral factor.
19. Nevertheless, housing provision should not come at the cost of good design, which is a key aspect of sustainable development and a position supported by the Framework. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

20. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR