



Appeal Decision

Site visit made on 3 December 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2024

Appeal Ref: APP/Z5630/W/24/3346248

50 Burlington Road, New Malden, Kingston Upon Thames KT34NU

- 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 S Codling against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/00784/FUL.
The development proposed is the formation of 1 No. self-contained residential unit under carriage arch and extension to existing dwelling with associated refuse/cycling facilities.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of 1 No. self-contained residential unit under carriage arch and extension to existing dwelling with associated refuse/cycling facilities at 50 Burlington Road, New Malden, Kingston Upon Thames KT34NU in accordance with the terms of the application, Ref 24/00784/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. On 12 December 2024, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

Main Issues

3. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers of unit 2;
 - the effect of the proposed access arrangements on the living conditions of occupiers of neighbouring properties and future occupiers having regard to privacy and noise and disturbance; and
 - the effect of the proposed development on highway safety, with particular regard to parking provision.

Reasons

Living conditions of future occupiers of unit 2

4. The appeal site includes 50 Burlington Road (No 50), a semi-detached property comprising 4 flats over 3 floors, and a detached residential unit to the rear of the site, 50a Burlington Road (No 50a). The surrounding area is predominantly residential in character, interspersed with commercial uses. A gated pedestrian access from Burlington Road to the rear of the site runs along the side boundary between the side elevation of the existing building and the adjoining flatted development at Sovereign House.
5. The appeal proposal would see the extension and reconfiguration of the existing 2 bedroom flat on the ground floor of the property, beneath the existing carriage arch, to create 2 ground floor one bedroom flats.
6. The proposal includes refuse storage facilities for the occupiers of the flats at No 50 within a dedicated compound located immediately to the rear of unit 2, access to which would be gained via the communal pedestrian walkway between the buildings. Despite its proximity to the bedroom windows in unit 2, given the scale and nature of the bin store, which would be used by a small number of residential properties, it is unlikely that it would result in unusual levels of activity so as to cause detriment to the living conditions of the occupiers of unit 2 through noise and disturbance.
7. In addition to the obscure glazed window to the side elevation of the building which would serve bedroom 2, the room would benefit from a second window to the rear elevation. This opening would provide an outlook from the bedroom over the small garden area to the rear of the unit. While the kitchen/living/dining room space in unit 2 would be served by a single window, it would be generous in size and would have a similar outlook over the garden area. By virtue of the separation distance between these ground floor openings and the boundary treatment to the rear outdoor space, including the bin store, which is not excessive in height, it would allow views from these openings above it and would therefore not give rise to significant harm to the living conditions of future occupiers with regards to outlook.
8. Moreover, despite the configuration and depth of the kitchen/living/dining room, the position, and proportions of the window, in relation to the overall size and layout of the space, is such that it would allow sufficient daylight into the room to provide a comfortable living environment. As such, I find that the layout of the internal space within unit 2 would therefore provide suitable living conditions for future occupiers having regard to daylight.
9. In light of the above considerations, I find that the proposal would provide acceptable living conditions for future occupiers of unit 2 having regard to noise and disturbance, outlook and light. In that regard it would accord with Policies DM10 and DM13 of the Royal Borough of Kingston upon Thames Core Strategy, adopted April 2012 (the CS), which require development proposals to incorporate principles of good design and to have regard to, among other things, the amenities of occupants, including in terms of outlook, sunlight/daylight, and the avoidance of noise and disturbance, and Policy D6 of the London Plan 2021 (LP), which seeks development of a high quality design with comfortable and functional layouts which are fit for purpose.

Access arrangements

10. I note the Council's concern that the increased use of the shared pedestrian access to the side of the building would compromise the living conditions of both the occupiers of the neighbouring properties and the future occupiers of the proposed development, through increased noise and disturbance and loss of privacy. The existing pathway would serve several neighbouring properties, including the existing units at No 50, the proposed development, No 50a to the rear of the site, and Sovereign House. There are several windows in the flank elevation of the flats at Sovereign House which directly face the footpath, including windows at ground floor level, which are in part obscure glazed. New ground floor openings in the side elevation of No 50, including obscure glazed bedroom and bathroom windows, are also proposed as part of the development.
11. The proposal would result in some additional noise and activity through the increased use of the pedestrian access. Nonetheless, by virtue of the modest scale of the existing and proposed residential units, the development would be unlikely to result in a significant level of pedestrian movements that would give rise to conflict between users. Moreover, there is no clear evidence that the transient use of the shared space, over and above the current levels, would lead to a significant loss of privacy or increase in noise levels to the detriment of the living conditions of the occupiers of the neighbouring residential properties.
12. For the foregoing reasons I conclude that the proposed pedestrian access arrangements to serve the development would not have a harmful effect on the living conditions of occupiers of neighbouring properties or future occupiers of the proposed development having regard to noise and disturbance and privacy. Accordingly, the proposal would not conflict with Policies DM10 and DM13 of the CS, in so far as they require new development to have regard to the amenities of occupants and neighbours, and Policy D6 of the LP 2021 which seeks development of a high quality design.

Parking

13. The proposal does not include the provision of any off-road parking spaces and would therefore be a car free development. The appeal property fronts Burlington Road, a relatively busy road. There are single yellow lines on the road outside the site which prevent waiting, parking or loading during the times shown on nearby signs, including during peak morning and evening hours. While I appreciate it is just a snapshot in time, at the time of my mid-morning site visit, there were several parking spaces available on the sections of Burlington Road closest to the appeal site.
14. A Parking Beat Survey has not been submitted to determine capacity for on-street parking in the area. However, given the modest scale of the development, for a one bedroom unit, there is no substantive evidence that the proposal would generate a significant level of demand for on street parking of such a scale that would be harmful to highway safety. Furthermore, while the appeal site is not located in a town centre, it is within walking distance of the centre of New Malden and its train station, and close to bus stops on Burlington Road. Therefore, future occupants would not be reliant on using private vehicles to access local services and facilities.

15. The appeal submissions indicate that, in accordance with Policy T6.1 of the LP, new residential development in this location comprising 1-2 bedrooms should not exceed the maximum parking standard of up to 0.75 spaces per dwelling, as set out in Table 10.3. Given this is a maximum parking standard and requires less than one space, the absence of car parking provision to serve the development in this case, would not give rise to conflict with Policy D6.1.
16. The Council's refusal reason refers to the absence of a legal agreement to prevent future occupiers of the development and visitors from applying for an on-street parking permit. Policy DM9 of the CS is clear that, to ensure that new development does not contribute to congestion or compromise highway safety, the Council will, among other things, restrict eligibility for on-street parking permits for residents of new developments located in controlled parking zones (CPZ). The Council has not indicated that the site is located within a CPZ, and in light of my findings above, the absence of a legal agreement itself would not render the scheme unacceptable in highway safety terms.
17. Accordingly, there is no substantive evidence that the proposal would give rise to parking pressure such that an unacceptable impact on highway safety would occur. I therefore conclude that the proposed development would not be harmful to highway safety, with particular regard to parking provision. IN that regard, the proposal would not conflict with Policy DM9 of the CS which seeks to ensure that new development does not contribute to congestion or compromise highway safety, or Policy T6.1 of the LP in terms of residential parking standards. In addition, paragraph 116 of the National Planning Policy Framework is clear that development should only be refused on highway safety grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Given the small scale of the proposed development, the implications for the road network would not be severe.

Conditions

18. The conditions set out in the accompanying schedule are based on those suggested by the Council should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance. In addition to the standard condition controlling the timescale within which the development must commence, a condition is required to specify the relevant plans, in the interests of certainty.
19. In the interests of the character and appearance of the area, a condition is necessary to ensure the materials to be used match those used in the existing building. For the same reason a condition to agree details of the fenestration design is necessary. There is potential for overlooking of nearby residents from the proposed ground floor side windows in the development, so a condition is necessary to ensure the windows would be obscure glazed to prevent any overlooking of the neighbouring properties.
20. A condition to ensure that the development would comply with water consumption targets is reasonable and necessary, to ensure the development is designed and built to make the most efficient use of resources and incorporate measures to contribute to climate change mitigation. A condition is necessary to secure the provision of the refuse storage facilities as shown on

the submitted plans, to ensure appropriate facilities are provided to serve the development in the interests of waste management. A requirement for the developer and/or their successors in title to ensure that all refuse and recyclable materials are either stored within these facilities or internally within the building(s), apart from on collection days, would not meet the tests as it would not be enforceable or precise.

21. While the siting of storage facilities for bicycles is shown on the submitted drawings, a condition is necessary to secure the detailed design of these facilities in the interests of the character and appearance of the area, and to ensure appropriate facilities are provided to encourage sustainable transport.
22. A condition is necessary to agree a Fire Safety Statement to ensure the development meets standards of fire safety in accordance with Policy D12A of the LP. The Council's suggested condition includes a list of requirements, which is prescriptive and somewhat generic, is not included in order to allow the parties to agree details relevant to this proposal.

Conclusion

23. For the reasons given above, I conclude that the appeal should be allowed.

E Worley

INSPECTOR

Schedule of Conditions

- 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: Location Plan (unnumbered), Site Plan (unnumbered), 03-50-BR-06 - Proposed Ground Floor Plan (1), 03-50-BR-07 - Proposed Ground Floor Plan (2), 03-50-BR-08 - Proposed First and Second Floor and Roof Plans, 03-50-BR-09 - Proposed North and South Elevations, 03-50-BR-10 - Proposed East Elevation and Section A-A and 03-50-BR-11 - Proposed Street Scene.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building and shall be retained as such in perpetuity.
- 4) Prior to the commencement of any development above ground level, detailed drawings at a scale of 1:10 of the windows including any aprons, sills, mouldings, heads, jambs, transoms, mullions, lintels, or reveals shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved drawings and retained as such in perpetuity.
- 5) The development hereby permitted shall not be occupied until the windows at ground floor level in the side elevation of the extension have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres

above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.

- 6) Prior to first occupation of the development hereby permitted, evidence showing that the development has achieved internal water usage rates of no greater than 105L per person per day have been submitted to and approved in writing by the local planning authority. Once approved, any measures necessary to meet the targets shall be maintained throughout the lifetime of the development.
- 7) Prior to first occupation of the development hereby permitted the refuse and recycling facilities as shown in the approved plans shall be provided and shall be permanently retained thereafter.
- 8) Notwithstanding the details submitted, prior to the commencement of any development above ground level, details of the siting and design of the secure cycle parking facilities to serve the development hereby approved shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facilities shall be provided prior to the first occupation of the development and shall be permanently retained for that purpose and kept free from obstruction thereafter.
- 9) Prior to first occupation of the development hereby approved, a Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and operated in accordance with the approved details in perpetuity.

*******end of conditions*******