



Appeal Decision

Site visit made on 15 April 2025

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/Z5630/W/24/3350254

27 Berrylands Road, Surbiton KT5 8QX

- 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 Macrights Ltd against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application reference is 24/00453/FUL.
 - The development proposed is demolition of existing dwellinghouse, erection of three storey building providing 5 no. apartments and installation of solar panels with associated cycle and bin storage.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwellinghouse, erection of three storey building providing 5 no. apartments and installation of solar panels with associated cycle and bin storage at 27 Berrylands Road, Surbiton KT5 8QX in accordance with the terms of the application, reference 24/00453/FUL, subject to the conditions in the attached schedule.

Preliminary matters

2. The development plan includes the London Plan (March 2021) (LonP) and the Local Development Framework Core Strategy (April 2012) (CS).

Main issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers at 25 Berrylands Road.

Reasons

Character and appearance

4. The appeal site is located at the junction of Berrylands Road and King Charles Road. The locality has the character of a Victorian/Edwardian suburb, including a range of housing types, local shopping arcades and some modern infill development. The Council has not objected to the principle of replacing the existing house with an apartment block. I consider that the principle of redevelopment is consistent with LonP Policy D3, which seeks to ensure that development makes the best use of land by following a design-led approach that optimises the capacity of sites.
5. Within the broad character area described above, there are differences on either side of King Charles Road. To the east, there are some larger semi-detached

houses which are set back from the footway. Trees and other vegetation within the individual plots create a spacious feel. In particular, to the south of Berrylands Road, the plots are relatively large with wider gaps between the houses.

6. The appeal site is on the western side of King Charles Road, where there is a more closely developed character, with much of the development being at, or close to, the back edge of the footway. It appears that the former front gardens of some terraced properties have long since been built over with single storey front extensions to create shop units. Facing the appeal site, on the opposite side of Berrylands Road, is a recent development at No 50 King Charles Road. This building has a curving façade which turns the corner between the building lines of Berrylands Road and King Charles Road. It has a three storey elevation at the back edge of the footway and an oval fourth level set back behind the parapet. The white-rendered finish of the building, together with its curving horizontal lines, are reminiscent of the modern movement.
7. Other buildings in the locality are more typical of Victorian and Edwardian domestic architecture. Brick is the predominant material, interspersed with some white rendered finishes.
8. The proposal is for a three storey building, with a flat roof. The parapet level would be slightly below that of No 50 King Charles Road. It would also be lower than the ridge levels of Nos 34 to 38 King Charles Road (to the north) and Nos 23 and 25 Berrylands Road (to the west), although, being set further forward, the proposed building would have a stronger presence in the street scene. Whilst it would be taller than Nos 40 and 42 King Charles Road, the transition in scale would not be harsh and would not appear out of place given the variety of building types in the locality.
9. The building would have a curved elevation, turning the corner between King Charles Road and Berrylands Road. The elevation would be set back from the footway, leaving room for a hedge and some tree planting. To my mind this is an important feature of the design. The set back would open up views around the junction, creating a sense of space which would be in harmony with the scale of the existing No 50 King Charles Road and the appeal proposal. Moreover, the new planting, which could be secured by a condition, would help to integrate the scheme into its surroundings.
10. The building would be clad in brickwork, with contrasting banding emphasising the floor levels and arched lintels over the windows. Final details of the facing materials could be secured by a condition. The subdivisions of the windows and the metalwork around the balconies would make visual references to the traditional domestic architecture found nearby. Whilst the form of the proposed building would reflect its function as a contemporary apartment block, the proposed architectural expression of that form would not appear jarring or discordant in the street scene.
11. I do not agree with the Council's assessment that the proposal would appear cramped and unduly dominant. The development would be denser than the existing situation, with five flats replacing one house. However, LonP Policy D3 promotes increasing density in locations such as this that are well connected to jobs and services. Moreover, I consider that the site capacity would be optimised through a design-led approach, in accordance with Policy D3. Whilst there would

be a modest build-up of scale towards the junction, some increase in scale is appropriate here. The proposed design would recognise and respect distinctive local character and would relate well to its surroundings, in accordance with CS Policies CS 8 and DM 10.

12. The first reason for refusal also refers to CS Policy DM 12 and LonP Policy HC1. These policies seek to protect the historic environment and heritage assets. No party has identified any designated heritage asset that would be affected. The Council considers that the Berrylands Road Local Area of Special Character (ASC) is a non-designated heritage asset. The Council has not provided any assessment of the significance of the ASC, or how such significance might be harmed, beyond its general assessment of the effect of the proposal on the character and appearance of the area. For the purposes of this appeal, I consider that the significance of the ASC derives from its character as a Victorian/Edwardian suburb, including a range of housing types, local shopping arcades and some modern infill development. For the reasons given above, that character would not be harmed. It follows that there would be no conflict with these policies.
13. I conclude that the proposal would not harm the character and appearance of the area and would accord with the relevant policies of the development plan.

Living conditions

14. The Council's concern relates to the adjoining property at No 25 Berrylands Road, which has a shop unit on the ground floor with two flats above, one on the first floor and one at second floor level. There is a garden to the rear of the property. The main windows of No 25 face the front and back of the property. No party has suggested that there would be a material impact on these windows. Each flat has a bathroom window in the flank wall, facing the appeal site. The occupier of the upper flat is concerned about the effect of the proposal on a dining room window, which is also in the flank wall.
15. The appeal scheme would not have any windows in the south west elevation¹, which would face towards the common boundary with No 25. There would be some north west facing bedroom windows, close to the boundary, and some north west facing windows to a stairway. However, any views of the windows in the flank wall of No 25 would be at such an angle that no harmful loss of privacy would arise. Whilst there would be glimpses of the rear garden at No 25 from the bedroom and stairway windows, some overlooking of gardens is commonplace in closely developed residential areas such as this.
16. The application was accompanied by a daylight and sunlight assessment. This found that the dining room window to the second floor flat would retain 95% of its current vertical sky component and would accord with the relevant guidelines for daylight².
17. The Council also refers to a loss of outlook. The parapet of the proposed building would be at more or less the same level as the top of the windows to the second floor flat. Consequently, the dining room window would retain a view of the sky above the proposed building. The rear elevation of the proposed building would be stepped, with the corner of the stairway being approximately in line with the centre

¹ Inspector's note – the elevation is labelled south west on the plans, although the true direction is between south west and west

² Inspector's note – sunlight is not relevant for this window because it is not south facing

of the dining room window at No 25, at a distance of about 4m. To the left of the centreline, the dining room window would look over a proposed amenity area to a part of the proposed building that would be about 7m away. I acknowledge that the dining room window would lose some of the view it currently has towards King Charles Road. However, bearing in mind the function of the room, I do not think that the proposal would have such an enclosing or overbearing effect as to be harmful to living conditions.

18. My overall assessment is that the proposal would not be harmful to the living conditions of the occupiers of No 25. It would accord with CS Policy DM10, insofar as that policy seeks to protect the amenities of neighbours in terms of privacy, outlook and daylight. The second reason for refusal also refers to Policy CS8. However, that policy is relevant to the first main issue, which I have discussed above, rather than this main issue.

Other matters

19. Neighbouring occupiers are concerned about noise and disturbance during the construction phase. However, any such noise and disturbance would be temporary and would not amount to a reason for refusing planning permission. The occupier of a flat on the opposite side of Berrylands Road also objects on grounds of overlooking, daylight and additional traffic. Whilst the new flats would face existing flats on the opposite side of the road, this would essentially replicate a relationship that is common in this locality. The daylight assessment referred to above included the flats opposite and in all cases the daylight to those windows would accord with the relevant guidelines. The application was accompanied by a transport statement which has been assessed and accepted by the Council. Other matters raised by interested parties have been discussed above.

Conditions

20. The Council has suggested conditions which have been agreed by the appellant. Having reviewed those conditions in the light of Planning Practise Guidance, I have made some minor changes in the interests of clarity. The conditions I have imposed are, in substance, the same as those suggested with the addition of one further condition. That is Condition 10, which requires development to be carried out in accordance with the approved plans. This is needed in the interests of clarity and certainty.
21. Condition 2 requires submission of details of materials in the interests of the character and appearance of the area. Condition 3 seeks to limit water consumption in the interests of sustainable development. Condition 4 requires submission of a scheme to enhance nature conservation in the interests of biodiversity. Condition 5 requires submission of a landscaping scheme in the interests of the character and appearance of the area and biodiversity.
22. Condition 6 requires provision of the approved cycle parking in the interests of promoting sustainable transport choices. Condition 7 requires provision of the approved car parking in order to make proper provision for the vehicles of future occupiers. Condition 8 requires provision of the approved facilities for refuse and recycling in the interests of amenity and sustainable development. Condition 9 requires submission of a Fire Safety Strategy in the interests of community safety.

23. The occupier of the upper flat at No 25 Berrylands Road has suggested conditions intended to mitigate the impact of the proposal on their living conditions. However, as I have not found the proposal to be harmful in this regard, such conditions are not necessary to make the development acceptable in planning terms.

Conclusion

24. The proposal would accord with policies of the development plan relating to optimising site capacity, design, respecting local character and protecting the amenity of neighbours. I conclude that it would accord with the development plan as a whole.
25. The appellant refers to the housing land supply position and to policies in the National Planning Policy Framework that seek to boost the supply of housing, including through optimising the capacity of sites and making use of small and medium sized sites such as this. Those considerations only add to the case in favour of the appeal, so they do not alter my conclusion.
26. The appeal should therefore be allowed.

David Prentis

Inspector

Conditions

1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.
2. No works above ground level other than works of demolition shall commence until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and samples.
3. Prior to beneficial occupation of the development to which this permission relates, evidence showing that the development has achieved internal water usage rates of no greater than 105L per person per day shall be 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.
4. Prior to the beneficial occupation of the development to which this permission relates, details of a scheme to enhance the nature conservation interest of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to beneficial occupation of the development.
5. Notwithstanding the details submitted, a detailed landscape and planting plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any above-ground works. The plan shall include a key or legend providing the following information:
 - a) species for all plants;
 - b) locations of all plants or areas of planting;
 - c) plant numbers or planting densities;
 - d) sizes of all plants and trees at time of planting; and
 - e) details of all hard landscaping areas including materials.

The approved scheme shall then be implemented within the first planting season following substantial completion of the development. The tree planting and landscaping shall thereafter be maintained for five years. Any trees or shrubs which die during this period shall be replaced at the beginning of the following planting season and the areas shown to be landscaped shall be permanently retained for that purpose.

6. The cycle parking facilities shown on the approved plans shall be provided prior to beneficial occupation of the development to which this permission relates and shall be permanently retained for that purpose and kept free from obstruction thereafter.
7. The car parking shown on the approved plans shall be provided with a hard-bound, adequately drained, dust-free surface prior to beneficial occupation of the development to which this permission relates 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.

8. The refuse and recycling facilities shown on the approved plans shall be provided prior to beneficial occupation of the development to which this permission relates and shall be permanently retained thereafter. The developer and/or their successors in title shall take all reasonable steps to ensure that all refuse and recyclable materials associated with the development are either stored within these facilities or internally within the building and that no refuse or recycling material is stored or placed for collection on the public highway except on the day of collection.
9. Prior to the beneficial occupation of the development to which this permission relates, 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) outside space for fire appliances and an evacuation assembly point;
 - b) fire alarm systems;
 - c) passive and active fire safety measures;
 - d) construction details to minimise the risk of fire spread;
 - e) means of escape and an evacuation strategy; and
 - f) 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 shall thereafter be permanently maintained as such.

The Fire Safety Strategy shall reference the London Plan Guidance Fire Safety (February 2022), where applicable and a Reasonable Exception Statement shall be submitted in relation to those fire safety requirements which the applicant does not consider to be relevant.

10. The development hereby permitted shall be carried out in accordance with the following approved plans:

- 22-P0197-LP – Location Plan
- 22-P0197-CP – Context Plan
- 22-P0197-200 – Coloured Site Layout Plan
- 22-P0197-201 - Site Information Plan
- 22-P0197-202 – Proposed Floor Plans
- 22-P0197-203 – Proposed Elevations
- 22-P0197-204 – Proposed Street Elevations
- 22-P0197-205 – Existing Building – Floor Plans and Elevations
- 22-P0197-206 – Proposed Roof Plan