



Appeal Decision

Site visit made on 10 April 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2025

Appeal Ref: APP/Z5630/W/24/3357315

171 Surbiton Hill Park, Surbiton, Kingston upon Thames KT5 8EL

- 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 planning permission.
 - The appeal is made by Mr Mark Parry of Redbrick Ltd against Royal Borough of Kingston upon Thames.
 - The application Ref is 24/00792/FUL.
 - The development proposed is the erection of a 2-storey, 2-bedroom, 3-person self-contained dwellinghouse with private amenity space, bicycle and bin storage and parking, on land at the rear of 171 Surbiton Hill Park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council has indicated that had it been able to issue a decision, it would have refused planning permission on the grounds that the proposal would have had an unacceptable adverse impact upon the character and appearance of the surrounding area, resulted in substandard accommodation with insufficient internal space and amenity space and inadequate fire safety arrangements, and conflicted with the adjacent MOT and repair garage.
3. I was able to see the site fully from adjacent land during my site visit and was thus able to make an accurate assessment of the proposed development.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the effect of the proposed development on the living conditions of prospective occupiers with particular reference to noise, external and internal space, and fire safety.

Reasons

Character and appearance

5. 171 Surbiton Hill Park forms part of crescent of semi-detached properties constructed as maisonettes. The appeal site is located behind 171 and 171A Surbiton Hill Park, from which it is fenced off, whilst to the rear of the site is a railway line. The proposal is to construct a dwelling on the site, sharing a pedestrian access with the host property, and taking vehicular access from a narrow service road at the rear.
6. The immediate area has a mixed character, with linear detached and semi-detached properties coexisting with an MOT and repair garage and a parade of shops. A number of dwellings in the crescent have driveways and garages behind them, whilst the commercial properties have outbuildings, some of them sizeable, to the rear, all of which benefit from the rear service road.
7. Reflecting the National Planning Policy Framework's aim of making effective use of land to meet the need for homes, Policy H2 of the London Plan (LP) advises Boroughs to recognise in their Development Plans that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites. In the same vein, Policy D3 of the LP exhorts Boroughs to actively encourage incremental densification to achieve a change in densities in the most appropriate way. Policies CS8 and DM10 of the Local Development Framework Core Strategy "Planning for the Future" (CS) likewise focus on the importance of reflecting local character and distinctiveness, but without the emphasis on smaller sites and higher densities, and to that extent are out of step with the LP.
8. The site is sustainably located, and the Council has confirmed that the principle of providing one additional residential unit within this mixed use residential area is acceptable in principle. However, whilst there are outbuildings located to the rear of commercial properties and garages located to the rear of houses, there are no examples in the vicinity of plots which have been subdivided in the manner proposed. Although the design of the proposed dwelling would evoke a mews-style character reflective of its backland setting and access off a service road, the proposed plot would be substantially smaller than existing residential curtilages nearby, and the back-to-back relationship with the existing houses in the crescent would be tighter than other similar relationships in the locality. To that extent the proposal would represent a departure from the established character of the area.
9. I therefore conclude that the proposal would fail to respect the character and appearance of the surrounding area, as required by Policies H2 and D3 of the LP and Policies CS8 and DM10 of the CS, the aims of which I have outlined above.

Living conditions

10. The appeal site is located next to an MOT and repair garage and a railway line. The Council has raised a concern that the MOT and repair garage could give rise to noise and disturbance to future residents, which in turn could threaten the future viability of the business should complaints arise. Policy D13 of the LP requires development proposals to utilise good design to mitigate nuisance generated by existing uses. Notwithstanding the presence of existing dwellings nearby, the MOT and repair garage has the potential to cause a noise nuisance. The proposal has

not demonstrated that it can satisfactorily mitigate potential nuisance through good design, contrary to Policy D13.

11. Policy D6 of the LP contains detailed housing standards. In respect of private outside space, it advises that where there are no higher local standards in the Borough Development Plan documents, a minimum of 5sqm of private outdoor space should be provided for 1-2 bedroom dwellings. Policy DM10 of the CS requires development proposals to provide adequate private amenity space, a policy aim which is supplemented by the Residential Design SPD (RD), which requires 50sqm of private garden per family house where the prevailing character of the area allows.
12. The appeal scheme includes private outside space of 21sqm, split between a rear garden and a balcony. This is below the requirement contained in the RD but above the requirement in the LP. I am mindful of the fact that both the CS and the RD date from 2013, whereas the LP is from 2021, and to that extent the LP reflects a more up-to-date policy position. Nonetheless, whilst I acknowledge the appellant's argument that the proposed dwelling would suit those with small families or looking to downsize who may not want large gardens, and although I do not share the Council's concern that the rear garden would be unduly overlooked, the small amount of amenity space proposed would not be appropriate in an area characterised by reasonably-sized gardens, particularly since part of the rear garden would be given over to bin and bike storage.
13. Policy D6 of the LP contains requirements for private internal space. Two storey two bed dwellings must have a minimum gross internal floor area of 70sqm. The appellant has confirmed that the proposed dwelling would have a total floorspace of 70.9sqm, exceeding the minimum requirement. Policy D6 requires a minimum floor to ceiling height of 2.5 metres for at least 75% of the gross internal area of a dwelling. The appellant has confirmed that, notwithstanding that the submitted plans show a 2.4 metre floor to ceiling height at first floor, a floor to ceiling height of 2.5 metres is achievable on both floors within the building envelope as proposed, in compliance with Policy D6.
14. The proposed plans show the downstairs toilet opening directly onto the living room and an open plan kitchen next to the staircase, both of which the Council contends are indicative of a cramped and impractical layout. However, I foresee no obvious practical issues arising from the proposed layout, and since the proposed dwelling would achieve the minimum internal space standards set by Policy D6 of the LP, I am satisfied that the internal arrangements would not result in a substandard form of accommodation.
15. The plans show a vehicular access leading to the front door of the proposed dwelling and a shared pedestrian access leading to the rear patio doors of the dwelling. As such, the occupiers would have a choice of routes, and would not be forced to walk past the MOT and repair garage, as the Council contends. An interested party has queried how these access routes can be utilised by the appeal scheme since they are not public rights of way. However, they do not need to be public rights of way for the purposes of the development, as the appellant simply needs to have the necessary rights over this land. As both proposed accesses are included within the red edge, the matter is capable of being conditioned.

16. Policy D12 of the LP requires all development proposals to achieve the highest standards of fire safety and provides a number of criteria which developers must adhere to. The appeal was not accompanied by a Fire Safety Strategy, and although the appellant submitted one with their final comments, the Council has not had the opportunity to review it. I am nonetheless satisfied, on the basis of what I have seen, that compliance with Policy D12 could be achieved via the imposition of a planning condition.
17. I therefore conclude that, whilst the proposed internal space and access arrangements are satisfactory and that a fire safety report could be dealt with by condition, the proposal does not demonstrate that future residents would not be subject to noise nuisance and nor does it provide adequate private outside space, contrary to Policy DM10 of the CS and Policy D13 of the LP, the aims of which I have outlined above.

Planning Balance

18. The Council has confirmed that it cannot currently demonstrate a five year supply of housing, and consequently paragraph 11(d) of the National Planning Policy Framework should be applied. The policies most important for determining the application are deemed to be out of date and consequently permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
19. The delivery of a family home in a sustainable location would be a social benefit, whilst economic benefits would accrue from the construction phase. Positively contributing to the Council's housing land supply is also a benefit, albeit in a modest manner for one dwelling. I therefore attach limited weight to the benefits that the scheme delivers.
20. The harm I have identified as arising from the proposal relates to its failure to respect the character and appearance of the area, the potential for noise nuisance to future occupiers, and a lack of private outside space. The proposal conflicts with policies H2, D3 and D13 of the LP and policies CS8 and DM10 of the CS.
21. The Framework advises that good design is a key aspect of sustainable development and gives significant weight to development which responds to local design policies. The harm to the character and appearance of the area, the potential impact of noise on the living conditions of future occupiers, and the lack of private outside space, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Other Matters

22. My attention has been drawn to a previously dismissed appeal for a self-contained single storey one bed unit on the site¹. As I have noted, the current policy context is set by Policies H2 and D3 of the LP, which in turn reflect the National Planning Policy Framework. As the LP dates from 2021, it sets a different policy text to that which was in place when the appeal was dismissed in 2015. I am therefore satisfied that there is no inconsistency between my conclusions and those of the previous Inspector.

¹ Appeal reference APP/Z5630/W/15/3002920

Conclusion

- 23.** The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR